



## **MARULENG LOCAL MUNICIPALITY**

### **INCAPACITY: DUE TO ILL HEALTH/ INJURY POLICY**

**2023/2024**

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## 1. BACKGROUND

1.1 .Incapacity on the grounds of ill health may be temporary or permanent. Certain types of disability may be temporary but recurrent, such as illness related to HIV and AIDS. In the instance of ill health, the employer or the manager acting on behalf of the employer would need to assess the capability of the of the employee and to determine whether the inability to perform is caused by ill-health. Alternatives to the termination of employment should be sought. For example: whether the employee could be accommodated in a different position performing different duties in the organization.

## 2. POLICY STATEMENT

2.2. **Maruleng Local Municipality** has embarked on a process to address incapacity due to ill health/ injury at the workplace within the prescribed guidelines in terms of the Labour Relations Act.

## 3. SCOPE AND APPLICATION

The policy shall apply employees of the employer.

## 4. OBJECTIVES AND APPLICATION

4.1 .The purpose of this policy is to ensure the employer's operational efficiency while at the same time exploring every possible alternative action to avoid termination of employment., it is intended to ensure that when a termination for reasons of incapacity due to ill health or injury takes place it is effected for a fair reason and in accordance with a fair procedure and as a last resort.

4.2 .The employees on the other hand have a duty to adhere and obey the rules in order to be protected within the workplace.

4.3 .The main objectives of the Occupational Health and Safety Policy are as follows:

4.3.1 To implement the provisions of the OHS Act 85 of 1993 and regulations promulgated there under.

4.3.2 To conduct regular health and safety inspections in order to assess or evaluate risks attached to certain tasks, remove or reduce hazards in work areas and supply personal protective equipment where necessary.

4.3.3 To accurately report and investigate incidents of injury on duty in order to determine the cause thereof with a view to prevent the reoccurrence of similar incidents.

4.3.4 To conduct training of employees with emphasis to identify hazard in their work environment.

4.3.5 To compile health and safety statistics this will enable objective measurement of health and safety performance to highlight problem areas.

4.3.6 To make it the responsibility of every Council employees to work safely at all times.

## 5. DEFINITIONS OF TERMS

**5.1 Incapacity:** refers to an individual's inability to perform according to the stipulated work standards of a particular job.

**5.2 OHS Act:** Means the Occupational Health and Safety Act 85 of 1993.

**5.3 HCS:** Means Hazard Chemical Substances.

**5.4 H & S reps:** Refers to the Health and Safety Representative, a person designated to over look Occupational Health and Safety measures at the workplace.

**5.5 Health and Safety Committee:** It shall mean employees appointed in terms of section 19 of the Occupational Health and Safety Act 85 of 1993.

**5.6 Incident:** Means an incident as contemplated in section 24(1) of the OHS Act.

**5.7 Council:** Means council of Maruleng Local Municipality as established in terms of section 157 of the Constitution.

**5.8 Municipality:** Means Maruleng Local Municipality as established in terms of section 155(6) of the Constitution.

**5.9 Municipal Manager:** Means a person appointed in terms of section 82 of the Municipal Structures Act No 117 of 1998.

**5.10 Work place:** It shall mean the Main offices, 3 Sub-offices and municipal Halls within Maruleng Local of Municipality.

**5.11 Compensation Commissioner:** Means a person appointed in terms of section 2(1) of the Compensation for Occupational Injuries and Diseases Act No 61 of 1997.

**5.12 Supervisor:** Means a person appointed to head a section within the Municipality of Maruleng.

**5.13 AIA:** Refers to the Approved Inspection Authorities.

- 5.14 Hazard:** Means a source of or exposure to danger.
- 5.15 OHS Officer:** Refers to the Occupational Health and Safety Officer.
- 5.16 DMR:** Refers to the Driven Machinery Regulation.
- 5.17 PPE:** Refers to Personal Protective Equipment and it include Personal Protective Clothing.
- 5.18 Risk:** Means the probability that injury or damage will occur.
- 5.19 BCEA:** Refers to the Basic Conditions of Employment Act 75 of 1997.
- 5.20 LR:** refers to the Labour Relations Act 66 of 1995.

## **6. REGULATORY FRAMEWORK**

The mandates for the development and implementation of this policy arise from:-

- Occupational Health and Safety (Act 85 of 1993)
- Compensation of Occupational Injury and Diseases Act (Act 85 of 1993)
- Basic conditions of employment Act (Act 75 of 1997)
- Labour Relations Act (Act 66 of 1995)

## **POLICY CONTENT**

### **General Principles**

- The employer is committed to treating any employee who is incapacitated due to illness or injury in a fair and appropriate manner with regard to their particular circumstances.
- As such, no employees should be subjected to any form of victimization or unfair discrimination as a result of their disablement.
- The degree of incapacity, as well as the permanency of the incapacity, will be considered when assessing the person's suitability for ongoing employment.
- The cause of incapacity may also be relevant. In the case of incapacity due to substance abuse, such as alcoholism or drug abuse, counseling and rehabilitation may be appropriate steps to be considered.

## **Guidelines for managing incapacity**

### **Temporary incapacity**

- If an employee is temporary unable to work, the employer should investigate the extent of the incapacity of the injury.

- Such an investigation should include appropriate medical and occupational diagnosis or prognosis.
- If the employee is likely to be absent for a time that is unreasonably long in the circumstances, the employer should investigate all the possible alternatives short of dismissal. The employee and his/her representatives should be given an opportunity to state reasons as to why alternative short of dismissal should be considered.
- When alternatives are considered, relevant factors might include the nature of the job, the period of absence, the seriousness of the illness or injury and the possibility of securing a temporary replacement for the ill or injured employee.
- If the employees' medical report indicates that his/her condition has improved and the employee is capable of performing his/her duties, failure to do so will to disciplinary action being taken.

### **Permanent incapacity**

- In cases of permanent incapacity, the employer will ascertain the possibility of securing alternative employment, or adapting the duties or work circumstances of the employee to accommodate the employee's disability. This could include an alternative job of a lower rank.
- In the process of investigation the employee will be allowed the opportunity to state a case in response and to be assisted by a fellow employee or Union representative.
- Particular consideration will be given to employees who are injured at work or who are incapacitated by work related illness [In these cases the employer will assist the employee to claim Compensation for Occupational Injuries and Disease (COID)]
- Termination of employment should only considered if the employee's disability circumstances, and an alternative position is not available.
- Should the employee be unable to continue working, the employer will assist the employee to apply for a Permanent Health Insurance (PHI) benefit. Should the PHI claim not be approved by the insurers, the employer does not hold any liability for compensation. Such application should be made as soon it becomes apparent that the employee would be unable to continue performing his or her normal duties. The application should be made in respect of the relevant fund or scheme applicable to the employee.

### **IMPLEMENTATION AND MONITORING**

#### **COMMUNICATION**

This policy will be communicated to all municipal employees using the full range of communication methods available to the municipality.

## **POLICY REVIEW**

This policy will be reviewed annually and revised.

## **BUDGET AND RESPONSIBILITY**

The financial and resource implications related to the implementation of this policy should be qualified and quantified.

## **ROLES AND RESPONSIBILITIES**

The municipal manger or his/her delegate assignee accepts overall responsibility for the implementation and monitoring of the policy.

## **PENALTIES**

Non compliance to any of the stipulations contained in this policy will be regarded as misconduct, which will be dealt with in terms of the disciplinary.

## **DISPUTE RESOLUTION**

Any dispute arising from this policy due to ambiguous wording or phrasing must be referred to the LLF for adjudication. Resolutions from the LLF must be incorporated into the policy.

## **8.1 . GENERAL DUTIES OF COUNCIL TOWARDS ITS EMPLOYEES**

- 8.1.1 The Council will first assess or evaluates the risks and document the risk attached to all work being done.
- 8.1.2 The Council shall take all reasonable practicable steps to remove or reduce the risks.
- 8.1.3 The Council will provide Personal Protective Equipment (PPE) to minimize exposure of employees to hazard.
- 8.1.4 The Council shall train employees on the proper use of PPE and document all the training records.
- 8.1.5 The Council will enforce at all times the proper use of PPE.
- 8.1.6 The Council shall identify and compile Safe Working Procedures for each task posing health and safety risks, train all employees and document all training records.
- 8.1.7 The Council shall provide necessary health and safety training to employees including safety representatives.

## **7. ROLES AND RESPONSIBILITIES**

- 9.1 The Municipal Manager as section 16(1) of the OHS Act or all his nominees, Section 16(2) and the Corporate Service Director must play a major roles in ensuring that the Occupational, Health and Safety Policy is adhered to, implemented and enforced in accordance with the requirement of the OHS Act 85 of 1993 and the regulation promulgated there under.
- 9.2 It is the responsibility of the OHS Officer to ensure that a copy of this policy is displayed in all the workstations and all the Departments in terms of section 7(3) of the OHS Act.
- 9.3 In addition emergency contact numbers for ambulances, the police and the fire department must be clearly posted at each municipal building & updated.

### **13. SAFE WORK PROCEDURES**

13.1 The Council shall take all reasonable practicable steps to ensure that Safe Working Procedures are complied with.

13.2 The health and safety hazards attached to identify work activities must be compiled.

13 The means to apply precautionary measures shall be established.

14 The employees will be made conversant with above clauses as far as it relates to them.

14.3 The disciplinary measures shall be enforced so as to prevent any deviation from Safe Working Procedures.

14.4 The adequate monitoring of Safe Working Procedures by supervisors as well as health and safety representatives shall be ensured.

14.5 Safe Working Procedures shall be made available and be displayed in all relevant work stations.

14.6 All employees will be trained in Safe Work Procedures relating to their work and the training records be filled in employee's personal files.

### **16. INCIDENT REPORTING AND INVESTIGATION**

16.1. Supervisors, health and safety representatives, and whoever becomes aware of the incident, report such incident to the OHS Officer immediately but not later than the end of the working day.

16.2.The council will through OHS Officer reports all incidents to the Compensation Commissioner as prescribed in the act.

16.3.The OHS Officer shall record all incidents in the incidents register.

16.4.The OHS Officer will be notified on the prescribed form by the health and safety representatives of the occurrence of incident in their responsible work area(s)



16.5. All incidents shall be investigated by an investigation team consisting of OHS officer, Supervisor and health and safety representative or Committee member within three months from the occurrence thereof and that action will be taken to prevent a reoccurrence of a similar incidents.

16.6. The incident investigation report will be discussed at the Health and Safety Committee meeting with all remedial actions to be taken and also be endorsed by the Chairperson of the Committee, the OHS Officer and it will be forwarded to the Municipal Manager.

## **17. GENERAL ENVIRONMENTAL REGULATIONS- ANNUAL AUDIT**

### **17.1 General Environment**

17.1.1 The Council will distribute a questionnaire to employees annually to ascertain if the temperature, lighting, ventilation, noise levels, space, housekeeping and equipment provided in their workplace is satisfactory.

17.1.2. If there are any negative responses, the health and safety representatives must specifically audit the work area in conjunction with General Environmental Regulations and if necessary make recommendations to the Health and Safety Committee on intervention required.

### **17.2 Fire Precautions**

17.2.1 The Municipality will ensure that there are emergency exits/escape doors from all rooms or passages and that they are easily accessible and easily opened.

17.2.2 There must be at least two possible means of exits situated as far apart as possible.

17.2.2 The fire fighting equipments will be placed at strategic locations as may be recommended by the Fire Chief of the Local Authority & must be inspected and be maintained in a good working order.

## **18. FACILITIES REGULATIONS- ANNUAL AUDIT**

18.1 The Council will distribute questionnaires to all employees annually to ascertain if there is/are sufficient toilet papers, safe drinking water, hand towels or hand dryers, soap or similar cleansing agent, facilities for safe keeping (store room) and seats for work purpose.

19. If there is any negative response, the Health and Safety representatives must specifically investigate the work area in conjunction with General Facilities Regulations and if necessary make recommendations to the Health and Safety Committee on intervention required.

## **20. MONITORING, AUDITS AND REVIEWS**

20.1 The Council will regularly review and audit the contractors conducting Council activities for compliance to their own standards and the Council's Health and Safety Specifications.

20.2 A register and maintenance records of all equipments used shall be kept in the office of the OHS Officer.

20.3 The Municipality will keep this policy updated and inform Council of any amendments.

20.4 Any employee who contravenes the provision of this Policy and /or the requirement of the OHS Act shall be charged with misconduct.

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