



CAPE WINELANDS DISTRICT

MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

| | |
|--------------------|------------------------|
| File Name | Exit Management Policy |
| Original Author(s) | Human Resources |
| Next Review Date | To be Confirmed |

INDEX

| | | |
|-----|--|----|
| 1. | PURPOSE..... | 3 |
| 2. | SCOPE AND APPLICATION..... | 3 |
| 3. | DEFINITIONS | 4 |
| 4. | LEGAL FRAMEWORK..... | 5 |
| 5. | REASONS FOR TERMINATION OF SERVICE | 6 |
| 6. | TERMINATION INITIATED BY THE EMPLOYEE..... | 8 |
| 7. | TERMINATION BY MUTUAL AGREEMENT | 13 |
| 8. | TERMINATION INITIATED BY THE EMPLOYER..... | 14 |
| 9. | CERTIFICATE OF SERVICE..... | 15 |
| 10. | EXIT INTERVIEW | 15 |
| 11. | DISPUTE RESOLUTION | 16 |
| 12. | AMENDMENTS | 16 |
| 13. | EFFECTIVE DATE..... | 16 |

1. PURPOSE

- 1.1 To outline policy guidelines for termination of service for employees that are compliant with the relevant legislative guidelines.
- 1.2 To outline the manner in which the Cape Winelands District Municipality administers the termination of services process and procedures.
- 1.3 To establish principles and procedures ensuring that the Cape Winelands District Municipality complies with legislative principles and imperatives in respect of the termination of services.

2. SCOPE AND APPLICATION

- 2.1 The Exit Management policy and its implementation will be fundamentally aimed at guiding the termination of service on a practical and functional basis.
- 2.2 All aspects of the relevant processes will be unbiased, fair and non-discriminatory.
- 2.3 The Municipality will adhere to relevant legislation and Collective Agreements.
- 2.4 Employees who leave the Cape Winelands District Municipality's service will be treated with fairness and dignity. Equally, employees for whom there is no further operational requirement, or who can no longer serve competently and effectively, will be properly managed when leaving the Municipality's service. Disciplinary action will be instituted in cases where employees are charged with misconduct.

2.5 Where contracts with staff have to be terminated, this will be done in accordance with the relevant legislation including the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), the Labour Relations Act, 1995 (Act No. 66 of 1995), relevant Collective Agreements, Conditions of Service and in accordance with the processes and procedures of the Municipality.

3. DEFINITIONS

“Employee” means any person, excluding an independent contractor, who works for the Cape Winelands District Municipality and who receives, or is entitled to receive any remuneration.

“Employer” means the Council of the Cape Winelands District Municipality.

“Executive Management” shall mean the Municipal Manager and Heads of Department.

“Full-time Employee” means someone who is in the employ of the Municipality and who is working forty (40) hours per week.

“Heads of Department” shall mean all appointees in terms of section 56 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

“Labour Organisations” means Cape Winelands District Municipality recognised Unions.

“Municipal Manager” shall mean a person appointed by the Municipal Council as the Municipal Manager for the Municipality in terms of section 54A of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

“Municipality” means the Cape Winelands District Municipality.

“Part-time Employee” means someone who is in the employ of the Municipality and who is working less than forty (40) hours per week.

“Permanent Employee” means an employee, excluding a contract employee and a temporary employee, occupying a post on the approved staff establishment of the Municipality in a permanent capacity, whether full-time or part-time, and includes an apprentice and a person appointed in such post for a probationary period.

“Staff Member” shall mean the employees of the Cape Winelands District Municipality, including the Municipal Manager.

“Temporary Employee” means an employee, excluding a contract employee, appointed to a post on the approved staff establishment of the Municipality in a temporary capacity, whether full-time or part-time, for a continuous period not exceeding twelve (12) months.

“Workplace” refers to the place of work as contemplated in the Labour Relations Act, 1995 (Act No. 66 of 1995).

All terminology not defined under paragraph 3 of this policy shall bear the same meaning as in the applicable legislation.

4. LEGAL FRAMEWORK

This policy and its application must be in accordance with the following legislative prescripts:

4.1 The Constitution of the Republic of South Africa, 1996.

4.2 The Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

- 4.3 The Labour Relations Act, 1995 (Act No. 66 of 1995).
- 4.4 The Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).
- 4.5 The Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997).
- 4.6 Local Government: Municipal Staff Regulations (Regulation No. 890 promulgated in Government Gazette No. 45181 of 20 September 2021).
- 4.7 All relevant Collective Agreements.

5. REASONS FOR TERMINATION OF SERVICE

- 5.1 An employee's service can be terminated in one of three ways –
 - 5.1.1 Termination initiated by the employee.
 - 5.1.2 Termination by mutual agreement.
 - 5.1.3 Termination initiated by the employer.
- 5.2 Subject to the provisions of the approved Conditions of Service, the Municipality may terminate the services of an employee on a date determined by the Municipality for any of the following reasons –
 - 5.2.1 The attainment of the pensionable age as determined by the rules of the relevant municipal pension, retirement or provident fund or, where the employee is not a contributing member of such a fund, the attainment of the pensionable age as determined in the rules of the fund he/she would normally have been a member had he/she qualified for membership.

- 5.2.2 Continued ill-health or continued physical disability which, in the opinion of a medical board, renders such employee unfit for the effective execution of the duties attached to the post occupied by him/her.
- 5.2.3 The forfeiture of any certificate of competence, licence or authorisation without which the employee is unable to perform the duties attached to the post occupied by him/her.
- 5.2.4 A conviction of misconduct in terms of the provisions of the Code of Conduct applicable on employees and the relevant disciplinary code or agreement.
- 5.2.5 The expiry of the employee's service contract with the Municipality.
- 5.2.6 If both the employee and the Municipality agree thereto.
- 5.2.7 If the Municipality, on or before the date of completion of the probationary period of an employee is of the opinion that he/she is not fit for the post occupied by him/her, the Municipality may:
- (a) In writing and stating the reasons, therefore, extend the probationary period of such employee for a maximum probationary period of twelve (12) months; or
 - (b) Give such employee at least one (1) working month written notice that his/her services will be terminated on a specific date; provided that a fair procedure has been followed.

5.3 When an employee serves a term of imprisonment in terms of a sentence imposed by a competent court, with the exception of community service on condition that his normal duties are not affected thereby, it will be regarded as voluntary termination of service.

6. TERMINATION INITIATED BY THE EMPLOYEE

6.1 Resignation

6.1.1 An employee may resign from the Municipality of his or her free will at any time by giving the employer notice in writing as stipulated in his or her contract of employment.

6.1.2 The exceptions to this are:

- (a) An employee should resign from the Municipality if he/she accepts a nomination as a member of parliament at national or provincial level.
- (b) An employee should resign from the Municipality if he/she accepts a nomination as a Councillor of a local authority, or accepts full-time employment elsewhere.
- (c) An employee who fails to offer his or her resignation in these circumstances will be deemed to have resigned.

- 6.1.3 Subject to the provisions to the contrary contained in any Agreement or in an employee's service contract with the Municipality, notice of termination of service by either the Municipality or the employee shall be given in writing in the format described and the period from the date of such notice to the date of such termination of service shall be at least as set out hereunder; provided that the Municipality or the employee, as the case may be, may accept a shorter period:
- (a) One (1) day in the case of a daily-paid employee.
 - (b) One (1) week in the case of a weekly-paid employee.
 - (c) Two (2) weeks in the case of a two-weekly-paid employee.
 - (d) One (1) calendar month in the case of a monthly-paid employee.
- 6.1.4 Subject to any provisions to the contrary contained in any Agreement or unless the Municipality and the employee agree to accept a shorter period of notice of termination of service than is required in terms of this clause, the Municipality shall, where such shorter period of notice is given by the Municipality, pay the employee his pay for the period by which the prescribed period of notice required in terms of this clause exceeds the shorter period of notice.
- 6.1.5 Unless both the Municipality and the employee agree thereto, a period of notice of termination of service shall not coincide with any period of approved leave.

- 6.1.6 Payment of salary will be on the last working day of the termination month, subject to the prescribed documentation and clearance forms being correctly submitted.
- 6.1.7 The expiry of the service contract of a contract employee shall not be deemed to constitute a termination of service if the Municipality, before or on the date of expiry of such service contract, concludes a further service contract with such employee and such employee, on a date agreed upon with the Municipality after the expiry of his/her contract with the Municipality, re-joins the Municipality's service.
- 6.1.8 The end of the term of a fixed-term contract will automatically end the employer/employee relationship and the employer in this case does not have to give notice to end a fixed-term contract.
- 6.1.9 All notices of termination must be accepted by the applicable Head of Department in writing.
- 6.1.10 Once a resignation has been submitted by an employee it cannot be withdrawn, except with the explicit written confirmation of the applicable Head of Department.

6.2 Retirement at Own Request

An employee has the right to retire from the Municipality when the retirement age as determined by the relevant pension, retirement or provident fund is reached.

6.3 Abscondment / Desertion

6.3.1 The Cape Winelands District Municipality regards unauthorised absence of employees in a very serious light as it negatively impacts on service delivery and therefore subscribe to the following principles:

- (a) Regular and open communication channels to employees pertaining to reporting any form of absenteeism.
- (b) Employees should continuously advise their immediate supervisors of any changes pertaining to their personal particulars especially their addresses and contact details.
- (c) All acts of unauthorised and/or non-communicated absence shall be investigated prior to any action taken against the employees.
- (d) Unauthorised and/or non-communicated absence from work for a period of exceeding five (5) consecutive working days shall be considered as abscondment.

6.3.2 On the third (3rd) working day of an unauthorised and/or non-communicated absence, the supervisor shall attempt to contact the employee at his/her last known address by means of one or more of the following:

- (a) Telephone (if applicable).
- (b) A personal visit to domicilium.

- 6.3.3 The mode of contact referred to in paragraph 6.3.2 above shall state clearly that the employee has absented himself/herself from work without authorisation and that the employee is hereby instructed to contact the supervisor or alternatively, instructed to resume duties within forty-eight (48) hours from the date of the telephone call or visit to domicilium.
- 6.3.4 The employee should also be advised to comply with the said instruction and that failure to comply may lead to the termination of the employment contract based on abscondment.
- 6.3.5 Should an employee report for duty not later than the 5th working day of the abscondment, the employer may consider taking disciplinary action against the employee.
- 6.3.6 Should an employee return to work within one month of the termination of the employment contract as a result of abscondment, a Disciplinary Committee should consider the reasons for abscondment in a formal hearing.
- 6.3.7 The position of the employee who has absconded should not be filled within one (1) month from the date of the said non-communicated and/or unauthorised absence.
- 6.3.8 Any dispute arising from the application of this policy shall be referred to the South African Local Government Bargaining Council for conciliation and/or arbitration.

7. TERMINATION BY MUTUAL AGREEMENT

7.1 Early Retirement

- 7.1.1 An employee who is below the years of age as determined by the rules of the relevant pension, retirement or provident fund can approach the Municipality to be prematurely retired.
- 7.1.2 The Municipality may approve such a request if it is in the interest of the service.
- 7.1.3 The Municipality may subject this retirement to limitation on re-employment prospects.

7.2 Voluntary Severance

- 7.2.1 Periodically, voluntary severance may be offered to employees.
- 7.2.2 In devising voluntary severance schemes, the following principles should be applied:
 - (a) All eligible employees (i.e. employees within the specified target group) wishing to take voluntary severance should be given an equal opportunity to apply.
 - (b) Objective selection criteria should be drawn up which set out clearly for the benefit of employees the basis on which applications will be considered. These criteria should be focused firmly on operational requirements and be consistent with the principles of employment equity.

- (c) The final decision to accept an application will rest with the employer.

8. TERMINATION INITIATED BY THE EMPLOYER

8.1 Retirement due to Reaching the Normal Retirement Age

The services of an employee, who retires in terms of the provisions of a municipal pension, retirement or provident fund, or at such age as may be determined, shall be terminated on the last day of the calendar month in which he/she reach the retirement age.

8.2 Retrenchment

Where a re-organisation of the Municipality's service results in the post occupied by an employee being declared redundant and abolished by the Municipality, the services of such employee may be terminated only if the employee cannot be promoted, transferred or demoted by the Municipality to another post in the Municipality's service; provided that –

8.2.1 In the case of a permanent employee or a contract employee, who is a member of a municipal pension, retirement fund or provident fund, such termination of service shall take place in terms of the rules of the pension or retirement fund.

8.2.2 In the case of any employee, other than a permanent employee or a contract employee who is not a member of a municipal pension, retirement or provident fund, such termination of service shall take place in terms of the provisions of such employee's service contract with the Municipality.

8.3 Termination due to Incapacity

Please refer to the applicable legislation for details regarding the principles and procedures to be followed.

8.4 Imprisonment

When an employee serves a term of imprisonment in terms of a sentence imposed by a competent court, with the exception of community service on condition that his normal duties are not affected thereby, it will be regarded as voluntary termination of service initiated by the employee.

9 CERTIFICATE OF SERVICE

9.1 Employees shall receive a detailed certificate of service when they leave the Municipality's service.

9.2 The certificate of service shall be in a pre-determined format, as may be decided from time to time by the Municipality, and which shall be compliant with any legal prescriptions.

10 EXIT INTERVIEW

10.1 The Division: Human Resources shall grant all employees leaving the employ of the Municipality an exit interview, on or before the effective date of termination of service.

10.2 This will only apply to permanent and fixed-term contract employees.

10.3 The exit interview will be in the format as prescribed by the Division: Human Resources.

11 DISPUTE RESOLUTION

Internal dispute resolution processes shall be followed in the event of any grievances and disputes arising out of the implementation of this policy.

12 AMENDMENTS

The Municipality may from time to time amend this policy and introduce any measure(s) to ensure efficient, economic and effective management of Municipality resources.

13 EFFECTIVE DATE

The Exit Management policy will become effective upon approval thereof by the Council of the Cape Winelands District Municipality.