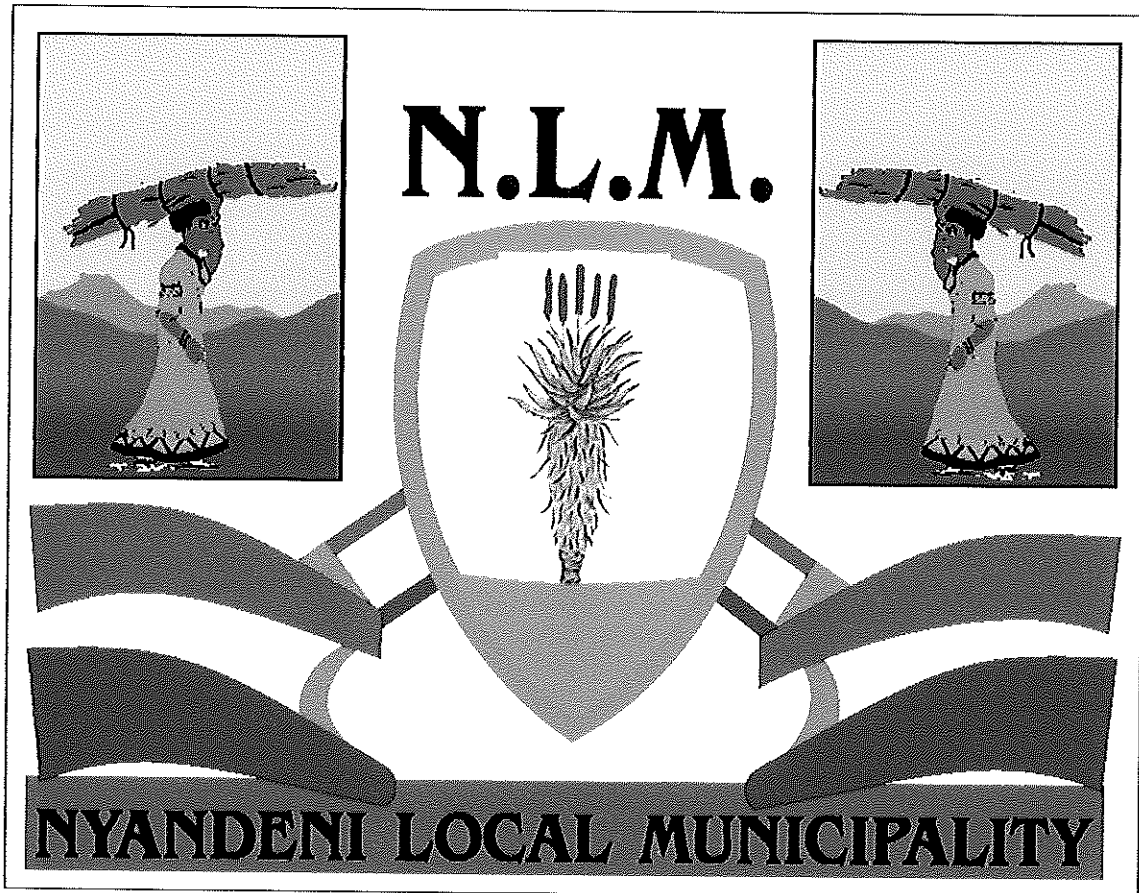


**TERMINATION OF SERVICE**

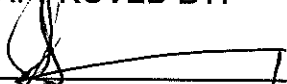


APPROVED BY:

  
MRS N. NOAMANDELA  
MUNICIPAL MANAGER

DATE: 29 July 2013

APPROVED BY:

  
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MAYOR

DATE: 29 July 2013

## **1. PURPOSE**

The purpose of this policy is to outline the key issues and steps in the process of terminating services of employees.

## **2. SCOPE**

The procedure applies to officers terminating their employment services on account of:

- 2.1 Normal resignations
- 2.2 Termination due to statutory appointment
- 2.3 Expiry of Contract
- 2.4 Operational Requirements
- 2.5 Death
- 2.6 Retirement
- 2.7 Dismissal
  - 2.7.1 Misconduct
  - 2.7.2 Abscondment
  - 2.7.3 Termination of Probation
  - 2.7.4 Incapacity or poor work performance
  - 2.7.5 Ill-Health

## **3. GUIDING PRINCIPLES**

- 3.1 A contract of employment terminable at the instance of a part thereto, shall be subject to one calendar month notice of the termination of contract, such notice to be in writing directed to the Municipal Manager, as per Annexure NOTICE OF TERMINATION. Notice of Termination should be within the first seven days of the month).
- 3.2 No vacation leave to be taken during notice period.
- 3.3 The Municipal Manager or his/her nominee may agree to accept shorter notice than is prescribed by this policy and may agree or decline to the withdrawal of the notice of termination before it has taken effect.
- 3.4 The Municipal Manager or his/her nominee in the case of termination of the employee's services in terms hereof, deduct from the employee the appropriate salary in lieu of the period on notice prescribed by this clause.
- 3.5 Employee who leave the Council's services shall receive a Certificate of Service in compliance with section 42 of the Basic Condition of Employment Act.
- 3.6 Nothing in the clause affects the right-
  - 3.6.1 Of a dismissed employee to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 1995, or any other law; and
  - 3.6.2 Of an employer or an employee to terminate a contract of employment without notice for any cause recognized by law.

3.6.3 On termination of employment an employer must pay an employee for any accrued paid time off, accrued vacation leave and pro-rata vacation leave in terms of the current incomplete leave cycle.

#### **4. STEPS IN HANDLING EMPLOYEE TERMINATIONS**

##### **4.1 Resignation**

- An employee must give notice of a month before resigning
- The employee must arrange and effect the handing over of assets of the municipality managed by him/her timeously.
- The employee must evacuate his/her office on the last day of employment, removing only personal belongings.
- An employee submits a letter of resignation to her/his immediate Supervisor.
- The Immediate Supervisor holds a quick discussion with the employee to establish if the employee's resignation is not as result of an incident at the workplace. This is not an exit interview.
- The Supervisor then forwards the letter to the Municipal Manager through his/her Manager.
- On approval by Municipal Manager, the Supervisor issues the employee with the termination of service form to complete.
- No matter how long the approval takes, notice period is from the day the immediate supervisor acknowledges receipt of the letter.
- The forms together with the letter of resignation of the employee are forwarded to the HR Manager.
- The HR Department receives the letter of resignation and proceeds with processing the termination of the employee.
- The Head of Department may simultaneously start the process of filling the post by completing the filling of vacant posts form.

##### **4.2 Termination due to statutory appointment**

An employee who is appointed in terms of the applicable section of the constitution of the Republic of South Africa 1996, as a Member of Parliament, or a Provincial Legislature, or a Councillor, or as a permanent delegate to the National Council of Provinces, shall be deemed to have terminated his/her contract, or retired if of pensionable age, with effect from the date on which she or he accepted the appointment.

##### **4.3 Expiry of Contract**

- 4.3.1 The Human Resources Department prints out and advise the Municipal Manager or the relevant Head of Departments names of employees whose contracts are due to expire six months in advance.  
The service of employees on fixed term contracts will automatically cease

at the end of the contract period. Extensions to fixed term contracts may be instigated by the municipality in line with the following:

- (i) The extension is required because of additional operational requirements in relation to the original contract and does not constitute a completely new requirement.
- (ii) The extension is not required because the employee has failed, through his/her own shortcomings, to deliver the required outcomes in the original timescale.
- (iii) There are clear operational grounds for extending a contract rather than creating a new contract filling the position through competition.
- (iv) The employee's performance during the period of the original contract has been wholly satisfactory.
- (v) The period of extension will not exceed 5 years.

4.3.2 Three months before contract expiry date, the HR department issues a notice of termination of services to the employee and advises the Immediate Supervisor to complete the termination of service form.

4.3.3 The rest of the steps in the resignation section will apply here

#### **4.4 Operational requirement**

- NLM may discharge employees for operational reasons if the discharge complies with Sections 189 and 190 of the Labour Relations Act; and
- The applicable collective agreement that determines benefits for employees discharged for operational reasons.
- If NLM transfers personnel to an entity outside Local Government such transfer shall comply with section 197 of the Labour Relations Act.

#### **4.5 Retrenchment**

- Periodically the municipality will find it necessary to dispense with the services of employees or groups of employees for whom there is no further operational requirement. In these circumstances the service of the employees concerned will be terminated accordance with a compulsory severance scheme negotiated with the relevant recognised employee organization.
- Such Schemes will be drawn up in accordance with the following principles.
  - (i) Selection criteria will be objective, consistent with the principles of employment equity and focused firmly on operational requirements. Where ever possible preference in selection should be given to those who wish to volunteer over those who wish to remain.

- (ii) The financial compensation package will provide fair compensation for the loss of employment, taking account of the employee's age, length of service and future employment prospects.
- (iii) Adequate notice of severance will be given to employees.

## **5 Severance Pay**

An employee, who is dismissed as a result of the municipal's operational requirements, shall be entitled to a severance pay of three (3) weeks remuneration for each complete year of service capped to the equivalent of nine (9) months remuneration, thereafter one week's remuneration for every completed year of service.

## **6. Death**

The municipality may render the following assistance:

- A delegation from the municipality will be sent to visit the bereaved family.
- Depending on the financial position of the bereaved family by municipality may provide some form of assistance regarding the funeral arrangements. This will have to go through a special committee to look at the merit of the case.
- In the case of death of an employee/ councillor the municipality should issue a memo communicating the message of the death of the employee to the staff and councillors of the municipality.
- The municipality will establish a compulsory Group Life Scheme and contribute 100% of the premiums thereof. The group life cover is specifically for employees of the municipality only.
- Transport of staff members who attend the Funeral.
- In the case where the family of the deceased employee is experiencing problems regarding the transportation of the body of the deceased from the place of work to his/ her home, the municipality may consider a request to assist with the transportation cost of the deceased body
- The provisions of 19.5.4above will only apply in special circumstances and a special committee would be established to look at the merit of the case should such a request be made.
- Notwithstanding the above provisions, the staff of the municipality should be encouraged to make a donation which will be submitted to the family of the deceased.
- In the case of death of a nuclear family member of the employee of the municipality. The municipality will provide the following support:
  - Donations by staff members.
  - Transport for staff members to attend the funeral.
- The death of an employee is reported to the immediate supervisor who will inform the Head of Department immediately of the employee's death. The Supervisor must make efforts to obtain the death certificate from the family members of the deceased employee.

- The Head of Department notifies the Municipal Manager and HR Department in writing accompanied by the termination of service form
- The HR department commences with the termination of services procedures and expedites the payment of benefits owing to the deceased employee to her/his family.
- The HR Department proceeds with processing the termination of the employee.
- The Head of Department may simultaneously start the process of filling the posts by completing the filling of vacant posts form.

#### **7. Termination on account of Ill-Health**

- The employee applying to be terminated on account of ill-health submits a medical certificate issued by the registered Medical Practitioner to her/his immediate Supervisor.
- NLM may on the basis of medical evidence, consider discharge based on incapacity due ill health or injury. To this end, NLM may require an employee to undergo a medical examination by a registered physician.
- NLM shall effect discharge on account of ill health or injury with due regard to item 10 of Schedule 8 to the Labour Relations Act, and any other collective agreement
- The Supervisor provides the employee with the termination of service form to complete and attaché the medical certificate to the form before transmitting to the Head of Department.
- The Head of Department completes her/his part on the form and forwards both documents to the HR Department.
- The HR Department arranges an exit interview with the employee, where the employee is in physical state of health to honour such an interview.
- The HR Department proceeds with processing the termination of the employee.
- The Head of Department may simultaneously start the process of filling the posts by completing the filling of vacant posts form.

#### **8. Retirement**

- At the beginning of every year, the Human Resources Department prints out the names of employees who are due to retire in the course of the year.
- The HR Departments advises Heads of Departments of the imminent retirements at least three months before the retirement date of employees.
- Three months before retirement date, the HR department advises the Immediate Supervisor to complete the termination of service form.
- The rest of the steps in the resignation section will apply here.

## 9. Dismissal

An employee may be dismissed on the following grounds:

### Incapacity

- If an employee's performance deteriorates so seriously and permanently, that the municipality can no longer justify employing him/her. In such circumstances an employee's service may be terminated.

### Misconduct

- An employee who is guilty of misconduct so serious as to render him/her unsuitable for employment in municipality is, in effect in breach of his or her contract and may therefore be dismissed.
- The HR Department will advise the Head of Department of an employee who is being dismissed immediately after the outcome of a disciplinary enquiry has been formalized.
- The Head of Department informs the Immediate Supervisor who starts the process of terminating the employee starting with the completion of the termination of services form.
- The rest of the steps as in the resignation type with the exception that no exit interviews are held.

## 10. PROCEDURES

- (i) In case of misconduct proven evidence of the alleged misconduct must be provided.  
The disciplinary code, as depicted in the Labour Relations Policy will come into effect.
- A. Disciplinary action short of dismissal should be considered before a decision to dismissal is taken.
- B. The employee will be given a written notice of the intention to dismiss him/her and adequate opportunity to make representations, with the assistance of a personal representative of his or her choice will be granted.
- (ii) The following procedures to implement termination in cases of abscondment will be followed:
- A. Reasonable attempts to contact the employee will be made. Adequate opportunity will be provided for employees to present his or her case why termination of service should not be proceeded with.
- B. The employee will be allowed to return to work and resume his or her duties should it come to light that the absence was for legitimate reasons and was not intentional abscondment.
- C. The employee has the right to appeal against his or her dismissal.

(iii) Procedures for dismissing employees as a result of unprotected strike action will comply with the following:

- A. The relevant trade union or unions will be given a notice of the intended action.
- B. Employees will be given a clear ultimatum advising them to return to work and informing them of the intention to dismiss them if they fail to do so.
- C. Employees will be given a reasonable period of time within which to consider and respond to the ultimatum. The employee is given an opportunity to make representations against the decision to terminate his or her services, with the assistance of a personal representative of his or her choice.

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#### **11. Abscondment**

- An employee who absents him/herself from work without permission for more than ten (10) consecutive working days (as prescribed by the Disciplinary Code) will be deemed to have absconded. The Supervisor should take all reasonable steps to establish the whereabouts of the employee and satisfy him/her that the employee has no intentions of returning to work.

#### **12. Termination of probation**

NLM shall act with due regard to item 8, schedule 8 of Labour Relations Act when terminating the services of an employee on probation

#### **13. Incapacity or poor work performance**

- NLM may discharge an employee for incapacity or poor work Performance.
- NLM shall effect discharges on account of incapacity or poor work performance with due regard to item 9 of Schedule 8 to the Labour Relations Act and the applicable collective agreement.

#### **13 Administering terminations from the HR point of view**

Termination of service due to resignation and ill-health must be initiated at the level of a department, with the Head of Department receiving the notification of termination from an employee, in the case of resignation.

Terminations of employment on account of retirement and dismissal will be initiated by the HR Department who will advise the Head of Department concerned of the imminent termination at the earliest opportunity.



The HR department will upon receipt of termination of employment notice undertake the following steps:

- Establish the debt status of the employee including possession of the NLM assets. Cooperation with the department concerned and the department of Finance is critical in this regards.
- Termination of the employee's services on Promun will be advised ahead of the deadline for the next payroll run.
- Notice of service termination will be forwarded to the third party institutions like medical aid and provident fund companies ahead of the employees last date with the NLM.
- All necessary arrangements shall be made to recover any NLM assets or debt owing by the employee.
- Arrange for the exit interview of the employee concerned

#### **Exit Interviews**

- HR Department arranges a structured exit interview for the employee.
- It should be held on the last working day.
- From post Level 3 upwards, the interviews must be held by Municipal Manager, the rest can be handled by HR Manager.
- The outcome of the interview is added to the NLM database on exit interviews;
- The Human Resources Department shall put together and distribute Monthly report to management on termination of services. The report may include employee details, date of termination of service, reasons for termination, etc.

#### **Circumstances in which a Termination of Service can be Delayed or Disapproved.**

- When there is a pending investigation and/or disciplinary action against the employee.
- When prescribed notice period is not adhered to and due to operational reasons it cannot be varied.
- When there is a task or project which the employee has to complete