

“ The City of Heritage ”



ULUNDI LOCAL MUNICIPALITY

IMPRISONED EMPLOYEE POLICY

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1 Policy Purpose

The purpose of this policy is to ensure correct, consistent and uniform application of all relevant procedures and policies applied to Municipal employees who find themselves in prison for alleged criminal offences, whether these criminal offences are work related or not. The Municipality shall apply either the Incapacity or the Disciplinary procedure as appropriate, in all cases of employees being absent from work due to imprisonment, on a basis consistent with all other incapacity or disciplinary cases.

2 Policy Scope

This policy is applicable to all employees of the Municipality who are imprisoned during the time that they are employed by the municipality, including when on approved leave, whether the imprisonment is work related or not.

3 Policy Definition

The following definitions are applicable:

“arrested” means held in custody, jailed, kept in detention, and apprehended by a South African law officer and or court.

“work related” means directly connected to a work-related activity.

“not work related” means not directly related to a work activity.

“criminal offence” any unlawful act or act against a law.

4 Legislative Framework

The following legislation is applicable:

Labour Relations Act, No. 66 of 1995 as amended.

Disciplinary Regulations for Senior Managers (Government Notice No. 344), as published in Government Gazette No. 34213

Divisional Conditions of Service Collective Agreement

5 General Policy Provisions

An employee who is arrested and/or imprisoned for an offence, whether work related or not, shall endeavour to notify the line manager within three working days.

An employee shall inform the line manager of his/her imprisonment, whether in person or via a co-employee, relative or legal representative.

In the event of the employer becoming aware of an employee's imprisonment, the line manager shall endeavour to establish the correct details of the case.

5.1 Appropriate Procedures

Depending on such details, the line manager shall apply the appropriate corrective procedure, being either the Disciplinary or the Incapacity Procedure.

In the case of an employee who is arrested and imprisoned for a criminal offence which is work related, the Municipal Disciplinary Procedure shall apply.

In the case of an employee who is arrested and imprisoned for a criminal offence which is not work related, the Municipality Disciplinary Procedure shall apply.

In both disciplinary and incapacity cases, before a decision is taken whether to terminate services or not, the employee shall be given an opportunity to respond or make submissions as to why his/her services should not be terminated. Such responses may be in writing or presented by a union representative or fellow employee on behalf of the imprisoned employee.

5.2 Internal Hearing

In the instance of a non-work-related case where the employee returns to work and the criminal case is not finalised before the conclusion of the formal incapacity hearing, the Chairperson shall suspend the hearing pending the outcome of the criminal matter and allow the employment relationship to continue. The hearing shall resume in the event of further related absences taking place in the future.

5.3 Formal Leave

The granting of any form of leave will only be considered under exceptional circumstances. This shall solely be within the right of the Municipal Manager in recommendation of the Chairperson of the Incapacity Hearing.

5.4 Payment

The general principles of “non-work no-remuneration” shall apply and leave shall not be granted by the line manager during the period of imprisonment.

5.5 Last Date of Employment

In the instance of a work-related case, the last date on which the employee actually reported for duty shall be regarded as the employee’s last date in the Municipality’s employ. This will prevent any overpayment and subsequent recoveries.