

# BUFFALO CITY METROPOLITAN MUNICIPALITY

## MEMORANDUM

Date: 10 July 2017

From: CITY MANAGER

To: HEAD OF DIRECTORATES  
GENERAL MANAGERS  
PROGRAMME MANAGERS  
OFFICE MANAGERS  
ALL STAFF

Our ref: 1/3/15/1

Please ask for  
**MR E NOMBILA**  
Ext. 2759

Your ref:

### STANDARD OF CONDUCT: 2017 UPDATE

Reference is made to the memorandum dated 22 April 2015 and Circular 39 of 2015 from South African Local Government Association (SALGA).

SALGA informed all the Municipalities that, a declaratory order has been issued by Labour Court nullifying the Collective Agreement on Disciplinary Procedure and Code and the negotiations on the new agreement are in progress therefore:

*"In the interests of maintaining stability and labour peace within the local government sector, municipalities are advised to rely on the provisions of **Schedule 8 of the Labour Relations Act**, as amended, which deals with **Code of Good Practice: Dismissals**". A copy of schedule 8 is attached hereto as **annexure "A"***

In view of the above, the Standard of Conduct in relation to procedure shall apply in terms of Schedule 8 of the Labour Relations Act until the new Collective Agreement is signed by parties at the South African Local Government Bargaining Council. Staff members are yet again reminded of the following standard of conduct that has been set for compliance.

#### 1. **AWOL / Desertion**

Absence without leave is a serious offence and may lead to dismissal. Line Managers are reminded to comply with the absenteeism policy contained in the employee relations report attached as **annexure "B"**

Desertion is defined as being absent from work without notification to the employer and without trace and/ or with no intention to come back.

Buffalo City Metropolitan Municipality sets the period of ten (10) consecutive days of absence for desertion, thereafter BCMM regards such period of absence as repudiation of employment contract by an employee.

***In dealing with desertion*** line managers are expected to make every possible attempt to establish the whereabouts of the employee and must issue the first letter to the employee on the third (3<sup>rd</sup>) day of absence informing him/her of the alleged desertion.

If the employee fails to report, the line manager must issue the second (2<sup>nd</sup>) letter on the sixth (6<sup>th</sup>) day of absence instructing him/or her to return on duty and the consequences of failure to comply. If the employee fails to report, the line manager must on the eleventh (11<sup>th</sup>) day of absence send a letter to the employee to afford him an opportunity to make written presentations within 48 hours as to why his/her services should not be terminated.

Such representations shall be addressed to the heads of department to make a final decision. Failure to respond within 48 hours will be regarded as an admission of guilt and the service of the employee shall be terminated.

Line managers are responsible to make sure that the salary is stopped during the period of desertion. Failure to do so will constitute financial misconduct in terms of Municipal Finance Management Act and will lead to disciplinary action being taken against offenders as well as any overpayment being recovered, where applicable.

## **2. Dishonesty**

Any instance of dishonesty is regarded as extremely serious and is a dismissible offence should staff members be found guilty. Line Managers are to ensure that disciplinary action is taken in all such cases and that criminal action is also instituted by reporting such cases to SAPS for prosecution where criminal conduct such as theft, fraud, etc. is involved. Line Managers are instructed to request a precautionary suspension in all instances of dishonesty.

Dishonesty ranges from theft, fraudulent application documents, bribery, tampering with electricity / water supplies, selling of jobs, selling of graves, failure to disclose information, tampering with evidence and/ or defeating the ends of justice, by-passing the biometric system and any other clocking system, tampering with attendance register etc. Kindly note that the list above is not exhausted and any queries should be referred to Labour Relations.

An alarming number of staff have been dismissed in the recent past and the Commissioners at arbitrations confirmed the dismissals.

## **3. Failure to report / or take action on misconduct**

Staff are advised that, in terms of Municipal Systems Act 32 of 2000 as amended, staff have a duty to report any form of misconduct.

The employer has been experiencing resistance from staff members in co-operating with investigations, refusing to give statements related to the misconduct and testifying in disciplinary hearings, notwithstanding their full knowledge of the incidents. Furthermore, there is a growing trend of employees testifying in disciplinary hearings and arbitrations untruthfully with an intention to deceive the proceedings. Employees can be charged for such and can also be instructed to testify.

Any failure to report misconduct and/ or concealing information, giving false written and/ or verbal, sworn and/ or unsworn statements, letters, recordings, photographs, fabricated evidence etc. is regarded as extremely serious and may lead to dismissal. All employee and employer representatives are cautioned to guide their witnesses against this type of misconduct during preparations and in the actual proceedings. A copy of schedule two (2) code of conduct for municipal staff members is attached as **annexure "C"** for compliance by all staff.

Line Managers are cautioned that any failure to take disciplinary action on reported misconducts is contrary to schedule (2) of the Municipal Systems Act 32 of 2000 therefore serious disciplinary action will be taken against any Line Manager who fails and/ or refuses to comply.

#### **4. Sexual Harassment**

Staff members are reminded that Buffalo City Metropolitan Municipality has adopted a policy on sexual harassment and views sexual harassment as extremely serious. In this regard, staff members are reminded that cases of sexual harassment may lead to dismissal in the event of a guilty finding against the offender.

Vicarious liability (i.e. liability of the employer for the wrongful deeds of its employees) on sexual harassment cases is a real issue and accordingly, Line Managers are cautioned to take all sexual harassment claims very seriously by immediately requesting suspension of the accused employee and take formal disciplinary action thereafter. The sexual harassment policy is attached as **annexure "D"**.

#### **5 Misuse/ unauthorised use of municipal vehicle/or equipment**

Staff members are reminded that Municipal vehicles / equipment may not be used for private purposes and disciplinary action will be taken against any staff member found to be misusing a Municipal vehicle or equipment. Staff members are further reminded that taking Municipal vehicles home without authority / driving without a municipal permit/authority/ failure to record mileage or account for kilometres travelled is also viewed in a very serious light and may lead to dismissal.

BCMM has introduced e-tags and a tracking system to control use of vehicles without authority. Staff members are not allowed to use their tags to start vehicles for other colleagues and supervisors are prohibited from issuing such instruction.

Fleet Inspectors and Technicians or Mechanics or Artisans are strictly prohibited from using their universal tags to assist staff members to start vehicles without proof of trip authority. No employee whether is a qualified technician or mechanic or auto-electrician is allowed to disconnect an e-tag and tracking system fitted in the Municipal vehicles without the authority of the General Manager: Mechanical & Fleet Management and such behaviour is a dismissible offence as it has elements of dishonesty.

Line Managers are to note that they have no authority to allow or instruct staff members to use municipal vehicles for private purposes. Subordinate staff members are instructed to report when such instruction is given as that will not be accepted as a defence when a staff member is charged.

## 6. Channels of Communication

Staff members are reminded that they are to follow the correct channels of communication with regards to any grievance / query that they might have. Such internal matters must be referred to Line Managers via Management using the grievances procedure.

Staff are strictly prohibited from approaching political office bearers, political structures and media on any matter of Municipal administration. Disciplinary action will be taken in cases where this standard is breached. In referring any issues to line management, staff are further instructed that issues are to be raised with their direct line manager to address. There is a growing trend of staff members elevating issues to Senior Management without following their lower levels of management first. That tendency is totally unacceptable and may give just cause for disciplinary action.

Line Managers who fail to address grievances in terms of the grievance procedure are in breach of the main collective agreement and senior managers are instructed to take disciplinary action against the perpetrators.

Kindly note that failure to handle grievances within the stipulated time frame may lead to disputes being referred to the Bargaining Council for Interpretation / application of the collective agreement on grievance procedure. Such disputes will attract costs to the municipality such as fines, compliance order fees, arbitration costs, legal costs and incidental costs. Such costs shall be borne by the department and the recovery of costs shall be executed against whoever is responsible for the breach of the grievance procedure. The grievance procedure is attached hereto as **annexure "E"**.

## **7. Media and Social networks**

Staff are reminded that they are not allowed to speak to the media directly or indirectly, positive or negative about contractual or employment related issues and that includes social networks, radio interviews and public gatherings, unless authorised to do so. HODS and specific communication staff are authorised to do so.

It has been noted with a grave concern that there is a growing trend of staff members using the media and public gatherings such as IDP Roadshows, funerals, community meetings, political platforms etc. to make negative comments / statements about the municipality's affairs without authority and some are using social networks such as Facebook, twitter, Instagram to such a way that brings the name of the municipality in disrepute.

Staff members are informed that this behaviour is viewed in a very serious light and is totally unacceptable and may give just cause for dismissal if found guilty.

## **8. Assault**

Staff are advised that assault of a fellow staff member, client /or consumer /or a member of the public whilst in the line of duty is totally unacceptable and will generally lead to dismissal unless it was unavoidable and was a situation of justifiable self-defence. Numerous dismissals have occurred for assault and staff are cautioned that assault is a dismissible offence. Staff members and line managers are reminded that this standard of conduct is an institutional measure therefore departmental reconciliation, informal enquires and / or "kangaroo courts" in all serious cases (in particular of assault) are not regarded as form of disciplinary action and the decision to proceed with the disciplinary action does not rest with the affected employees.

In addition, it has been noted that line managers are delaying instituting discipline in cases of assault. Line Managers are advised that all cases of assault are extremely serious and are instructed to action suspension immediately in such cases.

## **9. Intimidation / Threats**

Intimidation could be in a form of a verbal statement, written statement, demonstration, audio/ visual aid, gestures, cohesion, public or private network directed to a persons or group of persons meant to cause fear. There have been incidents of intimidation where staff members would intimidate their supervisors or subordinates in the line of duty and in those cases, staff members have been dismissed.

Staff members are advised that intimidation and/ or threats in any form under any circumstances or situations will be viewed in a very serious light and it is a dismissible offence.

#### **10. Unbecoming conduct**

Staff members are reminded that professionalism and ethical standards are to be upheld at all times.

Any unbecoming conduct at work is totally unacceptable and will lead to disciplinary action being taken against the perpetrators.

As a guide, unbecoming conducts ranges from any form of abusive language, insolence, personalising municipal properties or equipment, witchcraft or any related practices, hostile behaviour, public indecency, littering, loafing /or loitering, unauthorised entry to prohibited opposite sex facilities, non-compliance with smoking policy [see attached smoking policy marked **annexure "F"**], sabotage and the list is not exhausted.

Staff members are advised that this is viewed in a very serious light and any staff member who is found guilty of such may be dismissed depending on the merits of the case.

#### **11. Racism/ Nepotism**

Any form of racial behaviour or racial utterances by staff members is unacceptable and will be regarded as dismissible.

Nepotism is also viewed in very serious light and bears the same consequences as racism as it disrupts operations, destroys the spirit of employee-employer relations and promotes conflicts. Line Managers are instructed to give staff members equal treatment in similar circumstances.

#### **12. Consumption of alcohol / drugs**

Staff are reminded that consumption of alcohol /or any intoxicating drugs or substance before attending work or during working hours is totally unacceptable and is regarded as a dismissible offence.

Emergency services staff members and all other staff members who are driving municipal vehicles, operating machinery and work in high risk areas where safety is strictly regulated by law may be dismissed for a first offence should they be found guilty of consumption of alcohol and /or intoxicating drugs or substances whilst or before assuming duties.

Employee wellness staff are available to assist any staff members who are identified with any substance abuse problem. Employee Assistance Programme cannot be used as a defence mechanism when a staff member is charged prior to disclosure of a problem nor are those who have disclosed immune to discipline.

### 13. Private Work / Second Employment / Business Venture

The performance of private work in a form of second employment and/ or being involved in a business venture without the required consent in terms of BCMM policy is viewed as a serious misconduct.

Schedule 2 of Municipal Systems Act 44 of 2003, Code of Conduct for Municipal Employees, section 4(2) (C) reads, *a staff member of a Municipality may not, except with a prior consent of the Council of a Municipality be engaged in any business, trade or profession other than the work of the Municipality.*

Applications are to be made on the required form attached as **annexure "G"** and submitted to line managers for consideration. Staff members are cautioned to obtain permission prior engaging on second employment or business venture and failure to adhere to this policy will be viewed as a serious contravention which may lead to formal disciplinary action taken against staff members and depending on the merits of the case, may lead to dismissal.

Staff members are advised that despite having been granted permission to conduct private work and /or second employment and /or having involved in business venture other than as an employee, staff are strictly prohibited from contracting with the Buffalo City Metropolitan Municipality and other Municipalities and municipal entities in terms of Supply Chain Management regulation (44), Supply Chain Management Policy and Municipal Finance Management Act Circular 62 of National Treasury.

False declarations in the bidding forms is a criminal offence over and above misconduct and staff members are cautioned not to attempt to bid or conceal or misrepresent themselves and must report any false declaration or misrepresentation made by their partners, business associates or spouses when bidding with the Buffalo City Metropolitan Municipality.

Staff members are required to disclose benefits that their spouses, partners, business associates or family members acquired or stands to acquire directly from a contract concluded with Buffalo City Metropolitan Municipality in writing with full particulars of the benefits to the Municipal Manager.

The Auditor General has been reporting on staff members who are failing to disclose their financial benefits from contracts concluded within BCMM by their spouses, partners, business associates and family members and false declarations from staff members contracting with BCMM. Staff members are advised that such transactions are declared by Auditor General as irregular expenditure with very strong recommendations to suspend the contracts, recover payments made, open criminal charges, initiating serious disciplinary action and the listing of those companies on the default register of National Treasury.

Staff members are thus cautioned that contracting with the Municipality and municipal entities, false declarations to Buffalo City Metro, failure to disclose direct benefits from contracts concluded with Buffalo City Metro and engaging in business venture or second employment without written permission from Buffalo City Metro is a very serious offence.

#### **14. Insubordination**

Staff are required to perform their tasks and job responsibilities diligently, carefully and to the best of their ability. Staff are further required to obey all lawful and reasonable instructions given by a person having the authority to do so, failing which disciplinary action will be taken against them which may lead to dismissal depending on the merits of the case.

There has been a line of defence that staff members are taking instructions from line supervisors such as taking vehicles home, not to balance the cash, not to lock the safe, not to count the monies, not to use log books, by-passing of meters for consumers, adjusting consumer accounts etc. Staff members are cautioned that all instructions that are against the municipal procedures, practice and policies are not regarded as valid/ lawful instructions therefore all staff members who execute such instructions are viewed as accomplice.

#### **15. Gross Negligence**

Staff are advised that the costs incurred by the municipality as a result of negligent conduct by an employee will be recovered from the employee as stipulated in the Municipal Finance Management Act. Line Managers are instructed to ensure that the recovery of such costs is actioned once the necessary hearing has been finalised. This conduct may lead to dismissal depending on the merits of the case.

#### **16. Work stoppage**

Staff are reminded that they are not allowed to strike or take part in a work stoppage unless the strike is protected as per the Labour Relations Act 66 of 1995. Staff are reminded to follow all procedures as set out in the relevant policies such as the Collective Agreement Disciplinary Code in bringing their grievance to management's attention and not to use a work-stoppage as a tool to pressurise management in an irregular manner.

In instances where a work-stoppage occurs, Line Managers are required to ensure that proper records are kept for the duration of the strike and that such information is submitted forthwith to the Labour Relations Division. The principle of no work, no pay is to be adhered to and disciplinary action be instituted unless the strike is protected as advised by Labour Relations. Staff members are prohibited from blocking access to municipal premises and such conduct is viewed in a serious light.



## 17. Shopstewards

Shopstewards are reminded that they are the employees of the Municipality therefore the standard of conduct is applicable to them. The municipality is expecting all shopstewards to promote the code and lead by example in all areas of standard of conduct. Shopstewards are expected to report all cases of misconducts to the employer and to co-operate with investigations.

The municipality will not tolerate shopstewards who negotiate sanctions and/ or facilitate peace talks with the line managers and later use that as a tool for inconsistency claim when defending other cases. This behaviour is viewed as manipulation and bad-faith conduct.

Constituency shopstewards are reminded that they are not allowed to leave their workplaces/ depots without the permission from their line managers despite the approval from the Municipal Manager. Constituency shopstewards are instructed to submit leave forms prior attending shop-steward council meetings, trainings, seminars, etc. and failure to do so may lead to deduction of salary of unpaid leave.

Unauthorised meetings are strictly prohibited and any shop-steward who instructs /or congregates members in an unauthorised meeting shall be disciplined and the employer may thereafter withdraw his/ her recognition as a shop steward if found guilty.

It has been reported that some constituency shopstewards are more often in the union offices than in their work sites. This is viewed in a very serious light and constituency shopstewards are reminded that they are obliged to perform their duties that they are employed and paid for as the full time shopstewards are released to run office on a full-time basis. Shopstewards are also expected to conduct themselves in a civil manner when they are performing their shopsteward duties and any unbecoming behaviour constitutes breach of standard of conduct.

Full-time shop-stewards are reminded that their priority should be in Buffalo City Metropolitan Municipality and the employer will not accommodate delays in disciplinary cases and grievances due to their commitments to other Municipalities.

All correspondences from the local trade union office will only be recognised under the hand signature of the Local Secretaries and/ or chairpersons.

## **18. Suspension of employees**

Line Managers are instructed to ensure that suspension is requested in all cases of serious misconduct wherein there is a possibility of occurrence, threat to safety of other employees or the accused himself and /or continuation with his /her duties poses a real threat to trust relationship. Failure to suspend in serious cases can bear serious consequences that can lead to a disciplinary action being taken against any Line Manager who fails to provide justifiable reasons for not suspending an employee who is accused for serious misconduct.

## **19. Non-compliance with the Standards of Conduct**

The employer has experienced non-compliance with the Standards of Conduct by Presiding Officers and Prosecutors. This is viewed as a serious transgression which has a potential of compromising discipline in the workplace.

Line Managers are reminded that discipline is a line function therefore they are expected to exercise due care and diligence in the performance of this function. Non-compliance with the standards of conduct has serious institutional implications of discipline in the workplace.

Prosecutors are reminded that they are representing the Municipal Manager and/ his authorised representative which is the Head of Directorate therefore they have no authority to withdraw charges without consulting with their Heads of Directorates.

Presiding Officers are reminded that they are independent of municipal structures and the City Manager, however there is still accountability in the execution of their duties and are expected to exercise a duty to care and apply diligence in the proceedings.

In all cases where the presiding officer has failed to comply with the standards of conduct he/she will be required to submit a report to the City Manager to account for the deviation and disciplinary action may be instituted in cases where there is no rational explanation for such deviation.

Further, where the gravity of the deviation compromises a legal principle, the Municipality will exercise its right to apply for review of the disciplinary outcome to Labour Court in terms of section (158) of the Labour Relations Act and the costs therefore shall be recovered from the presiding officer involved.

Presiding Officers are to request information from Labour Relations regarding standard of conduct, statistics, case laws, disciplinary record of an employee and consistency when dealing with complex cases. This does not translate to interference nor should it be viewed as influencing a decision of Presiding Officers by Labour Relations.

Presiding Officers / Prosecutors and Line Managers are therefore advised that non-compliance is viewed as a serious offence which may result to punitive sanction if found guilty.

Heads of Directorates are requested to circulate this memo to all staff members and on all notice boards. Heads of Directorates are further requested to raise the contents of this memo in their HOD meetings for compliance by management.

  
**A. SIHLAHLA**  
**CITY MANAGER**

Copy to: - IMATU  
SAMWU

## Schedule 8 of Labour Relations Act

### CODE OF GOOD PRACTICE: DISMISSAL

[Schedule 8 amended by s. 57 of Act No. 42 of 1996 and by s. 56 of Act No. 12 of 2002.]

**1. Introduction.**—(1) This code of good practice deals with some of the key aspects of dismissal for reasons related to conduct and capacity. It is intentionally general. Each case is unique, and departures from the norms established by this Code may be justified in proper circumstances. For example, the number of employees employed in an establishment may warrant a different approach.

(2) This Act emphasises the primary of collective agreements. This Code is not intended as a substitute for disciplinary codes and procedures where these are the subject of collective agreements, or the outcome of joint decision-making by an employer and a work-place forum.

(3) The key principle in this Code is that employers and employees should treat one another with mutual respect. A premium is placed on both employment justice and the efficient operation of business. While employees should be protected from arbitrary action, employers are entitled to satisfactory conduct and work performance from their employees.

**2. Fair reasons for dismissal.**—(1) A dismissal is unfair if it is not effected for a fair reason and in accordance with a fair procedure, even if it complies with any notice period in a contract of employment or in legislation governing employment. Whether or not a dismissal is for a fair reason is determined by the facts of the case, and the appropriateness of dismissal as a penalty. Whether or not the procedure is fair is determined by referring to the guidelines set out below.

(2) This Act recognises three grounds on which a termination of employment might be legitimate. These are: the conduct of the employee, the capacity of the employee, and the operational requirements of the employer's business.

(3) This Act provides that a dismissal is automatically unfair if the reason for the dismissal is one that amounts to an infringement of the fundamental rights of employees and trade unions, or if the reason is one of those listed in section 187. The reasons include participation in a lawful strike, intended or actual pregnancy and acts of discrimination.

(4) In cases where the dismissal is not automatically unfair, the employer must show that the reason for dismissal is a reason related to the employee's conduct or capacity, or is based on the operational requirements of the business. If the employer fails to do that, or fails to prove that the dismissal was effected in accordance with a fair procedure, the dismissal is unfair.

### **Disciplinary procedures prior to dismissal**

**3. Disciplinary measures short of dismissal.**—(1) All employers should adopt disciplinary rules that establish the standard of conduct required of their

employees. The form and content of disciplinary rules will obviously vary according to the size and nature of the employer's business. In general, a larger business will require a more formal approach to discipline. An employer's rules must create certainty and consistency in the application of discipline. This requires that the standards of conduct are clear and made available to employees in a manner that is easily understood. Some rules or standards may be so well established and known that it is not necessary to communicate them.

(2) The courts have endorsed the concept of corrective or progressive discipline. This approach regards the purpose of discipline as a means for employees to know and understand what standards are required of them. Efforts should be made to correct employees' behaviour through a system of graduated disciplinary measures such as counselling and warnings.

(3) Formal procedures do not have to be invoked every time a rule is broken or a standard is not met. Informal advice and correction is the best and most effective way for an employer to deal with minor violations of work discipline. Repeated misconduct will warrant warnings, which themselves may be graded according to degrees of severity. More serious infringements or repeated misconduct may call for a final warning, or other action short of dismissal. Dismissal should be reserved for cases of serious misconduct or repeated offences.

### **Dismissals for misconduct**

(4) Generally, it is not appropriate to dismiss an employee for a first offence, except if the misconduct is serious and of such gravity that it makes a continued employment relationship intolerable. Examples of serious misconduct, subject to the rule that each case should be judged on its merits, are gross dishonesty or wilful damage to the property of the employer, wilful endangering of the safety of others physical assault on the employer, a fellow employee, client or customer and gross insubordination. Whatever the merits of the case for dismissal might be, a dismissal will not be fair if it does not meet the requirements of section 188.

(5) When deciding whether or not to impose the penalty of dismissal, the employer should in addition to the gravity of the misconduct consider factors such as the employee's circumstances (including length of service, previous disciplinary record and personal circumstances), the nature of the job and the circumstances of the infringement itself.

(6) The employer should apply the penalty of dismissal consistently with the way in which it has been applied to the same and other employees in the past, and consistently as between two or more employees who participate in the misconduct under consideration.

**4. Fair procedure.**—(1) Normally, the employer should conduct an investigation to determine whether there are grounds for dismissal. This does not need to be a formal enquiry. The employer should notify the employee of the allegations using a form and language that the employee can reasonably understand. The employee should be allowed the opportunity to state a case

in response to the allegations. The employee should be entitled to a reasonable time to prepare the response and to the assistance of a trade union representative or fellow employee. After the enquiry, the employer should communicate the decision taken, and preferably furnish the employee with written notification of that decision.

(2) Discipline against a trade union representative or an employee who is an office-bearer or official of a trade union should not be instituted without first informing and consulting the trade union.

(3) If the employee is dismissed, the employee should be given the reason for dismissal and reminded of any rights to refer the matter to a council with jurisdiction or to the Commission or to any dispute resolution procedures established in terms of a collective agreement.

(4) In exceptional circumstances, if the employer cannot reasonably be expected to comply with these guidelines, the employer may dispense with pre-dismissal procedures.

**5. Disciplinary records.**—Employers should keep records for each employee specifying the nature of any disciplinary transgressions, the actions taken by the employer and the reasons for the actions.

**6. Dismissals and industrial action.**—(1) Participation in a strike that does not comply with the provisions of chapter IV is misconduct. However, like any other act of misconduct, it does not always deserve dismissal. The substantive fairness of dismissal in these circumstances must be determined in the light of the facts of the case, including—

(a) the seriousness of the contravention of this Act;

(b) attempts made to comply with this Act; and

(c) whether or not the strike was in response to unjustified conduct by the employer.

(2) Prior to dismissal the employer should, at the earliest opportunity, contact a trade union official to discuss the course of action it intends to adopt. The employer should issue an ultimatum in clear and unambiguous terms that should state what is required of the employees and what sanction will be imposed if they do not comply with the ultimatum. The employees should be allowed sufficient time to reflect on the ultimatum and respond to it, either by complying with it or rejecting it. If the employer cannot reasonably be expected to extend these steps to the employees in question, the employer may dispense with them.

**7. Guidelines in cases of dismissal for misconduct.**—Any person who is determining whether a dismissal for misconduct is unfair should consider—

(a) whether or not the employee contravened a rule or standard regulating conduct in, or of relevance to, the work-place; and

(b) if a rule or standard was contravened, whether or not—

- (i) the rule was a valid or reasonable rule or standard;
- (ii) the employee was aware, or could reasonably be expected to have been aware, of the rule or standard;
- (iii) the rule or standard has been consistently applied by the employer; and
- (iv) dismissal with an appropriate sanction for the contravention of the rule or standard.

**8. Probation.**—(1) (a) An employer may require a newly-hired employee to serve a period of probation before the appointment of the employee is confirmed.

(b) The purpose of probation is to give the employer an opportunity to evaluate the employee's performance before confirming the appointment.

(c) Probation should not be used for purposes not contemplated by this Code to deprive employees of the status of permanent employment. For example, a practice of dismissing employees who complete their probation periods and replacing them with newly-hired employees, is not consistent with the purpose of probation and constitutes an unfair labour practice.

(d) The period of probation should be determined in advance and be of reasonable duration. The length of the probationary period should be determined with reference to the nature of the job and the time it takes to determine the employee's suitability for continued employment.

(e) During the probationary period, the employee's performance should be assessed. An employer should give an employee reasonable evaluation, instruction, training, guidance or counselling in order to allow the employee to render a satisfactory service.

(f) If the employer determines that the employee's performance is below standard, the employer should advise the employee of any aspects in which the employer considers the employee to be failing to meet the required performance standards. If the employer believes that the employee is incompetent, the employer should advise the employee of the respects in which the employee is not competent. The employer may either extend the probationary period or dismiss the employee after complying with subitems (g) or (h), as the case may be.

(g) The period of probation may only be extended for a reason that relates to the purpose of probation. The period of extension should not be disproportionate to the legitimate purpose that the employer seeks to achieve.

(h) An employer may only decide to dismiss an employee or extend the probationary period after the employer has invited the employee to make representations and has considered any representations made. A trade union representative or fellow employee may make the representations on behalf of the employee.

(i) If the employer decides to dismiss the employee or to extend the probationary period, the employer should advise the employee of his or her rights to refer the matter to a council having jurisdiction, or to the Commission.

(j) Any person making a decision about the fairness of a dismissal of an employee for poor work performance during or on expiry of the probationary period ought to accept reasons for dismissal that may be less compelling than would be the case in dismissals effected after the completion of the probationary period.

(2) After probation, an employee should not be dismissed for unsatisfactory performance unless the employer has—

(a) given the employee appropriate evaluation, instruction, training, guidance or counselling; and

(b) after a reasonable period of time for improvement, the employee continues to perform unsatisfactorily.

(3) The procedure leading to dismissal should include an investigation to establish the reasons for the unsatisfactory performance and the employer should consider other ways, short of dismissal, to remedy the matter.

(4) In the process, the employee should have the right to be heard and to be assisted by a trade union representative or a fellow employee.

**9. Guidelines in cases of dismissal for poor work performance.—**Any person determining whether a dismissal for poor work performance is unfair should consider—

(a) whether or not the employee failed to meet a performance standard; and

(b) if the employee did not meet a required performance standard whether or not—

(i) the employee was aware, or could reasonably be expected to have been aware, of the required performance standard;

(ii) the employee was given a fair opportunity to meet the required performance standard; and

(iii) dismissal was an appropriate sanction for not meeting the required performance standard.

**10. Incapacity: ill health and injury.—**(1) Incapacity on the grounds of ill health or injury may be temporary or permanent. If an employee is temporarily unable to work in these circumstances, the employer should investigate the extent of the incapacity or the injury. 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. 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. In cases of permanent incapacity, the employer should ascertain the possibility of



securing alternative employment, or adapting the duties or work circumstances of the employee to accommodate the employee's disability.

(2) In the process of the investigation referred to in subsection (1) the employee should be allowed the opportunity to state a case in response and to be assisted by a trade union representative or fellow employee.

(3) The degree of incapacity is relevant to the fairness of any dismissal. The cause of the incapacity may also be relevant. In the case of certain kinds of incapacity, for example alcoholism or drug abuse, counselling and rehabilitation may be appropriate steps for an employer to consider.

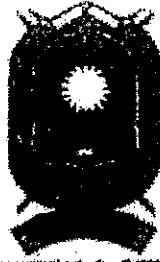
(4) Particular consideration should be given to employees who are injured at work or who are incapacitated by work-related illness. The courts have indicated that the duty on the employer to accommodate the incapacity of the employee is more onerous in these circumstances.

**11. Guidelines in cases of dismissal arising from ill health or injury.—**  
Any person determining whether a dismissal arising from ill health or injury is unfair should consider—

- (a) whether or not the employee is capable of performing the work; and
- (b) if the employee is not capable—
  - (i) the extent to which the employee is able to perform the work;
  - (ii) the extent to which the employee's work circumstances might be adapted to accommodate disability, or, where this is not possible, the extent to which the employee's duties might be adapted; and
  - (iii) the availability of any suitable alternative work.

Buffalo City Metropolitan Municipality  
East London | Shishe | King William's Town  
Provinces of the Eastern Cape  
South Africa

Website: [www.buffalocity.gov.za](http://www.buffalocity.gov.za)



**BUFFALO CITY  
METROPOLITAN MUNICIPALITY**

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## MEMORANDUM

**TO:** CITY MANAGER  
ALL DIRECTORS  
ALL GENERAL MANAGERS  
ALL OFFICE MANAGERS  
ALL STAFF

**FROM:** ACTING DIRECTOR: CORPORATE SERVICES

**DATE:** 14 JANUARY 2013

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### ABSENTEEISM

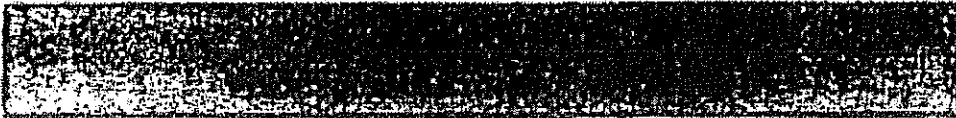
We have noted a high rate of employee absenteeism which has contributed to non-service delivery throughout Buffalo City.

However we wish to advise Departments that absenteeism is a line Department function and that line Managers and Supervisors are not complying with the Employee Relations policy on regulating absenteeism.

We attach the Policy in this regard and it is recommended that the policy be circulated to all Supervisors and relevant Managers.

Workshops will also be conducted and Human Resources will be liaising with the relevant Line Managers in this regard.

**L WULFF  
ACTING DIRECTOR: CORPORATE SERVICES**



A) POLICY STATEMENT

It is the policy of Buffalo City Municipality to investigate all absenteeism in the organisation and render assistance, if and when possible, through a process of counselling in order to correct the problem or to work around the problem. Where it is not possible to correct or work around the problem, then the appropriate action must be taken.

B) INTRODUCTION

Absenteeism is not always caused by wilful or negligent conduct on the part of an employee, but may be caused by an employee's incapacity. Nevertheless high levels of absenteeism are having a significant adverse impact on the municipality's operational requirements and are to be dealt with in accordance with the provisions of this policy.

It is important that supervisors / managers scrutinise attendance records to establish negative trends in attendance since such behaviour may often be indicative of more deep seated problems (psychological, physical, logistical, domestic, etc.). It is the duty of supervisors / managers to attempt to ascertain underlying reasons which might be impacting on the attendance of their subordinates, to attempt to isolate the underlying causes of the problem, and to find effective solutions that PREVENT disruption to the normal operation of the municipality.

C) STANDARDS

The following standards are set regarding absenteeism arising from sick leave or any other reason:

1) SICK LEAVE

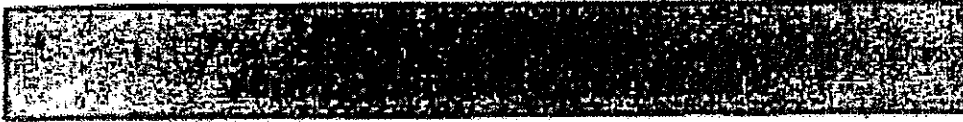
- a) Employees are to notify their supervisors before 10H00 when they are unable to attend work due to illness.
- b) Employees are to submit sick leave forms with the supporting Medical Certificate, where required, within 72 hours of the employee (i.e. 3 days) absencing themselves.



- c) A Medical certificate issued by a registered medical practitioner (as envisaged by the Basic Conditions of Employment Act 75 of 1997) must be automatically submitted in all cases of sick leave of 3 or more days duration.
- d) Medical certificates issued by a registered medical practitioner (as envisaged by the Basic Conditions of Employment Act 75 of 1997) must be produced by employees upon request by supervisors for periods of sick leave of less than 3 days duration with the following conditions:
  - i) Where the supervisor requests such a certificate for sick leave of less than 3 days, the employee must still be paid for that days sick leave, unless the circumstances set out in para (i) below exist.
  - ii) If the employee has been absent on account of illness on 3 or more occasions in an eight-week period and when requested by the supervisor does not supply a medical certificate as prescribed above, then unpaid leave will be granted for such absences.
- e) A sick absenteeism rate (SAR) of 12 days per annum for 'every day' illness is set by the Buffalo City Municipality. SAR of more than this limit of 12 days per annum is unacceptable and must be actioned by the supervisor. Major illness or accidents will not be included in the above and will be covered in terms of the sick leave allocation of employees.
- f) Staff members who are on sick leave for any reason are required to be at their home resting. Should staff not comply, disciplinary action is to be taken against them. Should an employee need to leave home, prior consent must be obtained from the relevant supervisor.

## 2) ABSENTEEISM

- a) Employees are to notify their supervisors before 10:00 when they are absent for any urgent personal reason other than illness.
- b) Absence without leave is unacceptable and will lead to disciplinary action being taken against employees by supervisors.
- c) If an employee is absent without leave, his/her salary will be deducted for the period of absence. This deduction will be made in addition to any disciplinary action being taken.
- d) Staff members who are absent for 5 consecutive working days or more, without talking with their supervisor will be deemed to have deserted/absconded from their employment.
- e) Staff members who are absent without leave will not be granted vacational leave or annual leave retrospectively, but will have their salary deducted as stated above.

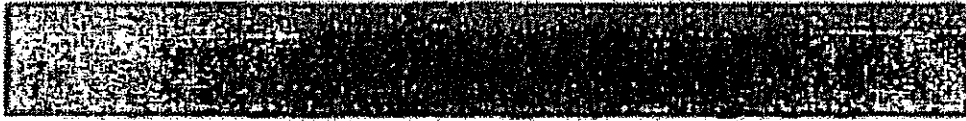


## ABSENTEEISM

### THE COUNSELLING PROCESS

#### i. STAGE ONE (by immediate supervisor)

- 1.1. The counselling process may involve the employee's representative who should be asked to personally involve himself/herself in attempting to assist with the problem. The process itself should be approached constructively and not in an antagonistic and adversarial fashion.
- 1.2. The employee and his/her representative should be called aside and in a discussion asked to review the issue of the employee's absenteeism or repeated absenteeism. Notice of such "review" is not required since the employee is merely being asked to comment on factual situation.
- 1.3. The counselling process could involve three distinct stages:-
  - a) **Provide Facts:** firstly, the employee should be informed of why it is considered that his/her attendance is inadequate and unacceptable, eg. "You have been absent on 4 separate occasions during the last 8 weeks and because of your important role in the Department, your absence has a seriously disruptive effect on the normal operation of your department";
  - b) **Listen to Explanation:** secondly, the employee must be asked to provide an explanation for his/her absenteeism and to suggest reasonable ways in which the problem may be rectified;
  - c) **Find Acceptable Solution:** the final stage requires both the supervisor/manager and the employee to accept that a problem exists regarding attendance together with the problems this causes and for the employee to commit himself/herself to taking active steps to remedy the problem. It should be specifically brought to the employee's attention that the company cannot allow poor attendance to continue.
- 1.4 **Set up Monitor/Feedback System:** The parties should agree that the employee's attendance will be monitored over the following 8 week period and that they will meet to review the situation should this prove necessary.
- 1.5 **Record Event:** This gist of the above process should be summarised in a letter, a copy of which should be given to the employee and a copy placed on his / her personal file (see poor attendance – memo – Annexure B hereto)



## **2. STAGE TWO (follow up action based on Agreement)**

- 2.1. If within the following period agreed upon between the supervisor / manager and the employee concerned, the employee's attendance record continues to indicate absenteeism and the supervisor / manager is of the view that the employee is showing no ability / inclination to improve his / her attendance, then stage two of the counselling process should be invoked.
- 2.2. Stage two is in essence a repeat of the procedure involved in stage one. In addition the supervisor / manager should highlight to the employee:-
  - a) The basis of their previous discussion at which a problem was identified and a commitment made to remedy it and why the employee has again failed to meet the required standards;
  - b) It is important at this stage that the employee be clearly informed that unless he / she is able to improve attendance, the municipality may well have to consider taking more serious action to prevent disruption to the operation of the municipality, which action may include the termination of the employee's services.
- 2.3. Again the gist of the above process should be summarised in a letter, a copy of which should be given to the employee and a copy placed on his / her personal file (see poor attendance – Brief 2 on page .....). This letter would take the form of a verbal warning.

## **3. STAGE THREE (FORMAL ENQUIRY)**

- 3.1. Where the situation persists and the supervisor / manager is of the view that the employee is either unable to remedy it, or has shown no positive inclination to do so, an enquiry should be convened in keeping with the municipality's requirements for the conducting of a fair disciplinary enquiry.
- 3.2. If the absenteeism is beyond the control of the employee, the incapacity procedure must be followed.
- 3.3. The normal prescriptions of progressive discipline should apply i.e. progressive warnings should be issued.
- 3.4. The termination of the employee's services will be a measure of last resort.
- 3.5. The disciplinary hearing must follow the normal rules of discipline.

Annexure B

**ANNEXURE B to  
Absenteeism Policy**

**POOR ATTENDANCE: BRIEF 1**

TO : .....  
DEPARTMENT : .....  
FROM : .....  
DATE : .....

I wish to summarise our discussion today during which I conveyed to you my concern over your repeated absenteeism over recent weeks.

We discussed the fact that your record indicated that you have been unable to attend work on ..... occasions during the past ..... weeks. I further stressed to you that the company is dependent upon our regular attendance at work and cannot tolerate persistent non-attendance due to the disruptive effect it has on the operation of your department and that your regular attendance is necessary.

I have taken note of your stated reasons for your absenteeism as being:

.....  
.....  
.....

and your undertaking and commitment to take the following active steps to remedy the problem

.....  
.....  
.....  
.....

I confirm that we agreed that your attendance will be monitored during the next (8) week period in order to determine whether you are able to improve same. Should you continue to be absent during this period, the company will have to review your suitability for employment in your present position.

Yours sincerely

**SUPERVISOR**

**POOR ATTENDANCE: BRIEF 2**

TO : .....

DEPARTMENT : .....

FROM : .....

DATE : .....

I wish to summarize our discussion today during which I repeated to you my growing concern over your repeated absenteeism from work.

You will recall that I initially expressed my concern to you on ..... When I stressed that the company is dependent on your regular attendance at work and that your inability to attend work regularly was having a disruptive effect on the normal operation of your department.

On that occasion we noted your poor attendance record and you committed yourself to making a special effort to improve your attendance in the future. You specifically, in an effort to improve the position, were going to .....

.....

.....

.....

.....

Despite the above undertaking, I stress today that since our previous discussion there has been no positive indication that you have been able to alter your poor attendance record, which continues to detrimentally effect the operation of your department.

You again undertook today to make an extra effort to do whatever is reasonably possible to ensure your regular attendance in the future.

Should it not be possible to reverse this trend of poor attendance, the company is going to have to take more drastic steps, which could include the termination of your services.

Yours sincerely

**SUPERVISOR**



**Procedure: Sick Leave**

- a) Supervisors must enforce the standards contained in the Absenteeism Policy.
- b) Attendance of employees must be continuously monitored by supervisors/ managers.
- c) Where standards are contravened, or where a problem such as apparent abuse of sick leave becomes evident, supervisors should do all or some of the following:
  - i) Follow-up medical certificates with Doctors, Hospitals or Clinics. Supervisors must emphasize to the medical practitioner that they request his co-operation and are not questioning his professional judgement, but want to confirm the veracity of the certificate.
  - ii) A medical certificate can be required for each day/period of sick leave. Where an employee has not taken longer than 3 days or has not been absent on at least 2 occasions in the past 8 weeks supervisors still have to pay the employee. In such cases, non-production of a certificate should lead to disciplinary action for disobeying an instruction.
  - iii) Obtain a 2<sup>nd</sup> opinion from a medical practitioner of the Department's choice. In such a case the opinion must be paid for by the Department.
  - iv) Do a home visit to sick employee. Should the employee not be there, the supervisor should check again later. Disciplinary action should be taken in such a case, unless a valid reason is presented by the employee.
- d) In the case of continuous absenteeism due to ill-health, where corrective measures have not succeeded supervisors/managers must refer to the Buffalo City Municipality Incapacity Policy attached as Enclosure 3 to the Employee Relations Policy for further action.

**Procedure: Absence without Leave**

- a) Supervisors/Managers must enforce the standards contained in the Absenteeism Policy.
- b) Attendance of employees must be continuously monitored by supervisors/managers.
- c) Where an employee is absent without leave, the reasons must be investigated by the supervisor/manager.
- d) Unless a reasonable and justified explanation is provided by the employee, the supervisor/manager must deduct the lost time from the employee's salary, as well as take disciplinary action against the employee.
- e) Should a reasonable and justified explanation be provided (where possible, documentary proof may be required) the supervisor/manager may authorise vacation leave for the employee.
- f) In cases where employees are absent for 5 consecutive working days or longer, the following procedure should be followed:
  - i) If no contact has been made after 3 working days, the department must send a letter to the place of residence of the employee advising that absence of 5 consecutive working days is deemed to be desertion/absconding which could result in his/her dismissal and also notifying the employee of a disciplinary hearing which must be set for the period after completion of the 5 days desertion period. The letter must further advise the employee that the hearing will be held notwithstanding failure to attend by the employee, his/her representative and/or his/her witnesses.
  - ii) The supervisor then arranges a hearing with the relevant parties and follows normal procedures.
- g) As specified above, any instance of unauthorised absenteeism must be lead to corrective disciplinary action being taken by the supervisor/manager. Such disciplinary action may lead to dismissal of employees should an improvement not occur.

the Council and the other bodies performing functions of a traditional leader's type as participants in the council's proceedings, the MEC may—

- (a) suspend the right to participate and to contribute to the proceedings of the council;
  - (b) cancel the right.
- (7) Any investigation in terms of this section must be in accordance with the rules of natural justice.
- (8) The suspension or cancellation of a traditional leader's type as participant in the proceedings of a council does not affect that traditional leader's right to address the council in terms of section 81 (3) of the Municipal Structures Act.

SCHEDULE 3

CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS

Definitions

In this Schedule "partner" means a person who permanently lives with another person in a manner as if married.

General conduct

3. A staff member of a municipality must at all times—
- (a) loyally execute the lawful policies of the municipal council;
  - (b) perform the functions of office in good faith, diligence, honesty and in a professional manner;
  - (c) act in such a way that the spirit, purpose and objects of section 39 are not compromised;
  - (d) act in the best interests of the municipality, and in such a way as to ensure the stability and integrity of the municipality as an organisation; and
  - (e) not accept any gifts or benefits, including travel and medical benefits, from any person or organisation.

Commitment to serving the public interest

4. A staff member of a municipality is a public servant in a developmental local system, and must accordingly—
- (a) implement the provisions of section 39(1);
  - (b) foster a culture of commitment to serving the public and a collective sense of responsibility for performance in terms of standards and targets;
  - (c) promote and seek to implement the basic values and principles of public administration described in section 193 (1) of the Constitution;
  - (d) obtain copies of or information about the municipality's integrated development plan, and as far as possible within the ambit of the staff member's job description, seek to implement the objectives set out in the integrated development plan, and achieve the performance targets set for each performance indicator;
  - (e) participate in the overall performance management system for the municipality, as well as the staff member's individual performance appraisal and reward system, if such exist, in order to maximize the ability of the municipality as a whole to achieve its objectives and improve the quality of life of its residents.

Personal gain

4. (1) A staff member of a municipality may not—
- (a) use the position or privileges of a staff member, or confidential information obtained as a staff member, for private gain or to improperly benefit another person; or
  - (b) take a decision on behalf of the municipality concerning a matter in which that staff member, or that staff member's spouse, partner or business associate, has a direct or indirect personal or private business interest.

10. Staff members

9. A staff member of a municipality shall not be liable for the cost of any property or other benefit transferred or discharged to the municipality by or which that member has no right.

Payment of rates

10. A staff member of a municipal city may be in arrears to the municipality for rates and service charges for a period longer than 3 months, and a municipality may deduct any outstanding amounts from a staff member's salary after that period.

Participation in elections

11. A staff member of a municipality may not participate in an election of the council of the municipality, other than in an official capacity or pursuant to any constitutional right.

Sexual harassment

12. A staff member of a municipality may not embark on any action involving sexual harassment.

Respectful duty of staff members

13. Wherever a staff member of a municipality has reasonable grounds for believing that there has been a breach of this Code, the staff member must report the matter to a superior officer or to the speaker of the council.

President of Council

14. The duties of the Council shall be those set out in section 41 of the Municipal Structures Act, 1998, and the Council shall also be subject to the provisions of section 42 of the same Act.

SCHEDULE 2

LEGISLATION AMENDMENTS

1. Sections 31 and 37 of, and Schedule 3 to, the Municipal Structures Act are hereby repealed.

2. Section 37 of the Municipal Structures Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

"(a) occasions a provision of the Code of Conduct for Councillors set out in Schedule (5) of the Local Government Municipal Systems Act, 2007, and is removed from office in terms of the Code."

3. Section 41 of the Municipal Structures Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) When participating in the proceedings of a municipal council a traditional leader is subject to the appropriate provisions of the Code of Conduct set out in Schedule (5) of the Local Government Municipal Systems Act, 2007."

4. Section 42 of the Municipal Structures Act is hereby amended by the addition of the following subsection, the existing subsection becoming subsection (1):

"(2) A person appointed as municipal manager must have the relevant skills and expertise to perform the duties associated with that post."

5. Schedule 4 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), is hereby amended by the addition of the following item:

"1. Fines and arrears paid in respect of offences and alleged offences in terms of—"

Annexure D

**SEXUAL HARRASSMENT POLICY**

**BUFFALO CITY MUNICIPALITY**

The Code of Good Practice on the handling of sexual harassment cases issued by the National Economic Development and Labour Council in terms of Section 203 (2) of the Labour Relations Act 1995 (Act No. 66 of 1995) is accepted as the official Policy with regards to sexual harassment in the workplace by the Buffalo City Municipality.

**POLICY STATEMENT:**

The parties confirmed the following policy statement in accordance with paragraph 6 (1) of the abovementioned Code:

- a) All employees, job applicants and other persons who deal with the Buffalo City Municipality have the right to be treated with dignity.
- b) Sexual Harassment in the workplace will not be permitted or condoned.
- c) Persons who have been or are being subjected to sexual harassment in the workplace have the right to lodge a grievance about it and appropriate action will be taken by the Council.

**1. INTRODUCTION**

- (1) The object of this Policy is to eliminate sexual harassment in the workplace.
- (2) This Policy provides appropriate procedures to deal with the problem and prevent its recurrence.
- (3) This Policy encourages and promotes the development and implementation of policies and procedures that will lead to the creation of workplaces that are free of sexual harassment where employers and their employees respect one another's integrity, privacy and right to equity in the workplace.

**2. APPLICATION OF THE POLICY**

(1) Although this Policy is intended to guide Council and employees, the perpetrators and victims of sexual harassment may include:

- (1) Councillors
- (2) Managers
- (3) Supervisors
- (4) Employees
- (5) Job applicants
- (6) Clients
- (7) Suppliers
- (8) Contractors

promotions, merit rating or salary increases

## 5. GUIDING PRINCIPLES

- (1) Managers should create and maintain a working environment in which the dignity of employees is respected. A climate in the workplace should also be created and maintained in which victims of sexual harassment will not feel that their grievances are ignored or trivialised, or face reprisals. The following guidelines are to be complied with:
  - (a) Councilors/management and employees are required to refrain from committing acts of sexual harassment.
  - (b) All councilors/management and employees have a role to play in creating and maintaining a working environment in which sexual harassment is unacceptable. They should ensure that their conduct does not cause offence and they should discourage unacceptable behaviour on the part of others.
  - (c) Councilors/management should attempt to ensure that persons such as customers, suppliers, job applicants and others who have dealings with the Municipality are not subjected to sexual harassment by councilors and employees.
  - (d) Managers are required to take appropriate action in accordance with this policy when instances of sexual harassment which occur within the workplace are brought to their attention.
- (2) Management has the positive duty to implement the policy and take disciplinary action against employees who do not comply with the policy.
- (3) The Council emphasizes that:
  - (a) Allegations of sexual harassment will be dealt with seriously expeditiously, sensitively and confidentially.
  - (b) Employees will be protected against victimisation, retaliation for lodging grievances and from false accusations.
- (4) This policy statement on sexual harassment will be communicated to all employees and the unions.

## 6. PROCEDURES

- (1) Advice and assistance

Sexual harassment is a sensitive issue and a victim may feel unable to approach the perpetrator, lodge a formal grievance or turn to colleagues for support. Victims may approach the following persons for confidential advice:

- (a) The Acting General Manager: Human Resources, a trade union representative or co-employee

groundless.

(b) The Code of Good Practice regulating Dismissal contained in Schedule 8 to the Labour Relations Act, 1995 (Act No. 65 of 1995) ("the Act"), reinforces the provisions of Chapter VIII of the Act and provides that an employee may be dismissed for serious misconduct or repeated offences. Serious incidents of sexual harassment or continued harassment after warnings are dismissible offences.

(c) In cases of persistent harassment or single incidents of serious misconduct, managers must follow the procedures set out in the Code of Good Practice contained in Schedule 8 to the Act.

(d) It is also made clear that it will be a disciplinary offence to victimise or retaliate against an employee who in good faith lodges a grievance of sexual harassment.

(e) Criminal and civil charges.

A victim of sexual assault has the right to press separate criminal and/or civil charges against an alleged perpetrator, and the legal rights of the victim are to no way limited by this code.

(f) Dispute resolution.

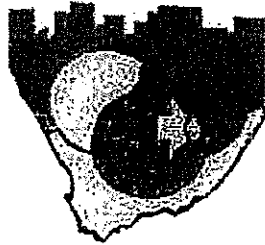
Should a complaint of alleged sexual harassment not be satisfactorily resolved by the internal procedures set out above, either party may within 30 days of the dispute having arisen, refer the matter to the CCMA for conciliation in accordance with the provisions of section 135 of the Act. Should the dispute remain unresolved, either party may refer the dispute to the Labour Court within 30 days of receipt of the certificate issued by the commissioner in terms of section 135 (5).

## 7. CONFIDENTIALITY

(1) Managers, Trade Unions and employees must ensure that grievances about sexual harassment are investigated and handled in a manner that ensures that the identities of the persons involved are kept confidential.

(2) In cases of sexual harassment, management, unions, employees and the parties concerned must endeavour to ensure confidentiality at the disciplinary inquiry. Only appropriate members of management, and the aggrieved person, his or her representative, the alleged perpetrator, witnesses, an Industrial Relations representative and an interpreter, if required, may be present at the disciplinary inquiry.

(3) Managers are required to disclose to either party or to their representatives such information as may reasonably be necessary to enable the parties to prepare for any proceedings in terms of this code.



**SOUTH AFRICAN LOCAL GOVERNMENT  
BARGAINING COUNCIL**

(hereinafter referred to as "the Council")

**MAIN COLLECTIVE AGREEMENT**

In accordance with the provisions of the Labour Relations Act, 1995 made and entered into by and between the:-

**SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION**

(hereinafter referred to as "SALGA")

and

**INDEPENDENT MUNICIPAL AND ALLIED TRADE UNION**

(hereinafter referred to as "IMATU")

and

**SOUTH AFRICAN MUNICIPAL WORKERS' UNION**

(hereinafter referred to as "SAMWU")

(IMATU and SAMWU will together be referred to as the "Trade Unions")

1.5  
P.5



others calling for such a meeting in an attempt to reach agreement on whether the service(s) in question is indeed essential and if so what minimum level of services is required. The duration of any such agreement shall be for the period of the strike.

12.1.5 In the event that no agreement is reached at the meeting (whether due to absence of any Party, or otherwise) the matter may be dealt with in terms of Section 73 of the Act.

12.1.6 The question of *essential services* during the course of a disaster declared in terms of the Disaster Management Act 57 of 2002 shall be dealt with in accordance with that Act.

## 12.2 Replacement Labour

12.2.1 The *employers* hereby waive and abandon the right to take on replacement labour in order to provide a service in addition to the minimum service levels agreed in respect of any service determined to be an *essential service* pursuant to 12.1.4 above.

12.2.2 The waiver above will not affect the right of the *employer* to take on replacement labour or additional labour in respect of those services not classified as *essential services* in the context of 12.1.4 above.

12.2.3 Notwithstanding the afore-going, in the event of employees failing to abide by the terms of any collective agreement on *essential services*, then the waiver and abandonment referred to in 12.2.1 above shall be of no force and effect.

## 13. GRIEVANCE PROCEDURE

### 13.1 Preamble

13.1.1 This procedure shall be deemed to be a condition of service.

13.1.2 The objective of this grievance procedure is to ensure substantive and procedural fairness to resolve problems as quickly and as close to their source as possible and to deal with conflict through procedural and consensual means.

13.1.3 No employee shall suffer victimisation or occupational prejudice directly or indirectly as a result of lodging a grievance.

13.1.4 The parties shall disclose relevant documents which may assist to resolve a grievance to one another save that no party will be required to disclose information:

13.1.4.1 That is legally privileged;

13.1.4.2 That the employer cannot disclose without contravening a prohibition imposed on the employer by any law or order of any

13.1.4.3 That is confidential and, if disclosed, may cause substantial harm to an *employee* or the employer; or

13.1.1.4 That is private personal information relating to an *employee*, unless that *employee* consents to the disclosure of that information.

13.1.5 Nothing in this grievance procedure shall prevent a union from pursuing a dispute in its own capacity in terms of any agreed or other disputes procedure provided it has the right in law to pursue such dispute.

13.1.6 The parties shall take steps to ensure that employees and managers are informed about this procedure and are trained to implement this procedure effectively.

### 13.2 Step One: Immediate Superior

13.2.1 An aggrieved employee or group of employees must lodge a grievance in writing with his or her immediate superior on the prescribed form in Annexure 5 setting out the complaint and the desired result.

13.2.2 Should the grievance concern the conduct of the employee's immediate superior, the employee may proceed directly to step two (2) below, provided that he or she submits the grievance on the prescribed form.

13.2.3 Should the grievance concern the conduct of the head of department the employee may proceed directly to step three (3) provided he or she submits the grievance on the prescribed form.

13.2.4 The immediate superior shall wherever practically possible endeavour, in consultation with the affected employee or employees, to resolve the grievance within ten (10) days of the grievance having been referred to him or her and shall inform the employee of the outcome in writing. An employee may, if he or she so wishes be assisted by a shop steward, fellow employee or union official.

### 13.3 Step Two: Head of Department

13.3.1 If a grievance has not been resolved to the satisfaction of the aggrieved employee or group of employees within ten (10) days of lodging in terms of clause 13.2.1 above, the employee or employees may refer the matter in writing within ten (10) days to the Head of Department or his or her nominee.

13.3.2 The Head of Department or his or her nominee shall arrange a meeting to consult and hold discussions with the affected parties in an attempt to achieve a resolution. The employee or employees may be assisted by a fellow employee, shop steward or union official at such a meeting and the immediate superior may also be required to attend.

13.3.3 The Head of Department or his or her nominee shall endeavour to resolve

#### 13.4 Step Three: Municipal Manager

- 13.4.1 If the grievance has not been resolved to the satisfaction of the aggrieved employee or group of employees within ten (10) days of the referral in terms of clause 13.3.3 above, the employee or employees may refer it in writing to the Municipal Manager or his or her nominee within ten (10) days. The Municipal Manager shall hold a meeting, attended by the employee or employees and their representative, if required, and any other persons who, in the opinion of the Municipal Manager or his or her nominee should attend.
- 13.4.2 The Municipal Manager or his or her nominee shall hear details of the grievance including proposals to resolve the issue and shall endeavour to reach an agreed outcome within ten (10) days of the referral in terms of clause 13.4.1 above.
- 13.4.3 The Municipal Manager or his or her nominee shall inform the employee or employees in writing of the outcome of the hearing as envisaged in clause 13.4.2 above, and such outcome shall be final in terms of this procedure.
- 13.4.4 If a grievance is against a Municipal Manager, the aggrieved employee may refer the grievance to the Mayor or Executive Mayor, who may either seek to resolve the grievance himself or herself or engage the assistance of an appropriate Senior Manager of another Municipality to help resolve the grievance.
- 13.4.5 If a grievance has not been resolved to the satisfaction of the aggrieved party, that party may refer the grievance to the Council for adjudication provided that a dispute has been declared and the party is entitled in law to declare such a dispute.

#### 14. BARGAINING COUNCIL LEVY

- 14.1 Every *employer* shall, on each pay day, or if an employee is weekly paid, on the last Day of the month, deduct from the wages of each of its employees an amount as agreed to by the parties from time to time.
- 14.2 To the total of the amount deducted in terms of clause 14.1, the *employer* shall add an equal amount and forward the total amount to the *Council*, not later than the 7<sup>th</sup> day of the following month.
- 14.3 The *employer* shall remit to the *Council*, on the prescribed remittance form, the total number of all employees in the *Municipality* together with the proof of payment.
- 14.4 Where an employee is on leave of any nature excluding a period where an employee is on unpaid leave for an entire month, his own and the employer's contribution shall be continued.
- 14.5 Should any amount due in terms of clauses 14.1 and 14.2 not be received by the *Council* on the due date, the *employer* shall pay interest on such overdue amount at a rate of interest determined by the *Council* from time to time, subject to the Prescribed Rate of Interest Act 1975

15/24  
P.S.M

REPORT TO COMMUNITY SERVICES STANDING COMMITTEE:  
10 SEPTEMBER 2001

SMOKING POLICY IN MUNICIPAL BUILDINGS:

1. INTRODUCTION

- 1.1 Attached herewith, please find Government Gazette No 5895 containing Regulation No R.59, 2000 with regards to the Tobacco Products Control Amendment Act, 1999 (Act No 12 of 1999)
- 1.2 Under Section 11 of the Tobacco Products Control Amendment Act, 1999 (Act No 12 of 1999), the President has determined 1 October 2000 as the date on which the said Act shall come into operation.
- 1.3 Regulation No R.5975 gives notice relating to Smoking at Tobacco Products in public places.
- 1.4 Section 5 of this regulation requires that "Employers must have a written policy on smoking in the workplace and the policy must be in place within three months from the date of coming into operation of the Tobacco Products Control Amendment Act 1999 (Act No 12 of 1999)
- 1.5 Enclosed please find a working document on a proposed smoking policy and the current smoking policy in municipal buildings confirmed by T.L.C. Minute 285-95 dated 29 May 1995.

2. SMOKING POLICY WORKING DOCUMENT

- 2.1 All public areas within all council buildings are to be maintained as smoke free zones and clearly sign posted.

The following specific areas in all council buildings shall be non-smoking areas at all times:

Common areas:	Foyers Reception Areas Auditoria Corridors Libraries Store rooms Lifts Stair ways Lecture Rooms Meeting/Conference Exercise Rooms	Offices Work rooms Utility rooms Rest rooms Medical facilities Any workplace where food is prepared and/or any area not designated as a smoking zone.
---------------	---	--

Council Rooms  
Computer Rooms  
Toilets

2.2 IMPLEMENTATION PROCESS

The Smoking Policy will take effect three months after the acceptance date by Council in respect of venues and workplaces, and immediately in respect of any new venues.

The National Department of Health is preparing Implementation Guidelines to be used by Environmental Health Officers and other practitioners. Upon the acceptance of the Smoking Policy all employees will be informed of the contents of the policy, including the smoking areas, by means of an internally distributed memorandum to all departments headed for distribution in their sections. Copies of the smoking policy will further be prominently displayed throughout the Council facilities for the attention of all employees, the public and office tenants.

Signs identifying all designated smoking and non-smoking areas of buildings will throughout the workplace indicating the smoking status of the various areas of the building.

All staff, political office bearers and unions will be requested to actively participate in the implementation and maintenance of the smoking policy. Staff found smoking in the non-smoking areas in the building will be requested to refrain from smoking in the non-smoking area. Staff will be subject to disciplinary action should they continue with such activities in areas designated by a legal provision as an area where smoking is not allowed for health and safety reasons.

The policy should be seen as a strategy of improving the general health of the employee and not as a punitive action against smokers - what is important is not to stop smoking but to control where smoking occurs. This is not a "once-off" happening but a well managed/driven process with a long term focus - there must be buy-in from senior management and unions and their intention must be indicated to all staff.

3. RECOMMENDATIONS

It is recommended that :

- (a) smoking **BE ACTIVELY DISCOURAGED AND BE PROHIBITED** in all specified areas in municipal buildings and workplaces with effect from Council's approval of this policy in respect of existing venues, and with immediate effect in respect of any new venues. Such arrangements to be monitored for a period of

three months from the date of effective implementation, after which date a report evaluating the situation be submitted to Council;

- (h) appropriate signs and prescribed health messages/warnings **BE DISPLAYED** at all designated areas throughout the workplaces;
- (i) **APPROPRIATE DESIGNATED VEHICLES** in each municipal building or work place be chosen as smoking areas, provided that the vehicles are properly ventilated and the use of which shall not cause smoke to be allowed into non-smoking areas, seats to be checked upon through a process of consultation with the health and safety committees and/or representatives, unions and staff. All designated areas must not be intrusive upon the progress of work and must be suitably sized and conform to health and safety requirements;
- (j) smoking only be allowed during tea times and lunch times and should not exceed 15 minutes at a time during tea times;
- (k) the work of authorisation on non-smoking areas shall be the General Manager or work Directorate and he/she shall not consult with staff who represent the Council except through briefs;
- (l) the General Manager for the final decision on the provision of smoking areas (this would only be necessary should the consultation process fail);
- (m) smoking not be allowed in official municipal vehicles;
- (n) an in-house resolution committee system be investigated to deal with conflict and sensitive problem areas;
- (o) ashtrays be provided in smoking areas and be removed from non-smoking areas;
- (p) the right to smoke in any office be withdrawn for any visitor for the duration of the visit.

DR B.S. NORRICK  
ACTING GENERAL MANAGER  
HEALTH SERVICES  
11/34 AM

Annexure G

BUFFALO CITY MUNICIPALITY



APPLICATION TO HAVE SECOND EMPLOYMENT AND/OR TO BE INVOLVED IN  
ANY BUSINESS VENTURE OTHER THAN AS AN EMPLOYEE.

PERSONAL DETAILS

<i>Name</i>	
<i>Employee Number</i>	
<i>Position Title</i>	
<i>Post Level</i>	
<i>Brief Description of the work performed in the position</i>	
<i>Hours of work **</i>	

\*\* (include any specific requirement relating to variable hours or overtime)

DETAILS OF SECOND EMPLOYMENT

<i>Detail the nature of the work for which application is being made.</i>	
<i>Detail why it is necessary that you perform this work</i>	



Where will this work be performed (e.g. name of institution and locality or where the activity will take place.)		
Indicate at what intervals and for which periods the work will be performed e.g. on which days and at during which hours the work will be performed.		
Detail how many hours will be used for this private work	Per week	Per month
Please indicate why you believe that this application should be approved**		

\*\* Please bear in mind the criteria to be considered when the Municipality considers the application. These conditions are set out in the guidelines.

I, the undersigned, make application to have second employment and certify that to the best of my knowledge the details set out above are true and correct.

Signed at East London this                      day of                      200 .

Applicant                      .....

Witness                      .....

   Please print full name

.....

Staff Number (Witness)

.....

ASSESSMENT OF APPLICATION TO HAVE SECOND EMPLOYMENT AND/OR TO BE INVOLVED IN ANY BUSINESS VENTURE OTHER THAN AS AN EMPLOYEE.

In assessing this application, officials are required to apply their minds to the underlying principle that the official has no inherent right to engage in private work and that where application is to be granted an obligation rests on the officials supporting and approving such application to ensure that the Municipality's interests are safeguarded.

The following must be taken into consideration.

<u>Consideration</u>	<u>Comment</u>
Does the work represent a potential conflict of interest? (Please consult the Policy on Conflicts of Interest)	
Could the work in any way impact on the official's duties with the Council? (e.g. night work may impact on performance, the frequency of the work or its demands may result in applications for extra leave, etc.) (Please consult the Policy on Conflicts of Interest)	
Could the nature of the work in any way impact on the credibility or integrity of the Municipality? (Please consult the Policy on Conflicts of Interest) Also bear in mind that perception is often more important than fact.	
Could the work or activity impact on impartiality and fair treatment of all people, including other staff members? (Please consult the Policy on Conflicts of Interest)	

<p>Could the official use the position or privileges of the position, or confidential information obtained, for private gain or to improperly benefit another person? (Please consult the Policy on Conflicts of Interest)</p>	
<p>Could the official take a decision concerning a matter in which that official, or his/ her spouse, partner or business associate, has a direct or indirect personal or private business interest? (Please consult the Policy on Conflicts of Interest)</p>	
<p>Could the official be an approver of work performed by himself/herself? (Please consult the Policy on Conflicts of Interest)</p>	
<p>Could the official be placed in a position to influence or attempt the municipality, with a view to obtaining any appointment, promotion, privilege, advantage or benefit, for a family member, friend or associate? (Please consult the Policy on Conflicts of Interest)</p>	
<p>Could the official as a result of the second employment or activity be influenced into doing or not doing anything within that official's powers or duties? (Please consult the Policy on Conflicts of Interest)</p>	

<p>Could the official use, take, acquire, or benefit from any property or asset owned, controlled or managed by the municipality to which that official has no right? (Please consult the Policy on Conflicts of Interest)</p>	
<p>Could the official become a party to a contract for the provision of goods or services to the municipality? Remember that the Local Government: Municipal Systems Act (Code of Conduct for Staff members) and the Local Government: Municipal Finance Management Act both govern this matter.</p>	

(If the answer to any of the above considerations is "Yes" the application will normally be declined.)

This assessment was conducted by:

Name	
Designation (Programme Manager and above)	
Staff Number	
In conducting this assessment I liaised with the immediate supervisor	
Name of Supervisor	
Staff Number of Supervisor	

<i>Comments of immediate supervisor          If applicable (If the supervisor          wishes to add to the assessment          then the comments should be set          out here or on a separate          submission.</i>	
---	--

*I, the undersigned certify that I have examined the application and recommend as follows:*

*that the application NOT be supported.*

*that the application BE supported and that the following conditions additional to the standard conditions apply:*


*Signed at East London this            day of            200 .*

.....

*Programme Manager / General Manager*

.....

*General Manager (if applicable)*

REVIEW OF APPLICATION TO HAVE SECOND EMPLOYMENT AND/OR TO BE INVOLVED IN ANY BUSINESS VENTURE OTHER THAN AS AN EMPLOYEE.

I, the undersigned certify that I have examined the application and recommend as follows:

that the application NOT be approved.

that the application BE approved.

that the following additional conditions apply.


Signed at East London this            day of            200 .

..... Director

REVIEW OF APPLICATION TO HAVE SECOND EMPLOYMENT AND/OR TO BE INVOLVED IN ANY BUSINESS VENTURE OTHER THAN AS AN EMPLOYEE.

I, the undersigned certify that I have examined the application and recommend as follows:

that the application NOT be approved.

that the application BE approved and that the following additional conditions apply.


Signed at East London this            day of            200 .

.....  
Director of Corporate Services

APPROVAL

Signed at East London this            day of            200 .

.....  
City Manager

office use only

Letter issued dated ..... 200

Signature .....

CLASSIFICATION

Governance	1.0	Governance
Sub classification		

Title	Policy Second or casual employment
File Number	xx/xx/xxxx
Related Policies or Procedures	
Responsible Officer	Director: Corporate Services
Approval	CMO No xx dated xx/xx/2004
Effective date	xx/xx/2004
Review date	xx/xx/2005



## ANNEXURE 2

### Legislation

The Code of Conduct for Officials as set out in the Local Government: Municipal Systems Act prescribes that -

#### 2 General conduct

A staff member of a municipality must at all times-

- (a) loyally execute the lawful policies of the municipal council;
- (b) perform the functions of office in good faith, diligently, honestly and in a transparent manner;
- (c) act in such a way that the spirit, purport and objects of section 50 are promoted;
- (d) act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised; and
- (e) act impartially and treat all people, including other staff members, equally without favour or prejudice.

#### 4 Personal gain

(1) A staff member of a municipality may not-

- (a) use the position or privileges of a staff member, or confidential information obtained as a staff member, for private gain or to improperly benefit another person; or
- (b) take a decision on behalf of the municipality concerning a matter in which that staff member, or that staff member's spouse, partner or business associate, has a direct or indirect personal or private business interest. -

(2) Except with the prior consent of the council of a municipality a staff member of the municipality may not-

- (a) be a party to a contract for-
- (i) the provision of goods or services to the municipality; or

(ii) the performance of any work for the municipality otherwise than as a staff member;

(b) obtain a financial interest in any business of the municipality; or

(c) be engaged in any business, trade or profession other than the work of the municipality.

5 Disclosure of benefits

(1) A staff member of a municipality who, or whose spouse, partner, business associate or close family member acquired or stands to acquire any direct benefit from a contract concluded with the municipality must disclose in writing full particulars of the benefit to the council.

(2) This item does not apply to a benefit which a staff member, or a spouse, partner, business associate or close family member, has or acquires in common with all other residents of the municipality.

6 Unauthorised disclosure of information

(1) A staff member of a municipality may not without permission disclose any privileged or confidential information obtained as a staff member of the municipality to an unauthorised person.

(2) For the purpose of this item "privileged or confidential information" includes any information-

(a) determined by the municipal council or any structure or functionary of the municipality to be privileged or confidential;

(b) discussed in closed session by the council or a committee of the council;

(c) disclosure of which would violate a person's right to privacy; or

(d) declared to be privileged, confidential or secret in terms of any law.

(3) This item does not derogate from a person's right of access to information in terms of national legislation.

7 Undue Influence

A staff member of a municipality may not-

- (a) unduly influence or attempt to influence the council of the municipality, or a structure or functionary of the council, or a councilor, with a view to obtaining any appointment, promotion, privilege, advantage or benefit, or for a family member, friend or associate;
- (b) mislead or attempt to mislead the council, or a structure or functionary of the council, in its consideration of any matter; or
- (c) be involved in a business venture with a councilor without the prior written consent of the council of the municipality.

8 Rewards, gifts and favours

(1) A staff member of a municipality may not request, solicit or accept any reward, gift or favour for -

- (a) persuading the council of the municipality, or any structure or functionary of the council, with regard to the exercise of any power or the performance of any duty;
- (b) making a representation to the council, or any structure or functionary of the council;
- (c) disclosing any privileged or confidential information; or
- (d) doing or not doing anything within that staff member's powers or duties.

(2) A staff member must without delay report to a superior official or to the speaker of the council any offer which, if accepted by the staff member, would constitute a breach of sub item (1).

9 Council property

A staff member of a municipality may not use, take, acquire, or benefit from any property or asset owned, controlled or managed by the municipality to which that staff member has no right."

# ELECTRONIC COMMUNICATIONS POLICY

## INTRODUCTION

E-mail is now an indispensable business tool within the Municipality. Despite its benefits, unrestrained e-mail usage can be a serious business liability. Users can use the Municipality's e-mail system to infringe copyrights, violate trade secrets and trade marks, defame people and businesses, harass co-workers, and commit the Municipality to contracts. This can cause massive damage to the Municipality, as it is generally liable for the acts of employees if they are committed within the course and scope of employment. In order to protect both users and the Municipality's interests, it is important that users be made aware of the limitations placed on your access to the Municipality's e-mail/Internet system, which is the purpose of this policy document.

## INTERNET ACCESS APPLICATION

All applications must be made to the IT department with the justification attached. On approval IT will install the client software and create an account for users. The user I.D. and password to be used will then be supplied.

## INTERNET ACCESS TERMINATION

It is the responsibility of line management to inform the IT Department of all Internet and other system users who have left the employment of the Buffalo City Municipality. The same applies for the termination of Internet access of those individuals who have been transferred internally or whose responsibilities have changed to such an extent that they no longer require Internet access for performing their official duties.

## REPORTING OBLIGATIONS

In the event of users receiving e-mail in breach of this policy, whether from a co-worker or an outside source, they shall immediately upon receipt thereof communicate their rejection of the transmission to the sender and request him/her to refrain from sending them any such material in the future. Should users again receive e-mail in breach of the policy from the same sender, they must report this to their direct superior who shall take the appropriate action.

## SECURITY

The Municipality routinely monitors its e-mail/Internet usage patterns and reviews electronic files and messages to ensure that these media are being used in compliance with the law and Municipal policy. The Municipality reserves the right to monitor, access and disclose as necessary all communications created, transmitted or stored on the e-mail/Internet system, which is the property of the Municipality. Users should not have any expectation of privacy with respect to the materials and information stored on the system. Users are furthermore, required to sign the attached consent form, which allows for Employer monitoring of all activities, messages, information and records on the Employer's E-mail/Internet system.

## EXCEPTIONS

Requests for exceptions to any of the provisions of this policy must be made in writing to IT department. Any request for exception will require a detailed description of the business purposes for this access and will require the relevant Directors recommendation.

## DISCIPLINARY ACTION

A breach of this policy may result in disciplinary action being taken against you, which may include dismissal.

## COMPANY E-MAIL AND INTERNET USER AGREEMENT

All users who have access to the Municipality's e-mail/Internet system will be required to attest to signing a user agreement (See Annexure A).

"ANNEXURE A"

BUFFALO CITY MUNICIPALITY E-MAIL AND  
INTERNET USER AGREEMENT

I ....., confirm the following :  
EMPLOYEE NUMBER : .....

"I have received a copy of the Municipality's electronic communications policy dated ..... and have read and understand it. I agree to follow and abide by the standards set out in the policy for the duration of my employment with the Municipality. I am aware and accept that a failure to do so will render me liable to disciplinary action, including possible dismissal. I am also aware and accept that the Municipality reserves the right to monitor my e-mail/Internet usage."

.....  
SIGNATURE

.....  
DATE

## FORBIDDEN CONTENT OF COMMUNICATIONS

Users are STRICTLY PROHIBITED from using the Municipality's e-mail and Internet access for gaining access to, viewing, transmitting, retrieving or storing any communication that includes language, remarks, pictures or graphics that may be construed as:

- discriminatory, harassing or defamatory;
- obscene, abusive, profane or offensive;
- derogatory, disparaging, insulting or inflammatory;
- disruptive or harmful to morale; or
- constituting a trademark violation.

## FORBIDDEN USE OF THE SYSTEM

In addition to the above, Users are STRICTLY PROHIBITED from using the Municipality's e-mail and Internet access for:

- soliciting for commercial ventures, religious, political or personal causes or outside organizations;
- gossip, including personal information about yourself or others;
- emotive responses to business correspondence or work situations;
- forwarding messages likely to embarrass the sender or recipient;
- private business ventures or personal gain;
- personal purposes in breach of the limitations set out below; or
- transmitting company information without the permission of the relevant company official.

## LIMITATIONS ON PERSONAL USAGE

The Municipality's e-mail and Internet access is available to users for the purposes of assisting users in the performance of their jobs and is aimed at the conducting of official company business. Personal use of Municipal e-mail and Internet access is a privilege, which may be withdrawn at any time at the discretion of the Municipality. The following CONTROLS SHALL BE STRICTLY ENFORCED in relation to personal usage:

- the conditions applicable to the forbidden content of communications set out above;
- the conditions applicable to the forbidden use of access set out above;

- > the conditions applicable to monitoring set out below;
- > it shall be restricted to incidental and occasional use;
- > it shall not entail any significant amount of personal activity or pleasure;
- > it shall not interfere with the performance of your work or capacity to work, or with that of any other employee; and
- > it shall not cause or have the potential to cause an infrastructural overload.

### COPYRIGHT AND LICENCE AGREEMENTS

Users must respect all copyrights over materials belonging to entities other than the Municipality and are prohibited from copying, retrieving, modifying or forwarding such materials on the Municipality's e-mail/Internet system except with the permission of the copyright holder. Users are, however, entitled to save a single copy for reference purposes only.

Users must also respect licence agreements over computer software and are prohibited from downloading and using any software in breach of a licence agreement.

### COMPUTER VIRUSES

Users are obliged to take all possible precautions to avoid a virus attack, including :

- > the continuous updating and running of protective software provided to you;
- > the rejection of messages from unidentified or suspicious sources;
- > refraining from downloading software or opening and ".exe" file from an outside source without the permission of the relevant company official; and
- > when downloading a file use the Municipality's approved virus detection package.