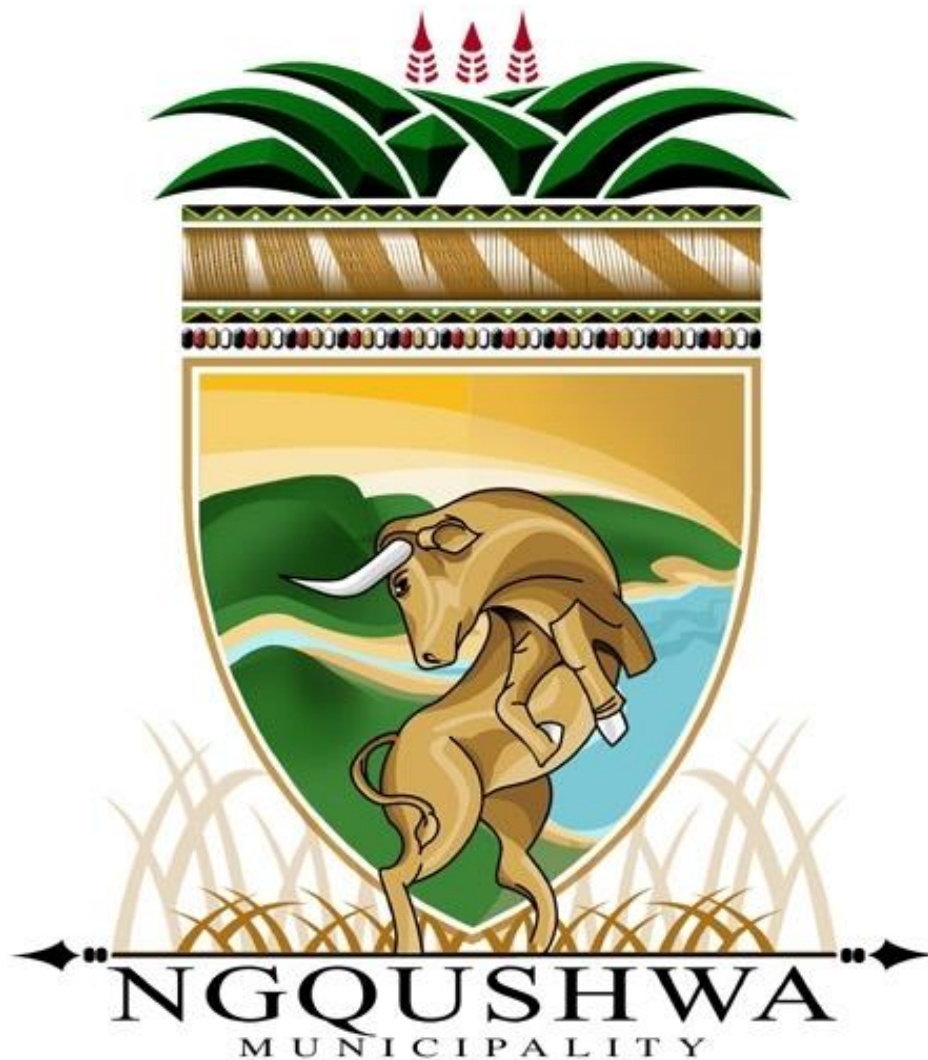


# NGQUSHWA LOCAL MUNICIPALITY



## LEAVE POLICY 2016/2017

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## 1. PURPOSE

This policy seeks to give effect to the South African Local Government Bargaining Council Eastern Cape Division Collective Agreement on Conditions of Services which came into effect from the 01 April 2011; It also seeks to regulate the taking, usage, accumulation and management of leave by employees; and It promotes common and uniform leave for employees within the Municipality and replaces or supersedes all existing leave policies. Policy provisions apply to all permanent, contract and temporary Ngqushwa Local Municipality employees.

## 2. DEFINITIONS

**Annual leave cycle:** is the 12-month period of continuous employment from the date of commencement of employment or following the completion of the prior leave cycle.

**Day:** Means working days excluding holidays

**Employee:** Means a person in the employment of Ngqushwa Local Municipality on a permanent, contract or temporary basis and is entitled by virtue of his/her employment contract or law to leave benefits.

**Examination leave:** Means a period of time used by an employee for the purpose of writing a specified and approved examination towards an academic qualification.

**Family Responsibility Leave:** Means a period of leave used by an employee with regards to illness of a child, birth of a child or the death of an employee's spouse/ life partner, parent, adoptive parent, grandparent, adopted child, grand child or sibling.

**Maternity Leave:** Means a period of time used by a female employee for the birth or adoption of a child.

**Month:** Means calendar month including weekends and holidays

**Paid Public Holidays:** Means the days as stipulated in the Public Holidays Act.

**Paternity Leave:** Means a period of time used by a male employee for the birth of a child.

**Permanent Employees:** Means employees employed with no specific date of termination except on retirement.

**Sick Leave:** Means any period or periods used by an employee as a result of ill health / indisposition.

**Sick leave Cycle:** Means the period of 36 consecutive months due to an employee for sick / indisposition according his/her employment date.

### **3. LEGAL FRAMEWORK**

- Labour Relations Act
- Basic Conditions of Employment Act
- SALGBC Collective Agreements

### **4. SCOPE OF APPLICATION**

All municipal employees excluding Municipal Managers and persons appointed as managers directly accountable to Municipal Managers in terms of Section 56 of the Municipal Systems Act, 32 of 2000

### **5. ANNUAL LEAVE**

- 5.1 Ngqushwa Local Municipal employees are entitled to such leave as contained in the SALGBC Collective Agreements.
- 5.2 A "leave cycle" is the 12-month period of continuous employment from the date of commencement of employment or following the completion of the prior leave cycle.
- 5.3 During the first year of service, employees will only be entitled to accrued leave and shall not take paid leave before completing three (3) consecutive months in service.
- 5.5 A 5 day worker is required to take a minimum of 16 days leave within each leave cycle.
- 5.6 A 6 days worker is required to take a minimum of 19 days leave within each leave cycle.
- 5.7 Employees may take leave only if agreed by the line manager of the Directorate, which will not be unreasonably withheld.
- 5.8 Application for annual leave must be made at least 5 working days in advance to allow planning for employee's absence (it is recommended that annual leave for all staff in the departments /divisions is scheduled in advance);

- 5.10 In the event of an emergency that is not covered by family responsibility leave an employee may apply for annual leave on short notice. Motivation for such instances will be submitted to line managers for consideration
- 5.11 Employees are responsible for completing the Leave Request Form (available from your Department or the Human Resources division), getting it authorised by the relevant Manager/Supervisor and submitting it to the Human Resources, at least five days prior to their going on leave.
- 5.13 Employees may accrue no more than 48 (forty eight) working days' paid leave at any time. Excess accrued leave must be taken within one year of the year in which the accrued leave exceeded 48 days, otherwise the additional accrued leave days will be forfeited.
- 5.14 The Municipal Manager or his/her delegate may use their discretion to grant payment in kind occasional leave to employees who are not paid overtime, in recognition of long hours or weekend work. ("Occasional Leave" refers to a day or two taken at a time, rather than a longer leave period).
- 5.15 The Municipal Manager and his/her delegate may from time to time decide which type of employee may take leave in December/ January period in line with the nature of employment and work load. This is in line with employer obligation to manage leave.
- 5.16 It will remain the responsibility of the employee to ensure that leave applied for has been approved before proceeding on such leave

## **6. ENCASHMENT OF VACATION LEAVE**

- 6.1 An employee may once every financial year convert a minimum and maximum of eight (8) days' vacation leave standing to their credit into cash depending on the availability of funds and provided that the conversion of leave into cash does not contravene the Basic Conditions of Employment Act.
- 6.2. Employees may, once per leave cycle and each financial year be allowed to encash vacation leave equal to maximum of eight (8) days per financial year provided the employee has taken the annual leave as per the rules of SALGBC and she/he have sufficient leave credit to cover such encashment;

- 6.3. A staff member who leaves Ngqushwa Local Municipality's employ, having exceeded the leave entitlement will have the monetary value of such excess leave recovered from his/her terminal emoluments. Staff members who have leave credit to themselves will receive payment equal to the monetary value of the leave up to a maximum of their leave entitlement which is 48 days. Leave may not be taken during the period of notice; and
- 6.4. Any encashment of leave must be approved by the Municipal Manager who will in consultation with the relevant manager consider the application taking into account such factors as affordability and allowing the employee to proceed on leave.
- 6.5. Should an employee die after leave was granted to him/her but before such employee has used up all such granted leave, any unused leave must be placed to his credit.

## **7. SICK LEAVE**

- 7.1 Employees are entitled to eighty (80) days' paid sick leave during each sick leave cycle of 36 continuous months.
- 7.2 During the first year of service, employees shall be required to complete three (3) consecutive months in service to qualify for paid sick leave.
- 7.3 Where an employee takes more than two consecutive day's sick leave, the employee must produce a certificate signed by a registered medical practitioner stating the nature and duration of the employee's illness.
- 7.4 Where the Municipal Manager or his/her delegate suspects that an employee may be abusing the sick leave system, he/she may, with due warning, request that employee to produce a certificate signed by a registered medical practitioner stating the nature and duration of the employee's illness, even where only one days sick leave has been taken. Line Managers and or Supervisors should monitor the taking of leave within their departments to ensure that no abuse occurs.
- 7.5 It is the employee's responsibility to inform their Line Manager that they are taking sick leave on the day(s) that they are away from the office. (i.e. if the employee is ill, he/she need to phone or use any kind of communication to the office before **10H00** on the day of absence, or when the employee can reasonably do so), and tell his/her line manager that they are taking sick leave.

- 7.6 It is also a responsibility of the employee to ensure that he/she completes leave forms for the day/s that he/she was absent and that the form should be completed in two days of his/her return.
- 7.7 The Municipal Council shall not pay an employee if an employee is absent on more than two occasions during an eight (8) -week period, and on request by the Municipality, does not produce a valid medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.

## **8. MATERNITY LEAVE**

Maternity Leave applies to all full time female employees regarding payment for maternity leave, subject to the conditions below, but does not detract from the rights of all other female employees to four months **unpaid** maternity leave. **All female** employees are required to comply with the requirements set out in 8.1.1 to 8.1.5 below when applying for maternity leave:

- 8.1.1 The employee is required to notify the Ngqushwa Local Municipality in writing, at least four weeks before proceeding on maternity leave, of the date on which the employee intends to commence maternity leave, and the return to work date after maternity leave.
- 8.1.2 No female employee may work within six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.
- 8.1.3 An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child, will be entitled to maternity leave of six (6) weeks after the miscarriage or stillbirth, irrespective of whether or not the employee had already commenced maternity leave at the time of the miscarriage or stillbirth.
- 8.1.4 During the pregnancy of an employee and for a period of 3 months after the birth of a child, the Ngqushwa Local Municipality will, as far as is reasonably practicable, offer suitable alternative employment, if needs be, on terms and conditions not less favorable than the terms and conditions of employment normally applicable to that employee if:
- 8.1.4.1 The employee's work involves work between 18h00 and 23h00, or
- 8.1.4.2 The employee's work poses a danger to the health or safety of the employee or the health or safety of the child.

8.1.5 Employees, who have legally adopted a child up to the age of one year, will be entitled to two months maternity leave for the reception of the child. The employee is required to notify the Ngqushwa Local Municipality in writing as soon as reasonably possible that she has applied to adopt a baby.

### **Paid maternity leave**

8.2 Paid maternity leave applies to full-time employees, who will be entitled to three months maternity leave, part of which will be paid subject to all the conditions below.

8.3 Provided that the employee has been employed by the Ngqushwa Local Municipality for at least one year, the Ngqushwa Local Municipality will pay the employee:

8.3.1 100% of the employee's normal monthly remuneration calculated at the date on which her maternity leave commences for any period of maternity leave taken, subject to a maximum period of:

8.3.2 three months for the purposes of confinement, birth, and post-natal care;

- This provision (in conjunction with 8.4.3, 8.5, 8.7.3, 8.7.4, 8.8.2 and 8.8.3 below), will also apply, in the case of a same sex relationship whereby the couple adopt a child.

8.3.1.2 six weeks in the event of a miscarriage in the third trimester or stillbirth; and

8.3.1.3 two months for the purposes of legal adoption.

8.4 The employee will be required to continue to work for the Ngqushwa Local Municipality for at least:

8.4.1 two months after her maternity leave which was taken for the purposes of ordinary maternity leave (confinement, birth and postnatal care);

8.4.2 one month after maternity leave taken in the event of a miscarriage during the third trimester, or stillbirth; and

8.4.3 one month after maternity leave used in the case of adoption.



- 8.5 Should the employee not comply with the provisions of clause 8.4 above, she will be required to repay any moneys received from the Ngqushwa Local Municipality during maternity leave, on a pro rata basis.
- 8.6 Nothing in this policy affects the employee's right to claim any maternity benefits in terms of the Unemployment Insurance Fund Act.
- 8.7 Where the employee has been employed by the Ngqushwa Local Municipality for more than one year but less than three years, the Ngqushwa Local Municipality will pay the employee 75% of her normal monthly remuneration calculated at the date on which her maternity leave commences, subject to a maximum period of:
- 8.7.1 eight weeks of ordinary maternity leave taken, in which event she will be required to work back a period of no less than four weeks;
  - 8.7.2 three weeks in the event of a miscarriage in the third trimester, or stillbirth, in which event she will be required to work back a period of no less than two weeks;
  - 8.7.3 One month for the purposes of adoption, in which event she will be required to work back a period of no less than two weeks;
  - 8.7.4 Should the employee fail to comply with the provisions of 3.7 above, she will be obliged to repay any moneys to the Ngqushwa Local Municipality received during maternity leave, on a pro rata basis.
- 8.8 Where the employee has been employed by the Ngqushwa Local Municipality for more than three years, the Ngqushwa Local Municipality will pay the employee 75% of her normal monthly remuneration calculated at the date on which her maternity leave commences, subject to a maximum period of:
- 8.8.1 twelve weeks of ordinary maternity leave taken, in which event she will be required to work back at least six weeks;
  - 8.8.2 four weeks in the event of a miscarriage in the third trimester, or stillbirth, in which event she will be required to work back at least two weeks;
  - 8.8.3 Six weeks for the purposes of adoption, in which event she will be required to work back at least three weeks.

- 8.8.4 Should the employee fail to comply with the provisions of 3.8 above, she will be required to repay to the Ngqushwa Local Municipality any moneys received during maternity leave, on a pro rata basis.
- 8.9 Nothing in this policy affects the employee's right to take the remainder of her maternity leave entitlement as unpaid maternity leave, subject to her rights under the Unemployed Insurance Fund Act.

### **Maternity leave arrangements**

- 8.10 Employees are encouraged to come to a mutually acceptable arrangement, within the parameters of this policy, with their Line Manager and in consultation with the Human Resources Division regarding maternity leave. Such arrangements may include, but are not limited to:
- 8.10.1 Flexi-time work for a defined period after the birth of the child.
  - 8.10.2 Reduction of ordinary working hours for a defined period after returning to work.
  - 8.10.3 "Banking" additional hours prior to the birth of the child (as calculated against the targets set for each employee).
  - 8.10.4 Use of annual leave.
- 8.11 In reaching arrangements of the nature set out in clause 3.10 above, the following factors must be taken into account:
- 8.11.1 The financial and staffing situation of the Ngqushwa Local Municipality at the time when maternity leave is sought to be taken.
  - 8.11.2 The timing of the maternity leave.
  - 8.11.3 The volume of work the Ngqushwa Local Municipality is likely to experience during the maternity leave period.
  - 8.11.4 The period to which an employee will agree to "work back" maternity leave taken.
  - 8.11.5 The ability or capacity of the specific employee to manage flexi-time working schedules.

## **9. PATERNITY LEAVE**

Refer to Family Responsibility Leave at 10 hereunder.

## **10. EXAMINATION LEAVE**

10.1 Examination leave with full pay on the basis of one day examination leave for every day prior to and on the day which the employee has to sit for an examination may be granted, provided that in the opinion of the immediate supervisor:-

10.1.1 It has the object to better equip the employee concerned for a career in the Municipality; and

10.1.2 It is in a field of study which is in full or in part in the interest of the Municipality

10.2 In all the above cases, an examination roster/time-table must be submitted to the immediate supervisor at least 2 weeks prior to writing of first paper, or 1 month if the period of absence will be more than 2 weeks, unless there are factors beyond the staff member's control, for example, late issue of timetable by the institution.

10.3 Where the day of the examination immediately follows a weekend (i.e., falls on a Monday) or a paid public holiday, only the day of the examination will be granted.

## **11. FAMILY RESPONSIBILITY LEAVE**

11.1 Family Responsibility leave will be granted to an employee who has been in employment with an employer for longer than four months; and who works on at least four days a week for that employer.

11.2 Family responsibility leave will be granted in the following instances:-

11.2.1 when the *employee's child* is born;

11.2.2 when the *employee's child* is sick;

11.2.2 when the employee's spouse or life partner is sick

11.2.3 in the event of death of:

a) the employee's spouse or life partner; or

b) the employee's parent, adoptive parent, grandfather, child, adopted child, grandchild or siblings.

- 11.3 A maximum of five (05) working days **paid** leave during each annual leave cycle will be granted as Family Responsibility leave.
- 11.4 Before paying an *employee* for leave in terms of this policy, the municipality may require reasonable proof of an event contemplated in subsection (1) for which the leave was required.
- 11.5 The municipality will require the following proof in respect of applications for family responsibility leave:-

<b>Situation</b>	<b>Proof Required</b>	<b>When Required</b>
Death of Immediate Family Member	Death Certificate Proof that Deceased Immediate Family Member	Within two days of returning from funeral
Birth of child	Birth Certificate Proof of Paternity	On returning from FR Leave
Illness of child	Proof of Parenthood Medical Certificate specifying name of child (remove)	On returning from FR Leave

- 11.6 Request for Family Responsibility leave must be in writing on the municipal's Leave Application form, which should be authorised by the Line Manager. Once authorised, the original Leave Application must be filed on the employee's personal file.
- 11.7 An *employee's* unused entitlement to leave in terms of this policy lapses at the end of the annual leave cycle in which it accrues.

## **12. PUBLIC HOLIDAYS**

- 12.1 All public holidays as promulgated in the *Government Gazette* are recognized by the Ngqushwa Local Municipality.
- 12.2 Public holidays are not taken into account in calculating annual, family responsibility leave.

## **13. UNPAID LEAVE**

- 13.1 Unpaid leave is discouraged and will only be granted in exceptional circumstances at the discretion of the Municipal Manager.

13.2 All annual leave should ideally be exhausted before unpaid leave may be taken.

13.3 Annual leave will not be accrued during unpaid leave, and any bonus or incentive on returning from unpaid leave, will be prorated to reflect the period of absence.

## **14. SPECIAL LEAVE**

On condition that acceptable documentary proof is submitted to substantiate the specific application, special leave may be considered in the following instances:-

1. To participate in recognised sport activities at provincial or national level
2. To appear as a State witness

### **14.1 Special leave for sport activities**

14.1.1 Special paid leave may be granted upon submission of substantiated proof where an employee has been selected to represent his/her province, the Republic of South Africa or to participate in a municipal recognized sporting event (addition) as a member of a sports team recognised by the National Sports Congress; as a manager or coach of such a team; or as a referee,

14.1.2 A maximum of 10 working days per year for international, national and provincial participation events.

14.1.3 In the case where extended special leave is required, normal annual leave must be taken. If an employee has no annual leave to his/her credit, management may consider unpaid leave for a maximum period of 14 working days.

14.1.4 Leave granted in terms of the above sub-regulation may include any period actually and necessarily occupied in travelling for the purposes for which the leave is granted.

14.1.5 The normal procedure for leave applications must be followed. Notwithstanding the above, this type of leave is subject to approval by the line manager.

## **14.2 Special leave as a State witness**

Where an employee has been summoned to appear as a State witness in a court case, special leave may be considered. The application for leave must be accompanied by a copy of the official summons / subpoena.

## **15. INJURY ON DUTY**

In an event where an employee is injured on duty, the leave of absence will be regulated in terms of COIDA (Compensation for Injury and Disease Act)

## **16. LEAVE OF ABSENCE (Remove)**

All leave of absence shall be recorded in the leave register under the control of the Human Resources Manager. The leave records of employees will be sent by Human Resource Division to line managers for inspection and planning at the time decided by the municipality

Notwithstanding the provisions of any law, leave of absence, other than sick leave shall be granted with due consideration of the requirements of Ngqushwa Municipality and Council's commitment to service delivery.

## **17. TIME OFF FOR UNIONS**

17.1 Shop stewards shall be entitled to 15 (fifteen) days per year with full pay during working hours for trade union activities and training.

17.2. Six (6) days of each shop steward's annual entitlement of time off shall be pooled and re-allocated at the trade union's discretion to the shop stewards at the employer concerned, provided that no single shop steward may take more than 21 (twenty-one) days off per year and that the total days in the pool are not exceeded.

17.3. Further request for time off for shop stewards shall not be unreasonably refused.

17.4 Trade Unions shall give notice to the Employer in advance of the intentions to take time off

## **18. MEASURES TO MANAGE THE TAKING, ACCRUAL AND /OR CONVERSION OF SICK LEAVE AND ADMINISTRATIVE ARRANGEMENTS FOR THE TAKING OF SICK LEAVE.**

If an employee to whom annual leave has been granted is certified sick by a registered medical or dental practitioner after his annual leave has commenced, that part of his annual leave during which he was certified sick shall be converted into sick leave on submission of the prescribed certificate by such medical or dental practitioner or a Traditional Healer registered with a recognized professional council in terms of legislation.

If, due to illness, an employee is unable to take annual leave already deducted, he shall be credited with an equal number of annual leave days. An employee may not during any period of sick leave approved in terms of these conditions, resume service without the approval of a registered medical practitioner.

An employee who is absent from service because of illness must take all reasonable steps to notify his immediate supervisor (or nominee) as soon as possible.

An employee to whom the maximum period of full and half paid sick leave has been granted, may be granted sick leave without pay for not more than 250 working days in any cycle if the Municipality is satisfied that such an employee is not permanently incapacitated to resume his duties, provided that where sick leave without pay exceeds 40 consecutive days, the employee must be examined by a registered medical practitioner appointed by the Municipality. The cost of such examination shall be borne by the Municipality.

The Municipality may, prior to granting additional paid sick leave, require an employee to submit himself to an examination by a registered medical or dental practitioner appointed by the Municipality and the cost of such examination shall be borne by the Municipality.

## **19. BUDGET AND RESOURCES**

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

## **20. PENALTIES**

Non compliance of any of the stipulation contained in the Policy will be viewed as misconduct and will be dealt with in terms of the municipality's Disciplinary Code

## **21. ROLES AND RESPONSIBILITIES**

### **21.1 HEADS OF DEPARTMENTS**

Heads of Departments shall be responsible to ensure effective management of leave through the following:

- Monitoring, with the assistance of the Human Resource Management Section, the taking of leave within the department to ensure that no abuse thereof occurs.
- Ensuring that the procedure manual in relation to leave management is adhered to at all times.
- Ensuring that all employees have a leave plan for their leave cycle and adhere to it.
- Ensure that leave taken is in accordance with the leave plan.
- Reconcile attendance registers with the leave registers and leave forms in their respective departments on a monthly basis before submission to the Human Resource Management Section and Finance Department.

### **21.2 EMPLOYEES**

Employees shall be responsible to ensure that they take their leave within the prescripts of the Conditions of Service and the Leave Policy and commit to no abuse of their leave whatsoever.

Employees shall further be responsible to the filling of an attendance register on a daily basis as required by Management.

### **21.3 HUMAN RESOURCE MANAGEMENT SECTION**

Responsibilities of the Human Resource Management Section in leave management shall include but not limited to the following:

- Consult regularly with managers and supervisors responsible for managing employee leave.
- Provide guidance and technical assistance before administrative action procedures are initiated to ensure the proposed action is appropriate and timely.
- Ensure managers and supervisors have up-to-date information concerning disposition of leave related administrative action.



- Monitor and analyze site performance: Sick Leave and Leave without Pay (LWOP) usage, as well as unscheduled absence occurrences regularly, on a pay period basis at a minimum.
- Identify “hot” spots (e.g. excessive unscheduled occurrences) and advise Management or corrective action to be taken.

## **22. DISPUTE RESOLUTION**

Any dispute arising from this policy due to ambiguous wording or phrasing must be referred to Local Labour Forum. Resolutions from the Local Labour Forum must be incorporated into the policy

## **23. MONITORING, EVALUATION & REPORTING**

A report detailing the progress with the implementation of Leave Policy with specific reference to achievement of this policy has to be compiled every year by the person with the responsibility for implementation and monitoring. The policy must be made available to all consulting parties for perusal and comment and must be circulated to all staff members by means of circulars, notices and notice boards.

## **24. COMMUNICATION**

Circulars, messages and notices on notice boards will be utilized in order to inform all employees of the availability of the policy. Copies of the policy will also be distributed to the parties that took part in the consultation process.

## **25. REVIEWAL OF THE POLICY**

It will be the responsibility of the Corporate Services Department to consider the provisions of this policy on annual basis. The Corporate Services Department shall request all Departments to submit their proposed changes for submission to Council for approval.

**26. ADOPTION AND APPROVAL OF THE POLICY BY COUNCIL**

This policy is adopted and approved by the full Ngqushwa Local Municipality Council for implementation

Effective from (Date)\_\_\_\_\_

Approved by Resolution Number \_\_\_\_\_ on this the \_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_20\_\_\_\_\_

Signed this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
**MUNICIPAL MANAGER**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**SAMWU REP**

\_\_\_\_\_  
**DATE**

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**IMATU REP**

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**DATE**