

MOPANI DISTRICT MUNICIPALITY



ACTING IN HIGHER POSITION

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1. PREAMBLE

Mopani District Municipality accepts as a fact that from time an employee may not be available to discharge his duties and responsibilities in terms of the contract of employment.

The Municipal Council recognise that from time there would be a need to appoint another employee to discharge the duties of another employee who is absent.

The policy deals with acting appointments for all funded but vacant positions and compensate employees who have performed duties in an acting capacity.

2. OBJECTIVES/PURPOSE

- I. To provide guidelines within which acting has to occur
- II. To regulate the appointment of staff in acting positions, and deals with the payment of acting allowance where applicable in terms of the clause 12 of the Collective Agreement on Condition of Service.
- III. To ensure prudent Financial Management with the approved budgetary limits per post where expenditure is incurred contrary to the provision of Policy.
- IV. To provide for payment of an acting allowance to an incumbent acting in a higher post.
- V. To create a room for development and capacitating of employees.
- VI. To make a provision for execution of duties in a vacant position.
- VII. To advance the agenda of service delivery.
- VIII. To prescribe time-frames for utilization of employees in an acting capacity

3. SCOPE OF THE POLICY

- I. The policy applies to all post levels of the Municipality as refer to Municipal Systems Act and Collective Agreement on Condition of Service where applicable.
- II. The policy is applicable on all vacant funded positions.

4. LEGAL MANDATE

- I. The Constitution of the South Africa Act ,1996.
- II. Local government: municipal System Act 32of 2000.
- III. Local Government: Municipal Finance Management Act 56 of 2003.
- IV. Employment equity Act 55 of 1995
- V. All relevant Collective Agreement.
- VI. Basic Condition of employment
- VII. South Africa Local Government Bargaining Council

5. DEFINATIONS

"Act" Means the proclamation, ordinance, act of parliament or other enactment that has the force of the law.

"Acting Allowance" Means the monetary payment to an employee for carrying out the duties of a higher graded post on a temporary basis and in terms of the relevant policy or clause in this policy.

"Acting appointment" Means a temporary in a higher or similar graded and funded position on the staff establishment, which appointment is necessitated by a temporary absence of another employee.

"Basic Conditions of Employment Act" Means basic conditions of Employment Act, 1997(Act 75 of 1997;

"Employee" Means a person employed by the Employer and shall include a permanent or a contract employee.

“**LLF**” Means Local Labour Forum

“**MEC**” Member of Executive Committee responsible for local government in the province.

6. ADMINISTRATION

- I. The responsibility and authority of the policy is with the Municipal Manager or his/her delegated official/s.
- II. The responsibility includes communication of the policy and related procedures.

7. POLICY CONTENTS

a. AUTHORITY TO MAKE ACTING APPOINTMENTS

- I. Council has the authority to appoint a person to act in a position of the Municipal Manager in terms of section 56 of the Municipal Systems Act.
- II. Senior Manager must recommend for approval by the Municipal Manager, the appointment of persons to act in a positions directly reporting to his or her position.
- III. Senior Manager must recommend to the Municipal Manager for the appointment of a person to act in positions below the level directly reporting to him if the person directly reporting to him/her is not available.
- IV. Managers and Deputy Managers must recommend to the Senior Managers employees to be appointed to act in positions under their Supervision for approval by the Municipal Manager.
- V. Acting without approval from Accounting Officer or his delegate is invalid.

b. ACCOUNTABILITY

- I. A person appointed to act in a higher or another position shall accept full duties and responsibilities of the higher position in addition to the full duties and responsibilities of his/her normal position.
- II. Where the next available in the line of supervision is not available, the Municipal Manager must ensure that the employee he/she appoints to fill the acting positions is competent to perform the duties of the position.
- III. Unless indicated otherwise in the appointment to the acting post, a staff member of Mopani District Municipality who is acting in a higher post must continue to perform the duties of the post that the staff member ordinarily occupies during the acting period.

C. PROHIBITION OF THE LADDER EFFECT

- I. A person acting in a higher post has no right or expectation to be appointed to that post, except as otherwise provided in the staff regulations.

D. ELIGIBILITY

- I. An acting appointment may be made to a funded post in order to ensure that the disruption of services is minimized.
- II. An staff member may only act in a post that is equivalent to or one grade higher than the post that he/she ordinarily occupies.
- III. Seniority of the employee will be a key principle to be considered when identifying a person to act.
- IV. The staff member appointed to act in post must have the requisite competencies to be able to perform the duties associated with the post.

The appointment to act in a post must be:

7.4.4.1. With the consent of the staff member in writing, and :

7.4.4.2. Authorized by the municipal manager or the person to whom this function is delegated.

In selecting a person to act in a post, the following must be considered:

7.4.5.1. The relevant requirements of the post and that person's performance

7.4.5.2. The municipality's developmental needs, and

7.4.5.3. The municipality's employment equity policy and plan.

- I. Acting appointments should be confined to employees reporting directly to the applicable acting positions, except where the employee next line is unavailable, and then acting may be delegated to the following incumbent within line of supervision.
- II. The interns and temporary employment of personnel are excluded must not be available in the acting capacity except when they are in a fixed contract.
- III. Employees shall be appointed to act based on merit and other non-discriminatory factors.
- IV. Acting appointment may be terminated after identification of poor work performance in terms of schedule 8 item 9 of the Labour Relations Act 66 of 1995, as amended.
- V. There shall be no advertisement for calling people to apply for acting appointments.

C. PERIOD OF ACTING

- I. A person may only be appointed in an acting position for a period not exceeding three months
- II. Accounting officer or delegates may extend the period of acting for further three months if there is a justifiable reason to do so.
- III. Any further extension shall not exceed a period of nine consecutive months, where after the post must be advertised and filled on a competitive basis.

- IV. Vacant posts on a permanent staff establishment should be filled within 9 (Nine) months unless there is a compelling reason to do so.
- V. An employee appointed as a Manager directly accountable to the Municipal Manager may not act for more than three (3) months, provided that Council may, in special Council sitting and on good cause shown, apply in writing to the MEC for Local government to extend the period of acting beyond three (3) months for a further period of not more than three (3) months.

7.6. ACTING ALLOWANCE

- I. Acting allowance shall be paid when acting for more than 10 consecutive days.
- II. An acting allowance will be implemented when acting appointment is approved by the Municipal Manager to act in a more senior post for a period of not less than ten (10) consecutive working days.
- III. An acting allowance at an annual rate equal to the difference between an employee's salary and the commencing notch of the salary scale of the post, in which he acts, shall be paid to such employee in addition to his salary in respect of the period in which he acts.
- IV. Any interruption of less than three (3) working days in total during a period of acting occasioned by:
 - i. Illness supported by a medical certificate
 - ii. Family bereavement
 - iii. Attendance at court as a witness, if subpoenaed,

Shall be regarded as continued period of acting if no acting allowance will be paid for the period of absence.

- 7.6.1. Acting allowance will be paid at least on the starting or minimum notch of the position in which the employee is acting.
- 7.6.2. In the case where the starting or minimum notch in which the employee is acting is equal or less than that of the current notch of the acting employee, then the employee will receive an acting allowance on the next higher notch of the position in which he/she is acting.
- 7.6.3. When employee member act in a senior Manager position, the payment of acting allowance will be determined by the Council
- 7.6.4. An employee has the right to act or refuse to continue to act on submission of reasons.
- 7.6.5. Payment of acting allowances will take place in the following month of the completion one (1) -month calendar by checking the leave history in the System
- 7.6.6. All acting allowances shall be submitted to finance for payment as part of the monthly salary.

8. DEFAULT

- 8.1. Failure to comply with policy will be reviewed as a serious disciplinary transgression and appropriate disciplinary could result from such action.
- 8.2. Any dispute arising from this policy due to ambiguous wording or phrasing must be referred to the Local Labour Forum policy subunit for adjudication. Resolution from the LLF must be incorporated into policy.

9. AVAILABILITY OF POLICY

- 9.1. Every staff member upon being appointed in the service of the Council with this allowance shall be supplied with copy of this policy and shall acknowledge receipt thereof by signing a duplicate thereof. The said duplicate shall be filled on the personal file of the staff member.

10. COMMENCEMENT

10.1. This policy shall come into effect on the date of adoption by Council.

11. REVIEW OF THE POLICY

11.1. The Policy shall be reviewed annually or when a need arises.

12. REPEAL.


12.1. The Policy shall repeal all previous policies formulated before its approval.

13. STAKE HOLDER'S CONSULTATION

All Stakeholder's were consulted on the 22-25 April 2024.

14. ADOPTION BY COUNCIL:

Resolution NO: SCD/16/2024	Approved Date: 16 May 2024
Effective Date: 01 July 2024	Review Date: ANNUALLY

15. AUTHORITY

MUNICIPAL MANAGER
Mr T.J MOGANO

COUNCIL SPEAKER
CLLR N.M MASWANGANYI