

RICHTERSVELD MUNICIPALITY
HUMAN RESOURCE POLICIES

5. PRIVATE WORK

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HUMAN RESOURCE POLICY**

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Approved Date: 30/06/2022	Council Resolution Nr: RVM007/06/2022
Effective Date: 01 July 2022	Review Date: 30 June 2023

Notwithstanding the review date herein, this policy shall remain effective until such time approved otherwise by Council and may be reviewed on an earlier date if necessary.

Why have a Policy?

The purpose of this policy is to manage and regulate the performance of work done by officials in the service of the Richtersveld Municipality outside their employment contract.

THE POLICY

1. Preamble

The Code of Conduct for Richtersveld Municipality staff members, schedule 2 off the ACT:

“Except with prior consent of the Richtersveld Municipality of a Municipality a staff member of the Municipality may not-

(a) be part to a contract for-

- (i) the provision of goods or service to the Richtersveld Municipality; or
- (ii) the performance of any work for the Richtersveld Municipality otherwise than as a staff member;
- (b) obtain a financial interest in any business of the Richtersveld Municipality; or
- (c) be engaged in any business, trade or profession other than the work of the Richtersveld Municipality.

This provision implies that the employee has a fundamental right to do private work and be remunerated thereof but this is countered by the Richtersveld Municipality sole prerogative to determine conditions on which special permission will be granted. This in turn implies that it is not a matter of course approval but that it must be specially granted.

Furthermore employees shall be responsible for the proper and efficient discharge of the work assigned to them by the Richtersveld Municipality. This implies that the Richtersveld Municipality as employee may legitimately expect the employee to be in a mental and physical condition to properly perform duties he/she should be doing. A declaration form must be completed, because it must be declared.

2. Definitions

“Private Work” for the purpose of this policy framework, an employee remunerated work when he/she part from his/her official duties to the Richtersveld Municipality, works for payment.

All terminology not defined under clause 2 of this policy bear the same meaning as in the applicable legislation.

3. Legal Frameworks

Item 4 of the Code of Conduct for The Richtersveld Municipality employees, Municipal systems act, and 32 of 2000 provides as follows:

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

- (c) be engaged in any business, trade or profession other than the work of the Municipality”

Section 22 of the Constitution of the Republic of South Africa, 1996 ("the constitution") provides that any person has the right to choose an occupation or profession freely and that the practice and that the practice thereof may be regulated by law. In terms of his/her employment contract with the Richtersveld Municipality an employee is required to devote a fixed number of hours of service to the Richtersveld Municipality.

It is thereof necessary to read the professions of the aforementioned section 22 of the Constitution together with the provisions of legislation that regulate hours of service, since places a limitation on the right of the individual as mentioned in section 22 of the constitution.

Since the labour law allows taking action against an employee if the employee fails to deliver his/her hours of service properly or allows another occupation to effect his/her employment relationships with the employer detrimentally, this policy is established to regulate outside work properly.

No employee is allowed to perform any outside work unless previously officially approved on an individual basis by the Richtersveld Municipality Manager. All applications must be submitted to the Department of Human Resource Management before being presented to the Municipal Manger for a decision.

4. Scope and application

This policy shall apply to all employees of the employer.

5. Objectives of Policy

The private Work policy refers to the terms and conditions for dealing with private work applications

6. Policy Content

6.1 Private Work

No employee will be granted permission to perform private work after hours that is direct conflict with his profession and Authority, Example:

- Electrician performing electrical work in his private capacity and issues a certificate of competence in the official capacity
- Building control Officer is allowed to draw building plans after hours and approves the same building plans in his official capacity etc.

Any request to perform private work must be stated in writing and accompanied by sound motives, according to the following criteria:

- The capacity of the employee
- The nature of the duties of the employee to the Richtersveld Municipality
- The nature and external of the proposed remunerated work outside the Richtersveld Municipality, as well as the time estimated to be spent on it and the possible conflict thereof with normal duties within the employment contract.

The following conditions must be taken into account when an application is considered and will, if such application is approved, apply as conditions for approval:

- The proposed remunerated work may not interfere with the employee normal official duties and or cause a conflict of interest of whatever nature to arise.
- The proposed remunerated work must take place entirely outside the employee prescribed hours of work.
- The proposed remunerated work may not be such a nature that it is detrimental to the relationship between the employer and employee or causes the employee to violate the Code of Conduct.
- Municipal resources may under no circumstances be used in a performance of the envisaged remunerated work.
- Permission to perform the envisaged remunerated work is valid for a period of one year only, provided that if the employee wishes to continue performing the outside work after said one year has passed, he/she prior to expiry of the first year, in which case the stipulations of paragraph 4.1 will apply mutates mutans. The abovementioned procedure is repeated each and every year for as long as the employee concerned wishes to continue with his/her outside work

Disciplinary action will be taken against an employee:

- Who performs remunerated work outside his/her official duties to the Richtersveld Municipality without written permission; or
- Who, after permission has been given to perform private work, in the opinion of the employer breaks or does not comply with any stipulation or condition as stated in this policy.

The employer retains the right at any time to withdraw permission given in terms of the stipulation or condition as stated in this policy.

Ex post facto permission may not be granted to an employee to perform remunerated work outside his/her official duties to the Richtersveld Municipality.

The Department of Human resource Management must keep a register of employees who perform remunerated work outside their official duty to the Richtersveld Municipality. The register must contain the following information:

- Name
- Staff Number
- Rank
- Directorate
- Division
- Application for remunerated work approved
- Period and hours for which permission was granted
- Name of the outside employee, type of work, nature of work and contact details and
- Starting date.

6.2 Declaration of interests

Should an employee have a business interest in any number of companies or close corporations he/she shall declare business interests as required in terms of the Richtersveld Municipality systems act (Act 32 of 2000) under section 4 of schedule 2: Code of Conduct for Municipal staff members.

It is to be noted where staff members who or whose spouse, partner or business associate or close family member acquired or stands to acquire direct benefit from a contract concluded with the Richtersveld Municipality, he/she must disclose in writing, full particulars of the benefit to council as required by the Richtersveld Municipality Systems act. Interest to be declared which may give rise to conflict of interest with the employee relationship with council, include:

- (a) shares and securities in any company
- (b) membership of any close corporation
- (c) interest in any trust
- (d) directorships
- (e) partnerships
- (f) consultancies and ret airships
- (g) other financial interest in any business undertaking
- (h) other employment and remuneration
- (i) interest improperly
- (j) pension and
- (k) Subsidies, grants and sponsorships by any organization.

6.3 Application for and approval private work or declaring a business interest

An application to do private work or have interest by the Richtersveld Municipality Manager must be approved or refused by the Executive Committee of Council.

Application to do private work or have business interest by any other member of staff must be approved by the Richtersveld Municipality Manager.

Application for private work or declaring a business interest must be submitted in writing on the prescribed form for consideration. a copy of the application with the decision of the competent authority must be filed on the employee personal record. Personnel Services will be the custodian of the administrative infrastructure and processes to safeguard the relevant documentation and files.

7. Implementation and Monitoring

All employees are to apply afresh even if current approvals are in place and such applications to be submitted to the Municipal Manager.

Individual approval will be granted for 12 months which cycle will run from date of approved by the relevant competent authority where after the approval will automatically lapse.

Employees will on their own accord after the expiry of the original approval has to reapply for further approval.

All applications to do private work or have a business interest will only be considered if the prescribed application form has been duly completed and is only valid when authorized.

In the event of an application not being approved, the competent authority must provide reasons for the decision.

8. Communications

This policy will be communicated to all Municipal employees using the full range of communication methods available to the Richtersveld Municipality.

9. Policy Review

This policy will be reviewed annually and revised as necessary.

10. Budget and resources

The financial and resource implications related to the implementation of this policy should be qualified and quantified.

11. Roles and Responsibilities

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

12. Penalties

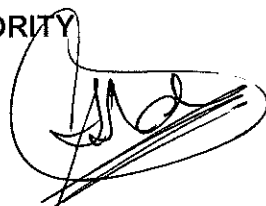
Non-compliance to any of the stipulations contained in this policy will be regarded as misconduct, which will be dealt with in terms of the Disciplinary Code.

13. Dispute Resolutions

Any Dispute arising from this policy due to ambiguous wording or phrasing must be referred to the local labour forum for adjudication. Resolutions from the local labour forum must be incorporated into the policy.

14. AUTHORITY

MM Approval:



Date:

30/06/2022