

INTERNAL POLICY

| MOHOKARE LOCAL MUNICIPALITY | |
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| SUBJECT: LEGAL AID POLICY | POLICY NO: |
| DIRECTORATE: CORPORATE SERVICES | COUNCIL ITEM: |
| DATE APPROVED: | |
| EFFECTIVE DATE: | |

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1. PREAMBLE

Section 109A of the Local Government: Municipal Systems Act (Act 32 of 2000) provides that “a municipality may, subject to such terms and conditions as it may determine, provide an employee or councilor of the municipality with legal representation.

2. DEFINITIONS

All terminology used in this policy shall bear the same meaning as in the applicable legislation.

- a) **“Indemnify”**:- to guarantee against any loss which another might suffer.
- b) **“Cession”**:- The act of relinquishing one's right.
- c) **“Copyright”**:- the exclusive right of the author or creator of a literary or computer software property to print, copy, sell, license, distribute, transform to another medium, translate, record or perform or otherwise use (or not use) and to give it to another by will.
- d) **“Intellectual property”**:- A work or invention that is the result of creativity, such as a manuscript or a design, to which one has rights and for which one may apply for a patent, copyright, trademark.

3. LEGAL FRAMEWORK

Municipal Systems Act 2000

4. LEGAL INDEMNIFICATION

Whenever a claim is made or legal proceedings are instituted against any employee of the municipality arising out of any act or deed done or omission by an employee in the performance of his duties or the exercise of his powers the municipality shall handle such claims or legal proceedings in terms of section 13 of the SALGBC Collective Agreement¹.

5. CESSION OF ACTION

An employee must, when requested to do so, sign a cession of action in favour of the Municipality, in order to enable the Municipality to take legal steps to recover sums paid by the Municipality to an employee with regard to an injury on duty and for the recovery of medical and other expenses. The employee’s claim for any pain or loss suffered, if applicable, must be included in the action.

¹ SALGBC: Collective Agreement on Conditions of Service for the Free State Division (Clause 13)

6. LEGAL REPRESENTATION

6.1 The Municipality may, subject to such terms and conditions as set out in clause 13 of the SALGBC Collective Agreement, provide an employee with legal representation when-

(a) legal proceedings were instituted against the employee as a result of an act or omission by the employee in the exercise of her/his powers, the performance of her/his functions or the discharge of her/his duties; or

(b) the employee has been summoned to attend an inquest or inquiry arising from the exercise of her/his powers, the performance of her/his functions or the discharge of her/his duties.

6.2 The Municipality shall not provide legal representation to an employee during any disciplinary enquiry or in respect of a matter with regard to which the employee may be charged, or has been found guilty of, misconduct.

7. COPYRIGHT AND INTELLECTUAL PROPERTY RIGHTS

By accepting employment with the municipality, an employee permanently and irrevocably alienate and assign to the Municipality, without compensation of whatever nature, copyright and intellectual property rights to any work that is eligible for copyright produced by her/him in her/his official capacity during her/his employment with the Municipality.