

Acceptable reasons for granting of leave of absence: Ward committee meetings.

The WhatsApp request by the secretary of the ward committee regarding the above refers.

The “Rules and Order of Council” established in terms of Chapter 7, Section 160(6) of the Constitution, and promulgated as a by-law, prescribe rules and orders of which ward committees are included.

Chapter 1, clause 14 of the By-law, specifically addresses Ward Committees and reads as follows:

- (1) The council may by resolution determine the rules of procedure for the election of ward committees, the procedures at meetings, the reporting rules, and the rendering of secretarial services to these committees.

It is therefore clear that the powers to determine rules and procedures of the ward committee is vested in the Council. The ward committee would therefore not have the legal powers to resolve on rules, including reasons for legitimate apologies by a member to a meeting of the ward committee.

Clause 4 determines the Authority and application of the Rules.

These Rules apply to –

- (a) All Councillors;
- (b) All parties represented in Council;
- (c) All employees of the Municipality in the course and scope of their employment;
- (d) Council and its Committees;
- (e) Any consultant or contractor to the Council,
- (f) The Public.

Although the Ward committee is strictly speaking not a committee of council but rather a structure, the interpretation is, that seeing that ward committees are bound by this “Rules and Order of Council” in terms of clause 14, ward committees is regarded as a committee of council in this regard.

All members also had to sign the Code of Conduct, which refers to compliance with the Rules and Order of Council

Clause 6 deals with the Interpretation of the Rules;

- (1) The Presiding Officer must give a ruling – (a) Whenever a question arising about the interpretation or application of a Rule,

Clause 15. Presiding and other officers (1) Speaker and elected Chairpersons are presiding officers for Council and its committees;

In this context, the presiding officer is the Speaker of Council and the ward councillor, the elected chairperson of the ward committee.

18. Role of presiding officers

- (3) The key principles underlying the role of the presiding officers are:
- (a) Chair of Council or its committees;
 - (b) **Implementation of the Code of Conduct;** and
 - (c) Exercise of delegated functions including, **establishment and functioning of ward committees;**

In terms of clause 51(10), A person loses membership of a committee or subcommittee (and ward committee) if –

- (a) that person is absent from three consecutive meetings of the committee or subcommittee without the **leave of the chairperson of the committee** or sub-committee; and ...
- (c) in the opinion of the Speaker of Council, that person **did not have good reasons to be absent from the meetings.**

Based on the above, the interpretation is that the power to accept or reject an apology is vested in the chairperson of the committee or Speaker in the case of Council meetings.

53. Rules Committee

(1) Unless prescribed by these Rules, Council must establish a Rules Committee which the Council Chief Whip will be its chairperson.

(3) The Rules Committee may –

- (a) **develop, formulate and adopt policy** concerning the exclusive business of the Council in respect of *inter alia* **the proceedings, procedures, rules, orders and practices** concerning the business of the Council; and
- (d) make recommendations to the Council and other relevant structures on any matter falling within the functions and powers of that Committee;
- (g) recommend to the Council rules and orders concerning the business of the Council, including **amendments to these Rules;** and

(4) The Rules Committee may deal with a matter falling within its functions and powers –

- (a) on its own initiative; or
- (b) when referred to it for consideration and report by –
 - i. the Council; or
 - ii. Speaker of Council.

Conclusion

Although there is no specific reference to ward committees as committees to which the specific clauses apply, the inclusion of ward committees, as a structure of council, in the document suggest that it applies.

Based on the Rules and Order of Council, read with the Code of Conduct that members have all signed, there is no provision that the ward committee can determine its own rules pertaining to acceptable reasons for granting or rejecting leave of absence.

The power to accept or reject an application for leave of absence is vested in the Committee chairperson and although not specifically mentioned, the ward committee chairperson by virtue of the inclusion of ward committees in the Standing rules and Order, does have the powers.

If the ward committee resolve that the need exist for the inclusion of acceptable reasons in the code of conduct, such a recommendation must be made through the office of the Speaker to the Rules committee to recommend to the Council rules and orders concerning the business of the Council, including **amendments to these Rules** applicable to **all ward committees** of council. Rules must be applied uniformly throughout the council structures.

There is currently no clear policy or rule in the Standing Rules or Code of Conduct to guide the ward committee chairperson in a decision to approve or reject an application for leave of absence from a ward meeting.

It is therefore suggested that any proposal to adopt specific legitimate reasons for leave of absence from a ward meeting be included in a policy of council or the Standing Rules and Order of Council or the Code of Conduct, be done through the prescribed process as indicated in the Rules and Order, through the Speaker, Rules committee and Council for approval and uniform application.

Any rules determined by the ward committee will not be enforceable seeing that members will not be bound by it through the signed Code of Conduct and approved sanctions.

There are many general accepted reasons for an apology at a meeting, which must not be confused with reasons for absence from work as legislated. In this regard, employees may be granted sick leave for 2 days without a medical certificate. There would therefore be no basis for requiring a medical certificate to be excused from a meeting due to sickness or being unwell.

Some reasons generally accepted as an apology for not being able to attend a meeting are the following:

- **Illness**
- **Mental health**
- **Family emergency**
- **Personal issue**
- **Work commitment**
- **Distance/Transport**
- **Injury**
- **Childcare**
- **Other commitments**
- **Leave**

It is clear from the above example that it would be very difficult to determine a uniform set of reasons that constitutes a legitimate apology for a meeting and therefore the reason why its vested in the Chairperson of the meeting is for the chairperson to determine the importance of the meeting and matters to be discussed compared to the reason provided by a member.

Recommendation

- 1. That it be noted that the power to accept or reject an application for leave of absence from a ward meeting is vested in the chairperson of the ward committee.**
- 2. That the need for the adoption of specific reasons for leave of absence and the process be discussed in the next meeting for a recommendation to the Speaker, rules committee and Council to uniformly apply to all ward committees.**

SIGNATURE: *Original Signed*

CWA NIEUWOUDT

DATE: 22 January 2025