
ELIAS MOTSOLEDI LOCAL MUNICIPALITY-MASEPALA WA SELEGAE



CELLPHONE AND MOBILE DATA POLICY

MUNICIPAL COUNCIL RESOLUTION NUMBER

C18/19-18

APPROVED AT THE 3RD SPECIAL COUNCIL SITTING OF 28TH AUGUST 2018

TABLE OF CONTENTS

NO	CONTENTS	PAGE
1.	Preamble	3
2.	Definitions	4
3.	Legislative Framework	5
4.	Objectives of the Policy	8
5.	Application Procedure	8
6.	Allocation of cellphone and data allowance	10
7.	Transition to allowance provision	11
8.	Provisions of cellphone and data card	11
9.	Consequences for non-compliance	12
10.	Dispute resolution	12
11.	Application of This Policy When in Conflict With the National or Provincial Legislation or Applicable Collective Agreement	13
12.	Policy review	13
13	Effective date	13
14	Signatories	13

1. PREAMBLE

WHEREAS the Elias Motsoaledi Local Municipality (hereinafter “the Municipality”) is characterized by a diversity of activities and functions, some of which are carried outside the permanent working station.

WHEREAS the Municipality seeks to ensure continuous communication for employees whose work requires regular contact while outside their permanent working premises or after hours.

WHEREAS there is a recognition that cell phone and/or data allowance is closely linked to individual needs.

WHEREAS the Municipality seeks to inform effective and efficient use of municipal cellphone allowance and data allowance to councillors, traditional leaders sitting in the Municipal Council, senior managers and employees of the Municipality.

WHEREAS cellphones and data cards are not a benefit but a tool of trade.

AND

NOW THEREFORE be it enacted by the Municipal Council, as **Cellphone and Mobile Data Policy**.

2. DEFINITIONS

“Allowance “

An amount of money allocated to a councillor, traditional leader sitting in the Council, senior manager or employee on a monthly basis for a cellphone and/or data card purpose.

“Employee”

The person who works for the municipality, on full time or part time, receiving remuneration and assisting in any manner to carry out or conduct the business of the employer (the Municipality). *“Employed”* and *“Employment”* have meanings corresponding to that of employee.

“Full time Councillor”

A councillor who has been elected or appointed to an office, which has been designated as full time in terms of Section 18(4) of the Local Government: Municipal Structures Act 117 of 1998.

“Municipality”

Elias Motsoaledi Local Municipality being the local sphere of government as determined by Section 155 (1) (b) of the Constitution of the Republic of South Africa, 1996 read together with Section 12 Notice issued by the MEC (Member of the Executive Council) responsible for Local Government in Limpopo Province in terms of Section 12 of the Local Government: Municipal Structures Act 117 of 1998.

“Municipal Manager”

The person appointed by Council as the head of the administration of the municipal council and accounting officer as prescribed in terms of Section 54(A) of the Local Government: Municipal Systems Act 32 of 2000 read together with Section 82 of the Local Government: Municipal Structures Act 117 of 1998.

“Traditional Leaders”

A Traditional Leader participating in Elias Motsoaledi Municipal Council in terms of Section 81 of the Local Government: Municipal Structures Act 117 of 1998 entitled *“Participation of traditional leaders”* in municipal councils.

“Tools of trade”

In the context of this Policy, it refers to the resources in the form of cellphone and/or data card allowance provided by the Municipality to a councillor, traditional leader, senior manager or employee to enable such person to discharge his or her duties in the most of efficient and effective manner and at all times remain accessible for the municipality;

“Part-time councillor”

A councillor other than a full-time councillor.

“User”

A councillor, traditional leader participating in the Elias Motsoaledi Municipal Council, senior manager or employee who uses or is entitled to the municipal cell phone and/or data allowance.

3. LEGISLATIVE FRAMEWORK

3.1. Constitution of the Republic of South Africa Act, 1996 states that:

“Public Administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:

- (a) A high standard of professional ethics must be promoted and maintained,*
- (b) Efficient, economic and effective use of resources must be promoted,*
- (c) Transparency must be fostered by providing the public with timely, accessible and accurate information”.¹*

3.2. The Local government: Municipal Finance Management 58 of 2003 states that Senior managers and other officials of a municipal exercising financial management responsibilities must take all reasonable steps within their respective areas of responsibility to ensure:

- (a) “That the system of financial management and internal control established for the municipality is carried out diligently;*
- (b) That the financial and other resources of the municipality are utilized effectively, efficiently, economically and transparently”.²*

3.3. The Local Government: Municipal Finance Management 56 of 2003 goes further stating that:

“(1) The accounting officer of the municipality is for the maintenance of those assets.

(2) That the accounting officer must for the purpose of subsection (1) take all reasonable steps to ensure

(c) That the municipality has and maintains a system of internal controls of assets and liabilities ,including and asset and liabilities register ,as may be prescribed”.³

¹ Section 195 (1)(a)(b).

² Section 78 (1) (a) & (b).

³ Ibid Section 63 (a) & (2) (c)

3.4 Remuneration of Public Office Bearers Act 20 of 1998

DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCE AND BENEFITS OF DIFFERENT MEMBERS OF MUNICIPAL COUNCILS

Entitled “upper limits of cell phone allowance for councillors” and “Upper limits of mobile data bundles for councillors” respectively, Items 11 and 12 of the Determination of Upper Limits of Salaries, Allowances and Benefits of Different Members of Municipal Councils promulgated thereunder *Government Notice 1440 Government Gazette 41335* of 15th December 2017 issued by the Minister of Cooperative Governance and Traditional Affairs under Sections 7(1), 85(a) and 95(a) of the Remuneration of Public Office Bearers Act 20 of 1998 state that a councillor may, in addition to the annual total remuneration packages provided for, be paid a cellphone allowance not exceeding an amount as gazetted every year. Furthermore, a councillor may, in addition to the annual total remuneration package provided for, be paid an allowance on the use of data bundles not exceeding an amount as gazetted every year. These allowances shall be provided to councillors in terms of the upper limits applicable in that given financial year.

3.5 Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers, 2014.

Item 40 of the Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers promulgated thereunder *Government Notice 21 Government Gazette 37245* of 17th January 2014 entitles senior managers for compensation for use of cell phone and mobile data card in terms of the relevant municipal policy.

4. OBJECTIVES OF THE POLICY

The objectives of the policy are to:

4.1. Ensure continuous communication for:

- (a) employees whose work requires regular contact while outside their permanent working premises or after hours; and
- (b) councillors and traditional leaders participating in the Municipal Council.

4.2. Ensure effective and efficient use of municipal cell phone allowance and data allowance to councillors, traditional leaders participating in the Municipal Council, senior managers and employees of the Municipality.

4.3. Determine the categories of employees which require direct communication at all times to receive a cell phone and data allowance as a tool of trade.

4.4. Establish framework for the management of municipal cell phone allowance to eliminate unnecessary, excessive costs and the recovery of excess amount.

4.5 Prescribe corrective measures for employees who fail to observe the stipulations of this Policy.

5. APPLICATION PROCEDURE

The Policy is applicable to employees of the municipality who qualify for cell phone and data allowance and are expected to use cellphones for the performance of their office duties as well as to the senior managers, councillors and traditional leaders participating in the Elias Motsoaledi Municipal Council.

5.1 Municipal Manager

The Municipal Manager is responsible for approval of recommendation for employees to be allocated cell phone and data allowance.

5.2 Senior Managers

A respective user senior manager shall write motivation for a need of a cell phone and/or data allowance essential user employees and /or employees below middle management level to the Senior Manager Corporate Services regard being had to the need, duties and nature of the post the employee occupies.

5.3 Corporate Services Department

5.3.1 The Head of Department Corporate Services shall write a recommendation to the Municipal Manager for allocation of requested cell phone and/or data allowance.

5.3.2 The Corporate Services Department bear the responsibility for effective implementation of the Policy.

5.4 Councillors, traditional leaders, senior managers and employees

5.4.1 All councillors shall be given cell phone and data allowance in line with the Remuneration of Public Office Bearers Act No.20 of 1998 as Gazetted annually applicable for that financial year.

5.4.2 All the traditional leaders, senior managers and employees shall be given cell phone and data allowance in line with this Policy.

5.4.3 All the councillors, traditional leaders, senior managers and employees receiving cell phone and data allowance are required to be contactable at all times.

5.4.4 All employees receiving cell phone allowance shall see to it that they are always able to make a business calls at any time.

6. ALLOCATION OF CELLPHONE AND DATA ALLOWANCES

6.1. Provision for cell phones and data allowance for municipal councillors must be allocated as per the Remuneration of Public Office Bearers Act No.20 of 1998 as Gazetted annually.

6.2. Municipal councillors who qualify for cell phone and data allowance are determined by the Act and the Gazette every year.

6.3. Other users who qualify for the cell phone allowance are determined as follows:

- 6.3.1 Traditional Leaders participating in the Municipal Council
- 6.3.2 Senior Managers
- 6.3.3 Middle / Divisional Managers
- 6.3.4 Personal Assistant: Office of the Municipal Manager
- 6.3.5 Personal Assistant: Office of the Mayor
- 6.3.6 Executive Assistants
- 6.3.7 Secretaries / Personal Assistants to Senior Managers; and
- 6.3.8 Other Users identified as essential users in line with paragraph 5.2 of this Policy.

6.4 Qualifying criteria for allocation of cell phone and data allowances

6.4.1 A cell phone and data usage shall be necessary for the execution of official duties, regard being had to the nature of the post the employee occupies.

6.4.2 The detailed reason and motivation for the request shall be furnished by the respective user Senior Manager.

7. TRANSITION TO ALLOWANCE PROVISION

7.1 All the current cell phone and data users as per the previously approved Cell Phone and Mobile Data Policy shall continue to be the users, however, governed in terms of the stipulations of this Policy.

7.2 A new approval process for cell phone allowance must be implemented where the employee was not a cell phone and/or data allowance user in terms of the previous Policy.

7.3 The Municipality is empowered to enter into cell phone and/or mobile data contract or pay cell phone and/or data allowance to the users so as to achieve the thrust of the objectives of this Policy.

8. PROVISION OF CELL PHONE AND DATA ALLOWANCE

8.1 All cell phone and/or data allowances provided must be allocated as follows:

User	Cell phone allowance	Data allowance (where applicable)
Full time and part time Councillors	In line with the Remuneration of Public Office Bearers Act 20 of 1998	In line with the Remuneration of Public Office Bearers Act 20 of 1998
Traditional leaders participating in the Municipal Council	R800.00	R500.00
Municipal Manager	R2,000.00	R500.00
Senior Managers	R1,800.00	R500.00
Deputy Senior Managers	R1,100.00	R500.00
Middle / Divisional Managers	R1000.00	R500.00
Executive Assistants	R800.00	R500.00

Personal Assistants / Secretaries	R800.00	R500.00
Other users / employees below Divisional Managers	R800.00	R500.00

9. CONSEQUENCES FOR NON-COMPLIANCE

9.1. In the case of employees, failure to comply with this policy will be viewed as a serious transgressions and appropriate disciplinary action will be taken.

9.2. In case of councillors, the provisions of the Code of Conduct for Councillors and Standing rules of Orders of Council shall apply.

9.3. Any costs incurred as a result of cell phone and /or mobile data misuse must be borne by that user.

10. DISPUTE RESOLUTION

10.1. If there is a dispute about the interpretation or application of this Policy, the disputant or aggrieved party shall refer the dispute or grievance to:

- (a) employer, in terms of the applicable Grievance Procedure;
- (b) South African Local Government Bargaining Council, if the dispute falls within its jurisdiction, CCMA, if the dispute falls within its jurisdiction, for conciliation;
- (c) arbitration, if the dispute remains unresolved with parties to the dispute consenting to arbitration; and
- (d) competent court(s) in terms of the applicable laws of the Republic of South Africa.

11. APPLICATION OF THIS POLICY WHEN IN CONFLICT WITH THE NATIONAL OR PROVINCIAL LEGISLATION OR APPLICABLE COLLECTIVE AGREEMENT

11.1. If any conflict relating to a matter dealt with in this Policy arises between this Policy.

and the provisions of the national or provincial legislation or applicable collective agreements for employees falling within the SALGBC, the provisions of the national or provincial legislation or applicable collective agreements for employees falling within the SALGBC prevail.

12. POLICY REVIEW

12.1. This Policy shall be reviewed and revised as and when required.

13. EFFECTIVE DATE

13.1. The Policy shall be effective forthwith from the date approved by the Municipal Council.

14. SIGNATORIES

Municipal Manager

Mrs RM Maredi

Date

The Mayor

Cllr. Mathebe JL

Date