

IMPENDLE LOCAL MUNICIPALITY

“The Municipality”



Write-off Policy

VERSION CONTROL

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1 DEFINITION

For the purposes of this policy, the following definition is applicable:

“Debt” – means an amount owing to the Municipality.

“Municipality” – means Impendle Local Municipality

“Accounting Officer” – means the Municipal Manager of Impendle Local Municipality.

“Chief Financial Officer” – means the Chief Financial Officer of Impendle Local Municipality.

“Council” – means the Council of Impendle Local Municipality

“Arrears” - means any amount due, owing and payable by a customer in respect of a municipal account not paid on the due date.

“Credit Control” - refers to all functions relating to the collection of monies owed by customers and users of municipal services.

“Arrangements” - means a formal agreement entered into between the Council and a debtor where specific repayment parameters are agreed to.

2 INTRODUCTION

- 2.1 To ensure that household consumers with no or lower income are not denied a reasonable service and that the Municipality is not financially burdened with non-payment of services, Impendle Local Municipality does have an approved Indigent Policy.
- 2.2 However, the Council is faced with a significant amount of outstanding debt and the continuous defaulting by certain consumers who can afford to pay for services. To deal with this, the Council also approved a revised Credit Control and Debt Collection Policy.
- 2.3 Despite strict enforcement of the above policies, Council will continuously be confronted by circumstances requiring the possible write-off of irrecoverable debt.

3 POLICY OBJECTIVE

The objective of this Policy is to provide a framework for regulating the writing-off of irrecoverable debt and the consequent further enhancement of Impendle Local Municipality's debt management strategy.

4 POLICY PRINCIPLES

4.1 The following are the guiding principles in implementing the Policy on Writing Off of Irrecoverable Debt:-

4.1.1 The policy has been compiled in accordance with the Local Government Municipal Finance Management Act (MFMA), 2003, Local Government Municipal Systems Act (MSA), 2000, as amended and other related legislation.

4.1.2 Before any debt is written off it must be proved that the debt has become irrecoverable. To ensure that recommendations for write off are consistent and accurate, irrecoverable debt will be defined as debt where:

- a) The tracing of the debtors is unsuccessful; and
- b) All reasonable steps were taken by the officials to recover the debt.

4.1.3 Bad debt write offs must be considered in terms of cost benefit; when it becomes too costly to recover and the chances of collecting the debt are remote, a write off should be considered at the discretion of the Chief Financial Officer.

4.1.4 Time value of money is very important because the older the debt becomes, the more difficult and costly it becomes to collect. It is therefore imperative that a proper system of credit control is implemented and maintained to avoid debt reaching the stage of becoming too uneconomic to recover.

4.1.5 Differentiation must be made between those household consumers who cannot afford to pay for basic services and those who merely opt rather not to pay for services consumed or provided

4.1.6 Debt can only be written off if the required provision exists in the Municipality's budget and/ or reserves.

5 TYPES OF DEBTS

Generally, the following types of debts may occur:

- 5.1 Where the Municipality has suffered a loss or damage through the act of an officials (whether that person is still in the employ of the Municipality or not), or any other person;
- 5.2 Where a salary, wage or allowance was erroneously or inadvertently paid to an employee and or a Councilor;
- 5.3 Where an individual or a company breached a contract; and
- 5.4 Where an erroneous or overpayment was made to a creditor, institution or private body.

6 CLASSIFICATIONS AND DEBTS RECORDING

- 6.1 In order to comply with Treasury Regulation 11.2.1(a), a debt must be recorded in the general ledger of the Municipality as soon as it is discovered.

6.2 SIMPLE DEBT (NON-INTEREST BEARING)

A simple debt is raised whenever a debt is *non-interest bearing* (refer to Government Notice 4653 of 2000). Simple debts are normally settled within a relatively short period (usually within one year or as determined by the Accounting Officer). Simple debts are usually restricted to the recovery of money from municipal officials, and occur in cases such as:

6.2.1 Salary and related overpayments

6.2.2 Debts which originate due to the actions of officials including, but not limited to, private telephone calls, leave without pay, arrear contributions, or damage to official vehicles.

6.2.3 Debtor statements do not have to be produced and debts are simply raised in the relevant disallowance account of the Municipality and recovered from the debtors concerned, provided that the debtors have been notified in writing of the municipal recovery actions.

6.3 COMPLEX DEBT (INTEREST BEARING)

6.3.1. A complex debt is raised whenever a debt is interest bearing (refer to Government Notice 4653 of 2000). A complex debt account is structured in the financial management system with restricted parameters to control access thereto. Complex debts usually occur in cases such as:

- (a) Breach of contract or loan agreements; and
- (b) Debts which originate due to *mala fides* ("with evil intentions") actions of officials, staff members, private bodies etc.

6.3.2. In the case of complex debts, debtor statements must be produced and forwarded to the relevant debtors. The debtor must be given 30 days to settle the amount owing and interest, at the rate determined by the Minister of Finance, must be levied on the outstanding amount, should the debtor fail to comply. In the case of a contractual agreement, the interest rate stipulated in the contract must be levied.

7 INTEREST PAYABLE ON DEBTS

In terms of Section 11.5.1 of the Treasury Regulations (promulgated in terms of Section 80 of the PFMA), interest must be charged on all debts to the Municipality at the interest rate published in the Government Gazette.

8 DETERMINATION OF INTEREST RATES FOR DEBTS

9.1. The Minister of Finance has fixed the uniform interest rate applicable to the following categories of debt, which are payable into a revenue fund, at nil percent (0%) per annum, with effect from 1 June 2000:

- 8.1.1 Remuneration granted in error, where the person is still in the employ of the Municipality; and
- 8.1.2 Losses or damages caused unintentionally and without *mala fides* by persons still in the employ of the Municipality.

- 9.2. All other categories of debt bear interest at the prevailing rate set by the Minister of Finance after publication thereof in the Government Gazette, unless otherwise stipulated in a contractual agreement.
- 9.3. **Note:** See Government Notice No. 4653 of 2000 for the presently prevailing interest rates determined by the Minister of Finance.

9 INTEREST CALCULATIONS

- 9.1 Interest is calculated on the decreasing balance of the debt and may not be capitalised, nor may it exceed the original capital amount (refer to the “*in duplum*” principle).
- 9.2 **Note:** If a debtor does not respond to a written notice to settle the debt within 30 days of the notice (the date of notice must correspond with the debt take-on date), interest must be levied from the following day, i.e. 31 days after the debt was raised.

10 RECOVERY OF DEBT, LOSSES OR DAMAGES

- 10.1. The Accounting Officer for a department must take effective and appropriate steps to collect all money due and owing to the Municipality. The Municipality must effectively manage and control all debts, specifically those relating to its personnel, and the following recovery procedures must be followed in the management of debts:
- 10.1.1 Debts owing to the Municipality may, at the discretion of the Accounting Officer, be recovered by means of installments, except in cases where the conditions of payment are determined by law, agreement etc., provided that due cognizance is taken of the debtor's standing and financial position in determining the period of payment. The debt must be recovered as soon as possible, at a maximum of 25% of net monthly salary, where net salary is defined as gross salary less statutory deductions.

- 10.1.2 When it appears that the Municipality has suffered a loss or damage through an act of an official, whether or not the person is still in the employ of the Municipality, the Accounting Officer must recover the value of the loss or damage from the person responsible.
- 10.1.3 The overpayment of salaries, wages or allowances to employees may be recovered in monthly installments as approved by the Accounting Officer, provided that the debtor has been notified, in writing, of the departmental recovery actions.
- 10.1.4 Any outstanding subsistence and transport advance, where the relevant claim has already been rendered, should be recovered from an employee's salary, unless the employee can provide evidence to prove the contrary.
- 10.1.5 Any overpayments to creditors, institutions or private bodies and persons must be disallowed and recovered as soon as possible. Where regular payments are made to suppliers, the amount shall be recovered from the first subsequent payment.
- 10.1.6 Any amount that is not a legitimate charge against a vote account must immediately be disallowed to a disallowance or debt account, until it is recovered or until an adjustment is authorised.
- 10.1.7 Estate notices in the Government Gazette must be checked regularly to enable the Municipality to institute claims against insolvent and deceased estates in respect of persons owing money to the Municipality.
- 10.1.8 When an official leaves the municipal service and debt exists or arises, the debt must, at the discretion of the Accounting Officer, be recovered from any remuneration and/or benefits due to the person i.e. pro-rata service bonus, leave gratuity, severance pay, pension benefit etc.
- 10.1.9 The Accounting Officer or the officer, to whom the duty has been delegated, must review the debtor's repayment arrangements annually with a view to increasing the installment.
- 10.1.10 Should a debtor default on the payments agreed to, the outstanding balance of the debt (where possible), must be recovered in one lump sum.

10.1.11 Where a debtor is not in the employ of the Municipality, the Municipality must ensure that the debtor receives a demand for payment of the debt as soon as possible, in order to prevent prescription of the debt.

11 PRESCRIPTION ACT, 1969 (ACT NO. 68 OF 1969)

11.1. A debt prescribes when payment thereof has **not** been demanded within the periods of prescription as outlined in the Prescription Act, 1969 (Act No. 68 of 1969). The Municipality cannot legally enforce payment of a debt once the debt has prescribed, but the period of prescription is interrupted if-

11.1.1 Payment of the debt is demanded by a *registered letter of demand*, for which proof of receipt has been obtained;

11.1.2 Payment of the debt is demanded by the issue and *service of summons*;

11.1.3 The debtor *acknowledges* the liability; and/or

11.1.4 The debtor *commences* payment of the debt.

11.2. In terms of Section 11 of the Prescription Act, 1969 (Act 68 of 1969), the periods of prescription of debts are as follows:

(a) **Thirty years** in respect of -

(i) Any debt secured by a mortgage bond;

(ii) Any judgment debt;

(iii) Any debt in respect of any taxation imposed or levied by or under any law; and

(iv) Any debt owed to the Municipality in respect of any share of the profits, royalties or any similar consideration payable in respect of the right to mine minerals or other substances.

(b) **Fifteen years** in respect of any debt owed to the Municipality and arising out of an advance or loan of money or a sale or lease of land by the Municipality to the debtor, unless a longer period applies in respect of the debt in question in terms of paragraph (a) above.

(c) **Six years** in respect of a debt arising from a bill of exchange or other negotiable instrument or from a notarial contract, unless a longer period

applies in respect of the debt in question in terms of paragraph (a) or (b) above.

- (d) **Three years** in respect of all other debts, save where an Act of Parliament provides otherwise.

12 THE MUNICIPALITY ATTORNEY

12.1. In terms of paragraph 11.2.1(b) of the Treasury Regulations, in cases where it is necessary and economical to enforce the recovery of a debt by means of legal steps, and after consultation with the Directorate: Legal Services, the services of the Municipality Attorney or any other attorney may be utilised.

12.2. The Accounting Officer can then appoint the attorney to recover the debt.

12.3. **Note:** *The physical address of a debtor must be available when matters involving the recovery of debt are handed to the Municipality Attorney for collection.*

13 TRACING OF DEBTORS

13.1 In the event that the debtor's address is not known, the Municipality must take all reasonable steps to trace the debtor. A reasonable effort to trace the debtor will include, but is not limited to, the following:

13.1.1 Utilizing all the information available in departmental files (such as personal information, housing, leave, salary etc.) to locate the debtor;

13.1.2 Utilizing the telephone directory for the last town or city in which the debtor lived to locate the debtor and/or his/her relatives; and

13.1.3 Contacting the following institutions or persons in order to locate the debtor:

- i. The Department of Home Affairs;
- ii. The South African Revenue Service;
- iii. The Department of State Expenditure: Pension Administration; and
- iv. Officials and/or colleagues at the debtor's last place of employment.

- v. Last school attended by the debtor's children

13.2 The Accounting Officer shall consider all other economically viable avenues for debt recovery, including the use of tracing agents, factoring of debts, recourse against sureties or guarantors etc.

13.3 Should all the above efforts prove to be unsuccessful and the debtor cannot be traced, only then must a submission be made to the Accounting Officer, or a duly delegated officer, requesting the write-off of the debt. This submission must detail all steps taken to trace the debtor and must show that it would be uneconomical to take the matter any further.

14 WRITING OFF DEBTS OWING TO THE MUNICIPALITY

14.1 LEGISLATION

In terms of Section 11.4 of the Treasury Regulations, any debt written off by the Accounting Officer may-

14.1.1 Only be written off after all reasonable steps have been taken to recover the debt (see paragraph 13 above), and the Accounting Officer has convinced him/herself that-

- (i) Recovery of the debt would be uneconomical;
- (ii) Recovery would cause undue hardship to the debtor or his/her dependants; and/or
- (iii) It would be to the advantage to the Municipality to effect a settlement of the claim or to waive the claim.

14.1.2 Immediately after 30 June each year, the Accounting Officer must present to the Council a report indicating the amount of the arrears which it is believed is uncollectible, together with the reasons for this conclusion.

14.1.3 The Council shall then approve the write off of such arrears, if it is satisfied with the reasons provided.

- 14.1.4 Be disclosed in the Annual Financial Statements, indicating the policy in terms of which the debt was written off.

14.2 CONDITIONS FOR WRITE-OFF

In addition to the above-mentioned criteria, the Municipality or the Council will consider debts for write-off in the following circumstances:

- I. Debts that have prescribed in terms of paragraph 11 above;
- II. Debts not recovered from deceased employees, where their estates have been finalized, and recovery of the debts from the heirs is not possible;
- III. Debts owed by debtors that cannot be traced, notwithstanding compliance with the provisions in paragraph 13.1.3;
- IV. Debts where no source documentation is available to substantiate or prove the claims, provided that the Accounting Officer must have satisfied him/herself that all reasonable steps have been taken to locate the source documents;
- V. Debts where the debtors have emigrated without paying the debts, leaving no assets available for exclusion, and the debtors' whereabouts are unknown; debts owed by employees who have left the public service, and are now destitute, provided that the Accounting Officer must have satisfied him/herself that the debtors are in fact destitute;
- VI. Debts owed by employees amounting to less than R3 000.00 where the debtors are no longer employed by the Municipality; and
- VII. Debts owed by persons or institutions where the probability of recovery is remote and it is not in the Municipality's interest to pursue such debts, which includes, but is not limited to, circumstances where:
 - a) the deceased was the breadwinner of a rural family who continued to receive payment of the deceased's salary after his/her death, and who have no means to repay the debt;
 - b) payments were received by persons other than the deceased employee's immediate family, and the identification of the debtor is not possible; and

- c) No Executor, Administrator, Liquidator or Curator has been appointed in terms of Section 4(1) of the Regulations published under Government Notice No. R200 dated 6 February 1987.

14.3 **Note:** *Unless affordable arrangements can be made with tracing agents, the costs associated with the tracing of a debtor and subsequent legal costs occasioned thereby, could exceed the amount claimed. It would therefore not be in the Municipality's interest to attempt recovery of debts where the prospects of recovery are remote, and where the possibility exists that the costs associated with recovery may exceed the debt.*

14.4 Detail of Debt to be Written-Off

The following information needs to be provided for each debt to the officer/member who will authorize the write offs:

- a) Debtor's name,
- b) Debtor's address,
- c) Debtor's account,
- d) Measures taken to recover the debt,
- e) Reason(s) rendering the debt uncollectable,
- f) Description of debt,
- g) Period of the debt and/or date(s) of invoice,
- h) Amount to be written off,
- i) Reason for the write off.

14.5 Supporting documentation must be retained and available that indicates:

- a) Evidence to support the write off,
- b) Recovery history,
- c) Details of tracing and enquires carried out,

15 DELEGATED AUTHORITY TO WRITE OFF DEBT

15.1 The Accounting Officer may delegate authority, in writing, to write off debt as contained in the Delegation of Powers: Financial Administration of the Department.

16 MANAGEMENT REPORTING

Management information concerning the status of all debtors of the Municipality shall be provided to the Accounting Officer on a monthly basis. This should preferably include

- I. A debtors' listing and
- II. Debtors' age analysis.

17 IMPLEMENTATION

- 17.1 This policy will be effective on the date of adoption by the Council.
- 17.2 The responsibility for implementation of this policy rests with the Chief Financial Officer.

18 COMPLIANCE AND ENFORCEMENT

- a. Violation of or non-compliance with this Policy may give a just cause of disciplinary steps to be taken.
- b. It will be the responsibility of Accounting Officer to enforce compliance with this Policy.

19 POLICY ADOPTION

This revised Policy replaces the current Policy, it has been considered and approved by the **COUNCIL OF IMPENDLE LOCAL MUNICIPALITY** as follows:

Resolution No: _____

Approval Date: 09 June 2020

It shall be effective and binding upon adoption by Council.