



EMADLANGENI LOCAL MUNICIPALITY

BAD DEBT WRITE-OFF & IMPAIRMENT OF DEBTS POLICY

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POLICY ON PROVISION FOR DOUBTFUL DEBT AND WRITE-OFF OF IRRECOVERABLE DEBT

1. DEFINITIONS

For the purposes of this policy the following definitions are applicable:

“Debt” - means an amount owing to the Municipality;

“Debtor” – means a person who owes the Municipality money for rates/services rendered;

“First time” – means from the 2018/ 2019 financial year and onwards.

“Account Holder” includes a customer/consumer and refers to any occupier of any premises to which Council has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the municipality;

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

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

“Chief Financial Officer” refers to the person so designated in terms of Section 75(2)(a) of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) or any person duly authorised to act on behalf of such person.

“Council” refers to the eMadlangeni Municipality and its successors in law and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any official to whom the Executive Committee has delegated any powers and duties with regard to this policy;

“Debt Management” refers to all functions relating to the collection of monies owed by customers and users of municipal services.

“Financial year” refers to the period starting from 1 July in a year to 30 June the next year;

“Interest” is a charge levied and calculated at a rate determined by law from time to time on all arrear amounts owing;

“Municipality” when referred to as:

(a) a corporate body, means a municipality as described in Section 2 of the Municipal Systems Act, 2000 (Act No. 32 of 2000);

(b) a geographic area means a municipal area determined in terms of the Local Government Municipal Demarcation Act, 1998 (Act No. 27 of 1998).

(c) means the eMadlangeni Municipality

“Municipal Manager” means the person appointed as Municipal Manager in terms of Section 82 of the Local Government Municipal Structures Act, 1998, (Act No. 117 of 1998) and includes any person acting in that position or to whom authority has been delegated;

“Official” refers to an employee of the eMadlangeni Municipality

“Owner” means

(a) In relation to property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;

(b) In relation to a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered;

(c) In relation to a land tenure right referred to in paragraph (c) of the definition of “property”, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or

(d) In relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”, provided that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in the following cases:

(i) A trustee in the case of a property in a trust excluding state trust land;

(ii) An executor or administrator, in the case of a property in a deceased estate;

(iii) A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;

(iv) A judicial manager, in the case of a property in the estate of a person under judicial management;

(v) A curator, in the case of a property in the estate of a person under curatorship;

(vi) A person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;

(vii) A lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or

(viii) A buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

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, eMadlangeni 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 irrecoverable debt.

3. PURPOSE OF POLICY

- 3.1 This policy provides guidelines on treatment of the impairment and write-off of debtors.

The policy seeks 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.

- 3.2 Section 96 of the Local Government: Municipal Systems Act, 32 Of 2000, provides that a municipality must collect all money that is due and payable to it, subject to the provisions of that Act and other applicable legislation. 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.
- 3.3 It is recognized, however, that circumstances may arise which may make the recovery of certain debts impossible, impractical or financially unfeasible ,and that such debts may have to be written off.
- 3.4 The purpose of this policy is to provide a framework for:
 - 3.4.1 limiting the circumstances contemplated in 3.3;
 - 3.4.2 determining ,when such circumstances have arisen, whether to write- off any debts; and
 - 3.4.3 the procedures for writing off such debts.

- 3.5 The municipality will maintain audit trails in such an instance and document the reasons for the abandonment of the action or claim in respect of the debt.
- 3.6 In addition, the policy further stipulated that "Council must appoint a committee in terms of its delegations to review and recommend to Council to approve all bad debt write off cases."
- 3.7 The effective management of debtors include, amongst others, the following processes:
- Implementation/ maintenance of the appropriate Information and Communication Technology (ICT) Systems and Business Processes;
 - Accurate Billing;
 - Customer Care and Accounts enquiry management;
 - Effective and timeous Credit Control;
 - Impairment of Debtors (Provision for Doubtful Debtors); and
 - Write-off of uncollectable debtors.
- 3.8 The objectives of this policy are:
- 3.8.1 To ensure that the debtors disclosed in the annual financial statements are stated at amounts that are deemed to be collectable; and
- 3.8.2 To ensure that uncollectable debt is written off within guidelines of applicable policies and legislation.

4. IMPAIRMENT OF DEBTORS

Consumer debtors, long term receivables and other debtors are stated at cost less provision for bad debt.

Provision for impairment is made on an individual basis or collectively on a group basis.

In accordance with GRAP104, an objective assessment of financial assets is made at year end to determine possible impairment. Impairment loss is recognised as an expense in the Statement of Financial Performance.

4.1 Consumer debtors

Consumer debtors are evaluated at the end of the reporting date and impaired as follows:

Category of Debtor	Percentage of debt regarded as collectable	Percentage of debt provided for as irrecoverable
Credit balances	Zero	Zero
Current account	100%	Zero
Debt owing between 30 to 60 days	50%	50%
Debt in excess of 60 days	Zero	100%
Approved indigents	Zero	100%
Pending indigents	Zero	100%
Hand over accounts to panel of debt collectors, legal hand over, clearance hand over (debt outside of Section 118(1)(b) of the Municipal Systems Act	Zero	100%
Government/ public infrastructure accounts	100%	Zero
Housing rental debtors <input type="checkbox"/> Current debt <input type="checkbox"/> Debt ageing 30 days+	100% Zero	Zero 100%

4.2 Sundry Deposits

Sundry deposits are assessed for impairment to ensure that no objective evidence exists that these deposits are irrecoverable.

4.3 Sundry Debtors

Sundry debtors are classified as financial instruments with debit balances at yearend. Sundry debtors are assessed individually for impairment to ensure that no objective evidence exists that these debtors are irrecoverable.

5. RESPONSIBILITY / ACCOUNTABILITY

The Council has the overall responsibility for adopting and approving the Provision for Bad Debts and Writing Off of Irrecoverable Debt.

6. WRITE-OFF OF DOUBTFUL DEBTORS

- 6.1 The following should be the guiding principles in implementing the Policy on Writing Off of Irrecoverable Debt:-
 - 6.1.1 The policy is in accordance with the Local Government Municipal Finance Management Act 2003, Local Government Municipal System Act 2000, as amended and other related legislation.
 - 6.1.2 Before any debt is written off it must be proven that the debt has become irrecoverable. To ensure that recommendations for write off are consistent and accurate, irrecoverable debt will be defined as:-
 - 6.1.2.1 Where the tracing of the debtors is unsuccessful; and
 - 6.1.2.2 All reasonable steps, at the discretion of the appointed write off committee, were taken by the officials to recover the debt.
 - 6.1.3 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 slim, a write off should be considered.
 - 6.1.4 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 expensive to recover.
 - 6.1.5 Differentiation must be made between those household consumers who cannot afford to pay for basic services and those who just do not want to pay for these services.
 - 6.1.6 Debt can only be written off if the required provision exists in the Municipality's budget and/ or reserves.

7. CATEGORIES OF DEBTORS THAT MAY QUALIFY FOR THE WRITING-OFF OF IRRECOVERABLE DEBT

7.1 Approved Indigent Household Consumers in terms of the Municipality's Indigent Policy

7.1.1 Debt owed to Council by an Indigent Household, when registering for the first time in terms of the official Indigent Policy, shall be written off as a once off concession, subject to a thorough audit investigation and certification to the effect that the household is a bona fide indigent as stipulated in the Indigent Policy.

7.1.2 Debt owed by the deceased estate of the breadwinner of a registered indigent household shall be written off up to the date of the death of the owner.

7.2 Balances too small to recover considering the cost for recovery

7.2.1 Where final accounts have been submitted and paid by the respective consumer and the remaining balance after finalisation of any final readings and other administrative costs results in a balance of one hundred rand (R100) or less, such account must be forwarded once to the consumer for payment.

7.2.2 Where such account is not paid by the respective consumer within a period of ninety (**90**) days such amounts will automatically be written off. The write-off in instances like this is subject to the following conditions being complied with:

- a certified copy of the death certificate of the owner be obtained;
- a sworn affidavit regarding the indigence be obtained.

Should the new owner not qualify to be registered as an Indigent, in terms of the Council's Indigent Policy, the outstanding rates and service charges for the period from the death of the previous owner till the date of the new service application remain payable by the new owner and cannot be written off.

Should the new owner qualify to be registered as an Indigent, in terms of the Council's Indigent Policy, the outstanding rates and service charges for the period from the death of the previous owner till the date of the new service application can be written off in instances where the next of

kin/new owner present proof that the property transfer fees has been paid and the service contract is signed in his/her name.

7.3 Insolvency of the Debtor and Insolvent Deceased Estates

7.3.1 Where a debtor becomes insolvent the Municipality must ensure that a creditor's claim is timeously registered. Any amount not being recovered due to insufficient funds or if there is a risk of a contribution being made to an insolvent estate must, after notification, be written off.

7.3.2 In case of death of the debtor, a creditor's claim must be timeously registered against the deceased's estate. Any amount not being recovered due to insufficient funds or if there is a risk of a contribution being made to a deceased estate must, after notification, be written off.

7.4 Untraceable Debtors

7.4.1 Where for any reason the forward address of a debtor becomes untraceable or the debtor becomes untraceable from the current address, such account must be handed over to a collection agent for recovery of the debt. The collection agent will be paid an all-inclusive fee that will be negotiated. The Terms of Reference for such collection agent must include the appointment of a tracing agent to locate the debtor. Should a debtor be untraceable, the collection agent must report to the Municipality on the actions that were taken to attempt to trace the debtor.

7.4.2 Any amount owed by a debtor that has become untraceable must, after notification, be written off or sold to a debt collection agency at a discount.

7.4.3 Debt written off in the above instances will automatically result in the debtor being reported to the credit bureau by the Municipality.

7.6 Special Incentives for Household Consumers

7.6.1 Notwithstanding the Municipality's Credit Control Policy a debtor may enter into a written agreement with the Municipality to repay any outstanding and due amount to the Municipality under the following conditions:-

7.6.1.1 The outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly instalments;

- 7.6.1.2 The current monthly amount must be paid in full; and
- 7.6.1.3 The written agreement has to be signed on behalf of the Municipality by a duly authorised officer.

7.6.2 Due to ineffective/ non implementation of credit control measures in the past, the majority of household consumers have accumulated significant arrear amounts and that these consumers are not in a position to pay of these arrear amounts in full together with their current monthly accounts. In order to improve the current payment levels from consumers the Council of eMadlangeni Municipality may resolve to implement special incentives to address the arrear debt.

7.7 Special cases

The allocation of RDP houses by the Directorate Infrastructure, Planning and Development has in some instances resulted in debt raised for the property in the name of the person allocated the house, but who never took occupation due to one of the following reasons:

- Failure to inform the rightful owner about the allocation;
- Alteration of allocation not effected in Council records;

In the above-mentioned cases there will never be a need to implement the Credit Control and Debt Collection Policy; therefore write-off should take place immediately when the Directorate involved in the allocation of property issues a memorandum that confirms the above. Furthermore the write-off should be affected and later reported to Council for ratification purposes.

8. ESTABLISHMENT OF A COMMITTEE TO MONITOR ANY DEBT TO BE WRITTEN OFF

8.1 Council will establish and appoint a Committee to monitor the implementation of this Policy.

8.2 The Committee will consist of the following members:-

- 8.2.1. The Municipal Manager (Chairperson) or delegated authority.
- 8.2.2. Chief Financial Officer (Alternative Chairperson).

- 8.2.3. Member of the Executive Committee for Finance.
- 8.2.4. One member of the Portfolio Committee for Finance to be nominated by the Portfolio Committee for Finance.
- 8.2.5 One Representative of each of the Political Parties.
- 8.3. The above Committee will meet at least quarterly to receive and review a report from the Chief Financial Officer containing full details of any actions taken by officials with respect to this Policy, and to consider any circumstances not covered by this Policy.
- 8.4. The quorum for the Committee shall be 50% of the members plus one.
- 8.5. Formal minutes of Committee meetings must be prepared and submitted to Council.
- 8.6. The Chief Financial Officer will, after thorough review of any applications in terms of this Policy, be delegated to write off any amounts to the maximum of;
- 8.6.1. in the case of a household consumer an amount of **R10,000** (excluding interest and penalties) per submission;
- 8.6.2. in the case of a business consumer an amount of **R20,000** (excluding interest and penalties) per submission; and
- 8.6.3. any amount in excess of the delegation provided for in paragraph 8.6.1 and 8.6.2 above must be submitted together with a recommendation to the Municipal Manager for consideration. The Municipal Manager or delegated authority will, after thorough review of any recommendation by the Chief Financial Officer and in terms of this Policy, be delegated to write off any amounts to the maximum of:-
- 8.6.4. in the case of a household consumer an amount of **R20,000** (excluding interest and penalties) per submission; and
- 8.6.5 in the case of a business consumer an amount of **R50,000**(excluding interest and penalties) per submission.
- 8.7. Any amount in excess of the delegation provided for in paragraph 8.6.4 and 8.6.5 above may only be reviewed by the Committee to Monitor Debt to be written off and must be submitted together with a recommendation to Council for consideration.

9. DELEGATED POWERS ON WRITING-OFF INTEREST AND PENALTIES ON RECOVERABLE DEBTS

- 9.1 The Chief Financial Officer will, after thorough review of any applications in terms of this Policy, be delegated to write off interest and penalties, subject to full settlement account, to the maximum of;
- 9.1.1 in the case of a household consumer an amount of **R10 000** per submission;
- 9.1.2 in the case of a business consumer an amount of **R20 000** per submission; and
- 9.1.3 any amount in excess of the delegation provided for in paragraph 9.1.1 and 9.1.2 above must be submitted together with a recommendation to the Municipal Manager for consideration. The Municipal Manager will, after thorough review of any recommendation by the Chief Financial Officer and in terms of this Policy, be delegated to write off interest and penalties, subject to full settlement of the account, to the maximum of:
- 9.1.4. in the case of a household consumer an amount of **R20,000** per submission; and
- 9.1.5 in the case of a business consumer an amount of **R50,000** per submission.
- 9.2 Any amount in excess of the delegation provided for in paragraph 9.1.1 to 9.1.5 above may only be reviewed by the Committee to Monitor Debt to be written off and must be submitted together with a recommendation to Council for consideration.

10. PREVENTION OF PRESCRIPTION OF DEBT

10.1 Prevention

Proceedings out of the appropriate court for the recovery of a debt must be commenced as soon as it is appropriate in order to prevent prescription of the debt. A summons process for payment of the debt must be successfully concluded as soon as possible to prevent prescription of the debt in terms of the Prescription Act. 12

10.2 Prescription Act, 1969 (Act No. 68 of 1969):

Section 10 (1) of the Prescription Act provides that a debt shall be extinguished by prescription after the lapse of the period which in terms of the relevant law applies in respect of the prescription of such debt. The Municipality cannot legally enforce payment of a debt once the debt has prescribed, but the period of prescription is interrupted:-

- (i) By the service on the debtor of any process whereby the creditor claims payment of the debt (Section 15). "Process" means a Summons or Notice of Motion, which must actually be served on the debtor and not simply issued by the court, and does NOT include a registered letter of demand
- (ii) the debtor acknowledges liability, whether expressly or tacitly (Section 14); payment of a portion of the debt can constitute a tacit acknowledgement of liability.

The completion of prescription may also be delayed in certain circumstances (Section 13).

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

- (i) **Thirty years** in respect of -
 - any debt secured by a mortgage bond;
 - any judgment debt;
 - any debt in respect of any taxation imposed or levied by or under any law; and any debt owed to the State 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.
- (ii) **Fifteen years** in respect of any debt owed to the State and arising out of an advance or loan of money or a sale or lease of land by the State to the debtor, unless a longer period applies in respect of the debt in question in terms of paragraph (i) above.
- iii) **Six years** in respect of a debt arising from a bill of exchange or other negotiable instrument or from a notaries contract, unless a longer period applies in respect of the debt in question in terms of paragraph (i) or (ii) above.
- (iv) **Three years** in respect of all other debts, save where an Act of Parliament provides otherwise.

11. BAD DEBTS RECOVER

The approval of Council for the write-off of any debt does not mean that actions to recover the money will be terminated, however, further actions will be instituted depending on the costs involved and if debt is recovered it will be recorded in the financial records of Council as recovered.

12. IMPLEMENTATION

This policy will be effective on the date of adoption by Council. All future submissions for the writing off of debt must be considered in accordance with this policy.