

DEBTS WRITTEN-OFF POLICY

P.O. BOX 47
10 CLAUGHTON TERRACE
MOOI RIVER 3300
TEL: 033 263 1221 / FAX: 033 263 1227
E: mm.office@mpofana.gov.za



MPOFANA LOCAL MUNICIPALITY

DATE APPROVED BY COUNCIL	
RESOLUTION NUMBER	
DEPARTMENT	BUDGET AND TREASURY OFFICE
UNIT	REVENUE (DEBT CONTROL)
DATE REVIEWED	

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1. BACKGROUND

- 1.1 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 service
- 1.2 It is recognised, 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.

2. PURPOSE

- 2.1. This policy provides guidelines on treatment of the impairment and write-off of debtors.
- 2.2. 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 no-payment of services.
- 2.3 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.
- 2.5. 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".
- 2.6 The purpose of this policy is to provide a framework for:
- 2.6.1 Limiting the circumstances contemplated in 1.2;
- 2.6.2 Determining, when such circumstances have arisen, whether to write off any debts; and
- 2.6.3 The procedures for writing off such debts.
- 2.7. 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 Debtor); and
 - Write-off of uncollectable debtors.

3. DEFINITIONS

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

“Accounting Officer” means the Municipal Manager appointed in terms of Section 82 of the Local Government: Municipal Structures Act, 1998 (Act no. 117 of 1998) and being the head of administration and accounting officer in terms of section 55 of the Local Government: Municipal Systems Act 2000 (Act no. 32 of 2000) and includes any person to whom the Accounting Officer has delegated a power, function or duty in respect of such a delegated power, function or duty.

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

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

“Council” – Mpofana Local Municipality or any of the Council’s committees or officials by virtue of authority, functions and duties delegated to them in terms of any existing law, ordinance or decree which is in force within the jurisdiction of the Council;

“GRAP” are standards of Generally Recognised Accounting Practice.

“Municipality” refers to the Mpofana Local Municipality.

4. LEGAL CONTEXT

4.1 The policy aims to give effect to the requirements and stipulations of –

- The Municipal Finance Management Act 56 of 2003 (MFMA);
- Treasury regulations issued in terms of the MFMA; and
- The Municipal Systems Act 32 of 2000.
- Generally Recognized Accounting Practice (GRAP)

5. SCOPE FOR APPLICATION

- 5.1 This policy applies to all past, present and future customers of the Mpofana Local Municipality (the municipality) and all contract arrangements, customers and debtors of the municipality.
- 5.2 All the applicable actions as contained in the Credit Control and Debt Collection Policy of the Municipality should have been executed and implemented.

6. STEPS TO BE TAKEN BEFORE WRITING OFF DEBT

- Before consideration is given for the write-off of any debt the following steps should be taken:

6.1 CREDIT CONTROL AND DEBT COLLECTION POLICY ACTIONS

All the applicable actions as contained in the Credit Control and Debt Collection Policy of the Municipality should have been executed and implemented.

6.2 TRACING OF DEBTORS

In the event that the debtor's sufficient contact details for a debtor is not known, all reasonable steps must be taken to trace the debtor. A reasonable effort to trace the debtor will include, but is not limited to, the following:

- a) Utilizing all the information available (such as vehicle registration number, school attended by children, etc.) to locate the debtor;
- b) 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
- c) Contacting the following institutions or persons in order to locate the debtor:
 - ✓ The Vehicle Registration Authorities;
 - ✓ The Department of Home Affairs; and
 - ✓ Officials and/or colleagues at the debtor's last place of employment.

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, guarantors or lessees, etc.

7. WRITE-OFF OF DOUBTFUL DEBTORS

7.1 The following should be the guiding principles in implementing the Policy on Writing Off of Irrecoverable Debt:-

7.1.1 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.

7.1.2 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:-

7.1.2.1 Where the tracing of the debtors is unsuccessful; and

7.1.2.2 All reasonable steps, at the discretion of the appointed write off committee, were taken by the officials to recover the debt.

7.1.3 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.

7.1.4 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.

7.1.5 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.

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

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

8.1 *APPROVED INDIGENT HOUSEHOLD CONSUMERS IN TERMS OF THE MUNICIPALITY'S INDIGENT POLICY*

8.1.1 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.

8.1.2 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.

8.2 *BALANCES TOO SMALL TO RECOVER CONSIDERING THE COST FOR RECOVERY*

8.2.1 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.

8.2.2 Where such account is not paid by the respective consumer within a period of sixty (60) 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 is 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.

8.3 PREVENTION OF PRESCRIPTION OF DEBT

(a) Prevention:

Proceedings out of the appropriate court having jurisdiction for the recovery of a debt must be commenced as soon as 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.

(b) 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).

(c) 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.

6.4 GENERAL

Should all the above efforts prove to be unsuccessful and the debtor cannot be traced or it would be uneconomical to take the matter any further, only then must a submission be made requesting the write-off of the debt. This submission must detail all steps taken and the Municipality must maintain audit trails in such instances, and document the reasons for the abandonment of the actions or claims in respect of the debt.

7. WRITE OFF DEBTS OWING TO THE MUNICIPALITY

7.1 GENERAL CONDITIONS

The Municipality will consider debts for write-off in the following general circumstances:

(a) When debts have prescribed, as contemplated in paragraph 6.3 above;

- (b) When debts have not been recovered from the deceased, where their estates have been finalized, and recovery of the debts from the heirs is not possible;
- (c) When debts are owed by debtors who cannot be traced, notwithstanding compliance with the provisions in paragraph 6 above;
- (d) When 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;
- (e) When the debtor has emigrated without paying the debts, leaving no assets available for attachment and the debtors' whereabouts are unknown;
- (f) When it is not economical to pursue the debt further.

NOTE: *Unless affordable arrangements can be made with tracing agents or attorneys, 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.*

7.2 SPECIFIC CONDITIONS

The Municipality will consider debts for write-off in the following specific circumstances:

7.2.1 Metered Services Debt:

Debt owed to Council due to consumed metered services, i.e. Rates & Electricity consumption will be regarded as irrecoverable in the following instances:

- If the debt has prescribed;
- In circumstances contemplated in 7.1 (a) to (f) above

7.2.2 Sundry Debt:

Debt owed to Council arising from auxiliary services rendered by Council will be regarded as irrecoverable in the following instances:

- If the debt has prescribed;
- In circumstances contemplated in 7.1 (a) to (f) above

7.3 FINAL ACTION

Whenever all the legal avenues, procedures and steps listed above have been exhausted, the arrear amounts should be classified as irrecoverable and should be written off by the person to whom the authority to do so has been delegated under the Municipality's system of delegations. Immediately after 30 June each year, or more regularly if requested by Council, the Accounting Officer must present to the Council a report listing the following:

- (a) For noting – details of the debts that was written off during the year ending 30 June under delegated authority, together with the reasons for the write offs; and

- (b) For consideration – details of any debt, not included under (a) above, which is believed to be irrecoverable, together with the reasons for this conclusion. The council shall then approve the write-off of such arrears, if it is satisfied with the reasons provided.

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

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

- 8.1.1 Debt owed to Council by an Indigent Household, (NB: Indigent registration is undergoing) 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.
- 8.1.2 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.

8.2 *Balances too small to recover considering the cost for recovery*

- 8.2.1 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.
- 8.2.2 Where such account is not paid by the respective consumer within a period of sixty (60) 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 is obtained.

- 8.2.3 Should the new owner not qualify to be registered as an Indigent, in terms of the Mpofana Local Municipality'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.
- 8.2.4 Should the new owner qualify to be registered as an Indigent, in terms of the Mpofana Local Municipality'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.

8.3 *Insolvency of the Debtor and Insolvent Deceased Estates*

- 8.3.1 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.
- 8.3.2 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.

8.4 *Untraceable Debtors*

8.4.1 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.

8.4.2 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.

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

8.5 *Special Arrangements in order to obtain a Clearance Certificate*

8.5.1 In terms of legislation the Municipality will under normal circumstances not issue a Clearance Certificate on any property unless all outstanding amounts are paid to date, or alternatively payment of the current year and two years preceding the date of application for the certificate have been fully paid, and a guarantee by the attorney handling the property transfer is issued in favour of the Municipality for the balance of the debt.

8.6 *Special Incentives introduced by Council for Household Consumers in terms of the Approved Revenue Enhancement Strategy*

8.6.1 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:-

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

8.6.1.2 The current monthly amount must be paid in full; and

8.6.1.3 The written agreement has to be signed on behalf of the Municipality by a duly authorised officer.

8.6.2 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 Mpofana Local Municipality may resolve to implement special incentives to address the arrear debt.

8.7 *Special cases:*

The allocation of Low Cost 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:

- Occupation taken up by illegal occupants;
- 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.

9. DELEGATED AUTHORITY

The Finance Portfolio Committee be given the delegated authority to write-off debt above R50 000 and the Accounting Officer the delegated authority to sub-delegate to write-off debt up to the amount of R50 000 under the following circumstances:

- (a) The debt not exceeding the amount as per Council's System of Delegation; and
- (b) All reasonable steps have been taken to recover the debt as stipulated under paragraph 6 above; and
- (d) The debt is considered to be irrecoverable in terms of any one of the conditions stipulated in paragraph 7 above.

In such cases, the reason for each write-off be listed in the report against each individual item, and audit trails for each write-off must be kept for control purposes.

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

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

10.2 The Committee will consist of the following members:-

- 10.2.1. The Municipal Manager (Chairperson) or delegated authority.
- 10.2.2. Chief Financial Officer (Alternative Chairperson).
- 10.2.3. Member of the Executive Committee for Finance.
- 10.2.4. One member of the Portfolio Committee for Finance to be nominated by the Portfolio Committee for Finance.
- 10.2.5 One Representative of each of the Political Parties.

10.3. 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.

10.4. The quorum for the Committee shall be 50% of the members plus one.

10.5. Formal minutes of Committee meetings must be prepared and submitted to Council.

10.6. 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;

- 10.6.1. In the case of a household consumer an amount of R10,000 (excluding interest and penalties) per submission;
- 10.6.2. In the case of a business consumer an amount of R20,000 (excluding interest and penalties) per submission; and
- 10.6.3. Any amount in excess of the delegation provided for in paragraph 7.6.1 and 7.6.2 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:-
- 10.6.4. In the case of a household consumer an amount of R20,000 (excluding interest and penalties) per submission; and
- 10.6.5 In the case of a business consumer an amount of R50,000 (excluding interest and penalties) per submission.

11. CREDIT BUREAU LISTING

Debtors whose debts are written off due to any of the following reasons may be listed with the Credit Bureaus:

- Untraceable;
- Prescription;
- Insolvent;
- Emigration.

12. REPORTING OF BAD DEBTS

- 12.1 Bad debts written off must be reported in the financial reports under the relevant account as per the municipal standard chart of accounts.
- 12.2 Bad debts considered for write-off should be reported to the Accounting Officer on a regular basis.
- 12.3 Bad debts written off must be reported according to the GRAP requirements in the financial statements taking note of the accounting policies
- 12.4 Bad debts reports and calculations should be retained for audit purposes.

13. BAD DEBTS RECOVERED

- 13.1 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.

14. RELATED POLICIES

14.1 The following policies are related to this policy:

14.1.1 Credit control and debt collection policy

14.1.2 Calculation of provision for impairment of debtors

15. REVIEW

This policy will be reviewed annually and updated if needed.

POLICY ADOPTION

This policy has been considered and approved by Council of Mpofana Local Municipality.