



EMFULENI
LOCAL MUNICIPALITY

Vaal River City, the Cradle of Human Rights

**PRINCIPLES
AND POLICY ON
RECOVERABLE DEBT
AND WRITING OFF OF
IRRECOVERABLE DEBT**

[2019/2020]

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PREAMBLE

WHEREAS section 96 of the Local Government:- Municipal Systems Act, 2000 (Act No, 32 of 2000) as amended requires a municipality to adopt, maintain and implement a credit control-, debt collection and customer care policy;

AND WHEREAS section 97 of the said Act prescribes what such policy must provide for,

And in terms of the Municipal Finance Management Act (MFMA), 2003 (Act No. 56 of 2003) sections 62 and 64 require the effective management of the municipality's revenue;

NOW THEREFORE the Municipal Council of the Municipality of Emfuleni adopts the policies as set out in this document.

A. INTRODUCTION

1. Household consumers with no or lower Income should not be denied a reasonable service but the municipality should also not be financially burdened with non-payment of services.
2. The Council is faced with a significant amount of outstanding debt and continuous defaulting by certain consumers who can afford to pay for services. The Council has however also approved a Credit Control and Debt Collection Policy to deal with these consumers.
3. Despite strict enforcement of the above policies, Council is continuously confronted by circumstances requiring the possible write- off of irrecoverable debt. Before any write off action takes place the following should be taken into consideration:

3.1 Implementation and enforcement of credit control and debt collection actions

3.2 Effectiveness and efficiency of mechanisms, processes and procedures to collect money that is due and payable to the municipality

3.3 That there are certain circumstances that allow for the valid termination of debt collection procedures as contemplated in section 109(2) of the Systems Act, such as:-

- o The insolvency of the debtor, whose estate has insufficient funds.
- o A balance being too small to recover, for economic reasons, considering the cost of recovery."

3.4 Where Council deems that a customer or groups of customers are unable to pay for services rendered."

4. 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."
5. In addition, the credit control and debt collection policy, Section 8.9.1 further stipulated that:-

Council must appoint a committee in terms of its delegations to review and approve any debt write off except applications lodged in terms of Clause G of this policy.

B. PURPOSE OF THE POLICY

The purpose of this Policy is to ensure that the Principles and Procedures on Recoverable Debt and Writing Off of irrecoverable Debt are formalized.

C. RESPONSIBILITY/ACCOUNTABILITY

The council has the overall responsibility for adopting and approving the Principles and Policy on Recoverable Debt and Writing Off of Irrecoverable Debt.

D. POLICY PRINCIPLES

The following should be the guiding principles in implementing the Principles and Policy on Recoverable Debt and Writing Off of Irrecoverable Debt.

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.
2. DOUBTFUL DEBT is debt with high probability of non-recovery and credit control measures will be or prove to be ineffective.
3. RECOVERABLE DEBT is debt that can be recovered by applying credit control measures, by making arrangements to pay arrears and by qualifying for incentives. These debtors are consumer who can afford to pay.
4. Before any debt is written off it must be proved that the debt has become irrecoverable, except applications for write off of interest, warning and penalty charges as referred to in clause G. To ensure that recommendations for write off are consistent and accurate, irrecoverable debt will be defined as:-
 - 4.1 Where the tracing of the debtor is unsuccessful: and
 - 4.2 All reasonable steps, at the discretion of the appointed write off committee, were taken by the officials, to recover the debt.
5. 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. 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. 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.
8. Debt can only be written off if the required provision exists in the Municipality's budget and/or reserves.

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

1. Approved Indigent Household consumer/debtor in terms of the

Municipalities Indigent Policy.

- 1.1 Upon approval for registration as an indigent household consumer, the debtor's outstanding balance to date of approval is written off.
2. Balances too small to recover considering the cost for recovery.
 - 2.1 Where final accounts have been submitted and paid by the respective consumer and the remaining balance after finalization of any final readings and other administrative costs results in a balance of two hundred (R200.00) or less. Such account must first be forwarded once to the consumer for payment.
 - 2.2 Where such account is not paid by the respective consumer within a period of ninety (90) days such amounts will automatically be subject to the provisions of Item F.
3. Insolvency of debtor (debtor includes: household consumers, businesses, insolvent deceased estates)
 - 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 subject to the provisions of Item F.
 - 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 an deceased estate must, after notification, be subject to the provisions of Item F.
 - 3.3 Any debt that is prescribed will be written off in terms of the Prescription Act, but must be submitted to committee referred to in Item F.
4. Untraceable Debtors
 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 of not more than 10% of the amount that was collected. 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 in terms of an approved SLA on the actions that were taken to attempt to trace the debtor.
 2. Any amount owed by a debtor that has become untraceable must, after notification, be written off or ceded to a debt collection agency in terms of a formal SLA approved by Council.
 3. Debt written off in the above instances will automatically result in the debtor being reported to the credit bureau by the Municipality.
5. Special Arrangements in order to obtain a Clearance Certificate

All outstanding debt should be treated in terms of Section 118 of the Local Government: Municipal Systems Act, No 32 of 2000, as amended.

6. Special Incentive on recoverable debt introduced by Council in terms of an approved Revenue Enhancement Strategy
 1. Notwithstanding the Municipality's Credit Control and Debt Collection 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:-
 - (a) The outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly installments.
 - (b) The current monthly amount must be paid in full; and
 - (c) The written agreement has to be signed on behalf of the Municipality by the Municipal Manager or a duly authorized Municipal Officer.
 - (d) A debtor includes household consumers and all other debtor types.
 - (e) A debtor can only enter into arrangement to pay off debt in monthly installments. They however do not qualify for rand for rand incentive.
 2. In order to determine monthly installments, the debtor must provide comprehensive statement of all income and expenditure. To ensure the continuous payment of such arrangement the amount determined must be affordable to the consumer (i.e. amount not to exceed 25% of gross income) taking into account the payment of the monthly current accounts a prerequisite for concluding an arrangement.
 3. The main aim of an arrangement will be to promote full payment of the current account and to address the arrears on a consistent basis. This arrangement is not to be construed as a loan but rather a revenue enhancement measure to strengthen financial resources of the Municipality. The following criteria will apply:
 - o If a household consumer/debtor owns more than one property, he/she will qualify only for incentive on the property which is the primary residence of the applicant.
 - o In the case of other category of debtors any property owner can only apply for arrangements on one property.
 - o The client's Information and account must be flagged to ensure clients do not qualify for incentive on any other property.
 - o Where a tenant's account is still in use in respect of a residential property the tenant can apply for arrangements on the services

account.

4. In terms of any arrangement:-

4.1 Where arrangements are made to pay off the principal portion of the arrear amount in installments, such an arrangement should be honored at all times.

4.2 Levying of interest on arrear accounts should be immediately suspended upon

completion of a debt agreement. This will allow debtors to see progress on their

accounts, as continued payments will reflect a decrease on the balance.

4.3 As long as the agreement is honored no further interest will be added. However, in case of defaulting the customer will not be allowed to enter into any arrangement with the municipality again and normal debt collection actions will be instituted.

4.4 Where arrangements are made to pay off the outstanding balance in installments

such installments should be determined on the outstanding amount including arrear

interest.

4.5 Where debtors fail to honour their arrangements without prior consultation interest

will be reinstated and added to the original debt amount.

5. The arrangements referred to above may be extended to other Poverty Alleviation & Job Creation Strategies that Emfuleni Local Municipality may implement.

1. Such Strategies may include the casual/contract employment of a debtor in a particular Municipal project (examples may include refuse collection, road maintenance, verge cutting, etc.)

6. The purpose of the above strategy/arrangement is to instill a sense of pride to the customers of Emfuleni Local Municipality that struggle to pay off their arrears, whilst extending service delivery, creating jobs, and alleviating poverty, and at the same time reducing the Debtors Book and enhancing the financial status and image of the Municipality.

7. An acknowledgement of debt and an arrangement form must be signed.

8. Where a debtor account is not in arrears, but high billing occurs on account due to various reasons. The debtor can enter into arrangement. No interest will be charged if client honors the arrangement.

9. In line with the Credit Control and Debt Collection policy the Chief Financial Officer or a duly authorized person may on written request consider and approve extension of time for payment of current accounts. The extension of time granted may however not exceeding a period of 3 months.
10. Debtors who is selling their property must make arrangement prior to applying for rates clearances to transfer ownership of property, failing which the debtors will have to settle the full outstanding balance to obtain a clearance certificate
7. Requests received for full settlements of accounts

All such requests will be considered individually and each case on its own merits and each case must be separately reported to the Committee, Item F.

F. ESTABLISHMENT OF A COMMITTEE TO MONITOR THE IMPLEMENTATION OF THIS POLICY

1. Council will establish and appoint a Committee to monitor the implementation of this policy.
2. The Committee will consist of the following members:-
 - o The Municipal Manager (Chairperson) or duly delegated person
 - o Chief Financial Officer (Alternative Chairperson) or duly delegated person
 - o Member of the Mayoral Committee for Finance or duly delegated person
 - o One member of the Section 80 Committee for Finance to be nominated by the Section 80 Committee for Finance or duly delegated person
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.
 - 3.1 The quorum for the Committee shall be 50% of the members plus one.
 - 3.2 Formal minutes of Committee meetings must be prepared and submitted to Council.
4. All amounts to be written off in terms of Item F above must be considered individually and each case on its own merits and each case must be separately reported to the Committee.

G. WRITE OFF OF INTEREST CHARGES, PENALTY FEES AND WARNING FEES IN FULL AND FINAL SETTLEMENT OFF ACCOUNT

Any application receive from owners of properties or tenants who have a formal agreement with the municipality for the supply of services who wants to settle the arrears in full, must be considered on its own merits by the Municipal Manager (Chairperson) or duly delegated person and the amounts paid and written off must be reported by the Municipal Manager (Chairperson) or duly delegated person to Council on a quarterly basis.

H. IMPLEMENTATION AND REVIEW OF THIS POLICY

1. Internal audit to include checking the calculations on any debt write off applications in the Annual Audit Plan.
2. This policy shall be implemented once approved by Council, effective date 1 July 2019. All future submissions for the writing off of debt must be considered in accordance with this policy.