

THEEWATERSKLOOF MUNICIPALITY



POLICY ON THE WRITING-OFF OF IRRECOVERABLE DEBT

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THEEWATERSKLOOF MUNICIPALITY

POLICY ON THE WRITING-OFF OF IRRECOVERABLE DEBT

1. INTRODUCTION

- 1.1 To ensure that household consumers with no or little income are not denied reasonable basic services and that the municipality is not financially burdened with non-payment of these basic services, the Council of Theewaterskloof Municipality approved policies on property rates, tariffs, credit control, debt collection and indigent support to be implemented.
- 1.2 Despite strict enforcement of the above policies, Council will continuously be confronted by circumstances requiring the possible writing-off of irrecoverable debt.
- 1.3 The Accounting Officer must ensure that all avenues are utilised to collect the municipality's debt. However, for various reasons there will always be bad debt cases that needs to be catered for through a policy on the writing-off of irrecoverable debt for circumstances that allow for the valid termination of debt collection procedures as contemplated in section 109(2) of the Local Government: Municipal Systems Act (No 32 of 2000), such as –
 - (a) The insolvency of a debtor whose estate has insufficient funds;
 - (b) A balance being too small to recover, for economic reasons, considering the cost of recovery; and
 - (c) Where Council deems that a customer or group of customers are unable to pay for services rendered.
- 1.4 The municipality will have to maintain audit trails in such instances where bad debt is written-off and document the reasons for the abandonment of the actions or claims in respect of the bad debt.

2. PURPOSE OF THE POLICY

The purpose of this policy is to ensure that the principles and procedures for the writing-off of irrecoverable debt are formalised to ensure that consumers (especially households) are relieved of their spiral of debt.

3. RESPONSIBILITY AND ACCOUNTABILITY

The Council has the overall responsibility and accountability for adopting and approving the Writing-Off of Irrecoverable Debt Policy.

4. POLICY PRINCIPLES

Debt will only be considered as irrecoverable and only be written off after all reasonable steps have been taken to recover the debt, in accordance with this policy, and the municipality is convinced that

- 4.1 recovery of the debt would be uneconomical
- 4.2 recovery would cause undue hardship to the debtor or his/her dependants; and
- 4.3 it would be an advantage to the municipality to effect a settlement of its claim or to waive the claim
- 4.4 qualify for consideration as follow:
 - (a) all reasonable notifications and cost effective legal avenues have been exhausted to recover a specific outstanding amount; or
 - (b)
 - (i) any amount equal to or less than R1000.00, or as determined by Council from time to time, will be considered too small, after having followed basic checks, to warrant further endeavours to collect it; These amounts to be submitted to the Chief Financial Officer for consideration to write –off. These amounts to be presented to Council for notification after the fact
 - (ii) Where final accounts have been submitted and paid by the respective consumer, and the remaining balance after finalisation of any final readings, other administrative costs and consumer deposits taken into consideration results in a balance of one thousand rand (R 1,000) or less, or the amount determined by Council from time to time during the budget approval process, such amount must be written-off with the proviso that the account must be forwarded once to the consumer with a follow-up reminder and a final reminder for payment
 - (c) the amount outstanding is the residue after payment of a dividend in the rand from an insolvent estate; or
 - (i) there is a danger of a contribution; or
 - (ii) no dividend will accrue to creditors; or
 - (d) a deceased estate has no liquid assets to cover the outstanding amount following the final distribution of the estate; or
 - (i) where the estate has not been reported to the Master and there are no assets of value to attach; or
 - (ii) it has been proven that the debt has prescribed;
 - (e) the debtor is untraceable or cannot be identified so as to proceed with further action; or

- (f) the debtor has emigrated leaving no assets of value to cost effectively recover Council's claim; or
- (g) it is not possible to prove the debt outstanding; or
 - (i) a court has ruled that the claim is not recoverable; or
 - (ii) the outstanding amount is due to an irreconcilable administrative error by the Municipality; or
- (h) conversion of old dormant account balances of debtors, inherited from the previous municipalities which now form part of the Theewaterskloof Municipality, and where reasonable steps have been taken to recover these debts; or
- (i) all debtors who are registered as indigent as more fully set out in Indigent Policy will have their arrears written off; or
- (j) all arrears may be written-off to bad debts where Council-
 - (i) expropriates any property; or
 - (ii) purchases any property
- (k) should any tampering with or bypassing of the water and electricity meters be discovered, any arrears written-off, in terms of this sub-item, will become payable with immediate effect and any other action as per any legislation or policy that applies to such tampering and/or bypassing will be instituted;
- (l) The Debtor has neither assets nor Income
- (m) Statutory requirements prevent debt from being claimed or recovered

4.5. Authorisation

- (1) In respect of other debt, schedules indicating the debtor account number, the debtor's name, the physical address in respect of which the debt was raised, address, erf number, if applicable, amount per account category as well as a reason to write-off the amount must be compiled.
- (2) Notwithstanding the above, the Municipality or its authorised officials will be under no obligation to write-off any particular debt and will always retain sole discretion to do so.
- (3) Further testing of validity for write-off will be:
 - confirmed by a credit bureau verification report indicating economic activity of debtor
 - Property valuation where applicable.
- (4) Council retains the right to reverse a write-off if it is later found to be incorrect or done on incorrect or falsified information.

4.6 be disclosed in the annual financial statements,

5. CATEGORIES OF DEBTORS THAT MAY QUALIFY FOR INCENTIVES AND WRITING-OFF OF IRRECOVERABLE

5.1 Indigent household consumers

- 5.1.1 *Once an indigent application has been registered for the first time, all arrear (including Rates) balances will be written off. All debtors who are registered as indigents may have their arrears written off once a year.*

5.2 Untraceable debtors

- 5.2.1 Where for any reason the forward address of a debtor becomes untraceable or the debtor becomes untraceable from the current address, such an account may 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 a 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.

- 5.2.2 Any amount owed by a debtor that has become untraceable may be written-off or may be sold to a debt collection agent at a discount.

- 5.2.3 A decision to sell any debt referred to in 5.2.2 of the Municipality to a debt collection agent has to be taken in terms of Council's SCM Policy.

5.3 Special incentives: Interest write-off

- 5.3.1 Council has resolved, as a gesture of goodwill, to write-off interest on Arrear Debts on settlement of arrears, subject to the following conditions:
- (a) Debtors should sign an Acknowledgement of Debt in order to qualify for such incentive;
 - (b) Government Institutions, Councillors, and Officials (except for historical debt of previous owner) and Clearances by Attorney's should not be allowed to participate in the Incentive Scheme.
 - (c) Debtors must pay their current account plus Arrears monthly.
 - (d) Immediate settlement is the due date determined in the letters of demand (usually fourteen working days from date of letter).

The Interest shall be written-off as follows:

	RESIDENTS	BUSINESS/INDUSTRIAL/ AGRICULTURAL/ COMMERCIAL
Immediate Settlement	100%	75%
Settlement within 1 month	75%	50%
Settlement within 2 months	50%	40%
Settlement within 3 months	25%	20%

5.3.2. Interest written-off in terms of Councils incentive scheme must be presented to the appropriate category of authority. Refer to attached copy of interest incentive scheme.

5.3.3 If a residential consumer makes an arrangement to pay off arrears, the following will apply:

No interest will be charged on the arrangement amount provided that if such debtor fails to pay his/her monthly arrangement amount for a period of three months consecutively, the arrangement will be terminated, and the interest that would have been charged will be debited on the account.

5.3.4 **Prescription**

In terms of the Prescription Act 68 of 1969, there are charges that prescribe or that cannot be claimed after specific periods of time, if a summons or court application has not been served to sue for these charges. This is applicable if a debtor has not provided an acknowledgment of the debt.

There is a three-year prescription period that is applicable to debts. This includes electricity and water. If the debt is owed to the Municipality, there is a thirty-year prescription period. This means that property rates inclusive of taxes, sewerage and charges for refuse can only be extinguished, after the thirty-year period.

Therefore, if there is a failure by the rates payer, to pay property rates and taxes, the municipality can only recover the debts within thirty years, from the date that the debt was due. If there is a failure by the debtor to pay electricity and water charges, then the municipality can only recover the debts within three years.

However, the Municipal Council retains the authority to determine, levy, and enforce rates notwithstanding the general prescription rule, where such decisions are necessary to safeguard municipal revenue, ensure equitable treatment of ratepayers, or uphold the financial sustainability of the municipality. This authority empowers the Council to make determinations on outstanding rates, interest, and related charges beyond the thirty-year period, provided that such actions are consistent with principles of fairness, transparency, and lawful governance.

5.4 **Government accounts**

Interest written-off in terms of the Public Finance Management Act, Act No.1 of 1999 and the Intergovernmental Relations Framework Act, Act No. 13 of 2005 of which the purpose of the Act is to establish a framework for the national government, provincial governments and local governments to promote and facilitate intergovernmental relations; to provide for mechanisms

and procedures to facilitate the settlement of intergovernmental disputes; and to provide for matters connected therewith.

5.5 Irrecoverable debt not catered for in the policy

Should there be any irrecoverable debt cases that the administration cannot dispose of in terms of this policy, particulars of the irrecoverable debt cases shall be submitted to the Debt Write-Off Committee of Council for consideration.

6. DELEGATIONS

6.1 Chief Financial Officer

The Chief Financial Officer will, after thorough review of any applications in terms of this policy, have the delegated powers to recommend to the council the write-off of any irrecoverable debt to the maximum amount of R10,000.00 per consumer (current, suspended and handed over amounts consolidated) per submission or the amount determined by Council from time to time during the budget approval process.

6.2 Accounting Officer

Any amount in excess of the delegation provided for in paragraph 6.1 above must be submitted together with a recommendation to the Accounting Officer for consideration. The Accounting Officer will, after thorough review of any recommendation by the Chief Financial Officer and in terms of this policy, have the delegated powers to recommend to council write-off of any irrecoverable debt to the maximum amount of R20,000.00 per consumer (current, suspended and handed over amounts consolidated) per submission or the amount determined by Council from time to time during the budget approval process.

6.3 Establishment of a Committee to monitor any Debt to be Written-off

6.3.1 Council will establish and appoint a Debt Write-Off Committee in terms of Section 79 of the Municipal Structures Act 117 of 1998, to monitor the implementation of this Policy.

6.3.2 The Debt Write-off Committee must consist of the following persons:

- (a) Executive Mayor
- (b) Deputy Mayor
- (c) Chairperson of the Finance Portfolio Committee
- (d) Accounting Officer
- (e) Director Financial Service

- (f) Deputy Director Financial Services
- (g) Chief whips of the Opposition
- (h) Manager Revenue
- (i) Members of the Financial Portfolio Committee.
- (j) Head: Financial Operations
- (k) Head: Debt Collections

The Executive Mayor will be serving as the Chairperson of this committee. When the Executive Mayor is unavailable it will be the Deputy Mayor.

- 6.3.3 The above Committee will meet at least quarterly to receive and review a report from the Accounting 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.
- 6.3.4 The quorum for the Committee shall be 50% of the members plus one.
- 6.3.5 Formal minutes of Committee meetings must be prepared and submitted to Council.
- 6.3.6 Any amount in excess of the delegation provided for in paragraph 6.2 above must be submitted together with a recommendation to the Debt Write-Off Committee for consideration. The Debt Write-Off Committee will, after thorough review of any recommendation by the Chief Financial Officer and Accounting Officer in terms of this policy, have the delegated powers to recommend to council write-off of any irrecoverable debt in excess of R 20,000 per consumer (current, suspended and handed over amounts consolidated) per submission or the amount determined by Council from time to time during the budget approval process.

7. REPORTING AND DISCLOSURE

- 7.1 The Chief Financial Officer will report on a quarterly basis to Council on the irrecoverable debt amounts written-off. The report will include the following information –
- (a) The total amount of irrecoverable debt written-off for indigent household consumers (a list of names, addresses and amounts per consumer written-off included as Annexure A to the report);
 - (b) The total amount of irrecoverable debt approved by the Chief Financial Officer to be written-off (a list of names, addresses and amounts per consumer written-off included as Annexure B to the report);
 - (c) The total amount of irrecoverable debt approved by the Accounting Officer to be written-off (a list of names, addresses and amounts per consumer written-off included as Annexure C to the report);
 - (d) The total amount of irrecoverable debt approved by the Debt Write-Off Committee to be written-off (a list of names, addresses and amounts per consumer written-off included as Annexure D to the report).
- 7.2 The Chief Financial Officer will disclose the total amount of irrecoverable debt written-off as a note in the annual financial statements of the municipality.

8. IMPLEMENTATION AND REVIEW OF THIS POLICY

- 8.1 This policy shall be implemented once approved by Council. All future submissions for the writing-off of debt must be considered in accordance with this policy.
- 8.2 The policy will be reviewed each year as part of the budget approval process.