

# **GREATER TUBATSE LOCAL MUNICIPALITY**



## **FINAL PRINCIPLES AND POLICY ON CREDIT CONTROL AND DEBT COLLECTION**

**2015/2016**

**Final Policy to be implemented  
1 July 2015  
See Council Resolution SA 34/2015  
dated 27 May 2015**



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## **GREATER TUBATSE LOCAL MUNICIPALITY**

### **PRINCIPLES AND POLICY ON CREDIT CONTROL AND DEBT COLLECTION**

#### **1. PREAMBLE**

WHEREAS section 152 (1) (b) of the Constitution of the Republic of South Africa Act 108 of 1996 (*the Constitution*) provides that one of the objects of local government is to ensure that the provision of services to communities occurs in a sustainable manner;

AND WHEREAS section 153 (a) of the Constitution provides that a municipality must structure its administration, budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community;

AND WHEREAS section 195 (1) of the Constitution provides that the public administration must be governed by the democratic values and principles enshrined in the Constitution, including-

- The promotion of the efficient, economic and effective use of resources;
- The provision of services impartially, fairly, equitably and without bias; and
- The fact that people's needs must be responded to.

AND WHEREAS section 4 (1) (c) of the Local Government: Municipal Systems Act 33 of 2000 (*the Systems Act*) provides that the Council of a municipality has the right to finance the affairs of the municipality by charging fees for services, imposing surcharges on fees, rates on property and, to the extent authorised by national legislation, other taxes, levies and duties;

AND WHEREAS section 5 (1) (g), read with subsection (2) (b) of the Systems Act provides that members of the local community have the right to have access to municipal services which the municipality provides provided that, where applicable and subject to the policy for indigent debtors, pay promptly for services fees, surcharges on fees, other taxes, levies and duties imposed by the municipality;

AND WHEREAS section 6 (2) (c), (e) and (f) of the Systems Act provides that the administration of a municipality must take measures to prevent corruption; give members of a local community full and accurate information about the level and standard of municipal services that they are entitled to receive; and inform the local community about how the municipality is managed, of the costs involved and the persons in charge;

AND WHEREAS Chapter 9, sections 95, 96, 97, 98, 99 and 100, of the Systems Act provides for Customer Care Management, Debt Collection responsibility of the Municipality, contents of the policy, by-laws that give effect to the policy, Supervisory authority and Implementing authority, respectively.

## 2. DEFINITIONS

In this policy any word or expression to which a meaning has been assigned in the Local Government: Municipal Systems Act, has that meaning, unless the context, indicates otherwise-

**“Arrangement”** means a written agreement entered into between the municipality and the debtor where specific repayment parameters are agreed to.

**“Arrears”** means those rates and service charges that have not been paid by the due date and for which no arrangement has been made.

**“Account”** means an account rendered specifying charges for services provided by the municipality, or any authorised and contracted service provider, and which account may or may not include assessment rates levies;

**“Authorised Representative”** means a person or instance legally appointed by the municipality to act or to fulfill a duty on its behalf.

**"Billing date"** means the date upon which the monthly statement is generated and debited to the customer's account.

**"Business premises"** means premises utilised for purposes other than residential and excludes the following: -

- (a) hospitals, clinics and institutions for mentally ill persons which are not operated for gain;
- (b) museums, art galleries, libraries and botanical gardens which are registered in the names of private persons and are open to the public, whether admission fees are charged or not;
- (c) sports grounds used for the purpose of amateur sports and any social activities which are connected with such sports;
- (d) any property registered in the name of an institution or organisation which, in the opinion of the municipality performs charitable work;
- (e) any property utilised for bona fide church or religious purposes.

**"Chief Financial Officer"** means the person appointed as the Chief Financial Officer of the municipality, or his or her nominee.

**“Credit Control”** means all the functions relating to the collection of monies owed by ratepayers and the users of municipal services.

**“Council”** means the Council of the Greater Tubatse Municipality.

**“Customer”** means any occupier of any premises to which the 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.

**"day/days"** means calendar days, inclusive of Saturdays, Sundays and public holidays.

**“Defaulter”** means any person owing the municipality arrear monies in respect of taxes and/or service charges without an arrangement.

**“Due date”** in relation to –

- (a) rates due in respect of any immovable property, means the thirtieth(30) day of September of the financial year for which such rate is made, or any other date determined by council by notice in the Provincial Gazette, and
- (b) in respect of service charges due in respect of any immovable property, means the date for payment indicated on the account.
- (c) should such day fall on a Saturday, Sunday or public holiday the due date shall be the next working day.

**“Immovable property”** includes –

- (a) an undivided share in immovable property, and
- (b) any right in immovable property.

**“Implementing Authority”** means the Municipal Manager or his or her nominee, acting in terms of section 100 of the Local Government: Municipal Systems Act No. 32 of 2000.

**“Indigent debtor”** means:

- (a) the head of an indigent household:
  - (i) who applied for and has been declared indigent in terms of Council’s Indigent Support Policy for the provision of services from the municipality; and
  - (ii) who makes application for indigent support in terms of Council’s Indigent Support Policy on behalf of all members of his or her household;
- (b) orphaned minor children duly represented by their legal and/or de facto guardians.

**“Indigent Support Programme”** means a structured program for the provision of indigent support subsidies to qualifying indigent debtors in terms of the Council’s Indigent Support Policy.

**“Indigent Support Policy”** means the Indigent Support Policy adopted by the Council of the municipality.

**“Interest”** Means a charge levied on all arrear monies for more than 30days with the same legal priority as service fees and calculated at a rate determined by Council from time to time;

**“Manager Income”** Means the official of the municipality responsible for the collection of monies owed to the municipality and/or any other official to whom he/she has delegated duties and responsibilities in terms of this policy.

**"Month"** means a calendar month.

**"Monthly average consumption"** means the monthly average consumption in respect of that property calculated on the basis of consumption over the preceding or succeeding twelve months.

**"Municipality"** means the Municipal Council of the Greater Tubatse Municipality or any duly authorised Committee, political office bearer or official.

**"Municipal pay point"** means any municipal office in the area of jurisdiction of the municipality designated by Council for such purposes, or any such other places as the Chief Financial Officer may from time to time designate.

**"Municipal services"** means services provided either by the municipality, or by an external agent on behalf of the municipality in terms of a service delivery agreement.

**"Municipal Manager"** means the Municipal Manager of the Greater Tubatse municipality or his or her nominee acting in terms of power delegated to him or her by the said Municipal Manager with the concurrence of the Council.

**"Occupier"** means the person who controls and resides on or controls and otherwise uses immovable property, provided that –

- (a) the husband or wife of the owner of immovable property which is at any time used by such owner and husband or wife as a dwelling, shall be deemed to be the occupier thereof;
- (b) where a husband and wife both reside on immovable property and one of them is an occupier thereof; the other shall also be deemed to be an occupier thereof.

**"Owner"** in relation to immovable property means -

- (a) the person in whom is vested the legal title thereto provided that -
  - (i) the lessee of immovable property which is leased for a period of not less than thirty years, whether the lease is registered or not, shall be deemed to be the owner thereof;
  - (ii) the occupier of immovable property occupied under a service servitude or right analogous thereto, shall be deemed to be the owner thereof;
- (b) if the owner is dead or insolvent or has assigned his or her estate for the benefit of his creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, shall be deemed to be the owner thereof;

(c) if the owner is absent from the Republic or if his address is unknown to the municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, or

(i) if the municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property.

**"Premises"** includes any piece of land, the external surface boundaries of which are delineated on:

(a) A general plan or diagram registered in terms of the Land Survey Act, (9 of 1927) or in terms of the Deed Registry Act, 47 of 1937; or

(b) A sectional plan registered in terms of the Sectional Titles Act, 95 of 1986, which is situated within the area of jurisdiction of the municipality.

(c) A register held by a tribal authority.

**"Prescribed"** means prescribed by this policy and where applicable by Council or the Municipal Manager.

**"Prescribed debt"** means debt that becomes extinguished by prescription in terms of the Prescription Act 68 of 1969.

**"Person"** means a natural and juristic person, including any department of state, statutory bodies or foreign embassies.

**"Rates"** means any tax, duty or levy imposed on property by the municipality.

**"Registered owner"** means that person, natural or juristic, in whose name the property is registered in terms of the Deeds Registry Act, no. 47 of 1937.

**"Responsible person"** means any person other than the registered owner of an immovable property who is legally responsible for the payment of municipal service charges.

**"Service charges"** means the fees levied by the municipality in terms of its tariff policy for any municipal services rendered in respect of an immovable property and includes any penalties, interest or surcharges levied or imposed in terms of this policy.

**"Service delivery agreement"** means an agreement between the municipality and an institution or persons mentioned in section 76(b) of the Local Government: Municipal Systems Act 32 of 2000.

**"Sundry debtor accounts"** means accounts raised for miscellaneous charges for services provided by the municipality or charges that were raised against a person as a result of an action by a person, and were raised in terms of Council's policies, bylaws and decisions

**"Supervisory authority"** means the Executive Committee of the municipality or his or her nominee, acting in terms of Section 99 of the Municipal Systems Act 32 of 2000.



“**Tariff**” means any rate, tax, duty and levy or fee which may be imposed by the municipality for services provided either by the municipality or in terms of a service delivery agreement.

“**Tariff Policy**” means a Tariff Policy adopted by the Council in terms of Section 74 of the Local Government: Municipal Systems Act 32 of 2000.

“**User**” means the owner or occupier of a property in respect of which municipal services are being rendered.

### 3. PRINCIPLES

The principles supported in this policy are: -

- (1) The administrative integrity of the municipality must be maintained at all times.
- (2) This policy must have the full support of Councillors.
- (3) Councillors must have full knowledge of the implementation and enforcement of the policy.
- (4) The Executive Committee oversees and monitors the implementation and enforcement of this policy.
- (5) The Municipal Manager implements and enforces this policy.
- (6) The Municipal Manager may delegate the implementation and enforcement of this policy to the Chief Financial Officer who may in turn delegate duties and responsibilities in terms of this policy to the Manager Income.
- (7) Consumers must be informed of the contents of this policy.
- (8) Consumers must apply for services from the municipality by the completion of the prescribed application form.
- (9) Consumers **must receive regular and accurate accounts** that indicate the basis for calculating the amounts due. The consumer is entitled to have the details of the account explained upon request.
- (10) Consumers must pay their accounts regularly by the due date.
- (11) Consumers are entitled to reasonable access to pay points and to a variety of reliable payment methods.
- (12) Consumers are entitled to an efficient, effective and reasonable response to appeals, and should not suffer any disadvantage during the processing of a reasonable appeal.
- (13) Debt collection action will be instituted promptly, consistently, and effectively without exception and with the intention of proceeding until the debt is collected.

#### **4. SUPERVISORY AUTHORITY**

- (1) The Executive Committee oversees and monitors –
  - (a) The implementation and enforcement of the municipality's credit control and debt collection policy.
  - (b) The performance of the Municipal Manager in implementing the credit control and debt collection policy.
- (2) The Executive Committee shall at least once a year cause an evaluation or review of the credit control and debt collection policy to be performed, in order to improve the efficiency of the municipality's credit control and debt collection mechanisms, processes and procedures, as well as the implementation of this policy
- (3) The Executive Committee shall submit a report to Council regarding the implementation of the credit control & debt collection policy at such intervals as Council may determine.

#### **5. IMPLEMENTING AUTHORITY**

- (1) The Municipal Manager: -
  - (a) Implements and enforces the credit control and debt collection policy.
  - (b) Is accountable to the Executive Committee for the enforcement of the policy and shall submit a report to the Executive Committee regarding the implementation and enforcement of the credit control and debt collection policy at such intervals as may be determined by Council.
  - (c) Must establish effective administration mechanisms, processes and procedures to collect money that is due and payable to the municipality.
  - (d) Where necessary make recommendations to the Executive Committee with the aim of improving the efficiency of the credit control and debt collection mechanisms, processes and procedures.
  - (e) Establish effective communication between the municipality and account holders with the aim of keeping account holders abreast of all decisions by Council that may affect account holders.
  - (f) Establish customer service centers, located in such communities as determined by the municipal manager.
  - (g) Convey to account holders information relating to the costs involved in service provision, and how funds received for the payment of services are utilised, and may where necessary employ the services of local media to convey such information.

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- (2) The Municipal Manager may, in writing, delegate any of the powers entrusted or delegated to him or her in terms of Council's credit control and debt collection by-law to the Chief Financial Officer.
  - (3) A delegation in terms of subsection (2) –
    - (a) Is subject to any limitations or conditions that the Municipal Manager may impose;
    - (b) May authorise the Chief Financial Officer in writing, to sub-delegate duties and responsibilities to the Manager Income.
    - (c) The delegation does not divest the Municipal Manager of the responsibility concerning the exercise of the delegated power.
    - (d) The Chief Financial Officer is accountable to the Municipal Manager for the implementation, enforcement and administration of this policy, and the general exercise of his powers in terms of this policy.
  - (4) The Manager Income shall be accountable to the Chief Financial Officer for the sections of this policy delegated to the Manager Income in terms of the MFMA section 82.

## **6. UNSATISFACTORY LEVELS OF INDEBTEDNESS**

- (1) If the level of indebtedness in a particular ward or part of the Municipality exceeds the level of the acceptable norm as determined in the Municipality's budget guidelines, the supervisory authority (Executive Committee) must, without delay, advise the Councillor for that ward or part.
- (2) The Councillor concerned:-

Must without delay convene a meeting of the ward committee, if there is one, or convene a public meeting and report the matter to the committee or meeting for discussion and advice; and may make any appropriate recommendations to the supervisory authority.

## **7. APPLICATION FOR THE PROVISION OF MUNICIPAL SERVICES**

- (1) A consumer who requires the provision of municipal services must apply for the service from the municipality.
- (2) The application for the provision of municipal services must be made by the registered owner of an immovable property.
- (3) The municipality will not entertain an application for the provision of municipal services from a tenant of a property, or any other person who is not the owner of the property

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- (4) **The only exception to (3) above is that individuals and businesses with lease agreements to lease properties from the municipality and government departments will be allowed to open an account in the name of the lessee of the property**
  - (5) **An agent** may with a proxy open an account in the name of the owner.
  - (6) The application for the provision of municipal services must be made in writing on the prescribed application form that is provided by the municipality.
  - (7) By completing the prescribed application form for the provision of municipal services the consumer of services enters into an agreement with the municipality.
  - (8) The agreement with the municipality makes provision for the following: -
    - (a) An undertaking by the owner that he or she will be liable for collection costs including administration fees, interest, disconnection and reconnection costs, and any other legal costs occasioned by his or her failure to settle accounts by the due date;
    - (b) An acknowledgement by the owner that accounts will become due and payable by the due date notwithstanding the fact that the owner did not receive the account; and
    - (c) That the onus will be on the owner to ensure that he or she is in possession of an account before the due date.
    - (d) An undertaking by the municipality that it shall do everything in its power to deliver accounts timeously.**
  - (9) The application for the provision of municipal services shall be made at least ten (10) days prior to the date on which the services are required to be connected.
  - (10) On receipt of the application for provision of municipal services, the municipality will cause the reading of metered services linked to the property to be taken on the working day preceding the date of occupation.
  - (11) The first account for services will be rendered after the first meter reading cycle to be billed following the date of signing the service agreement.
  - (12) No re-connection will be considered with any outstanding accounts linked to this specific stand.

## **8. DEPOSITS AND GUARANTEES**

- (1) On application for the provision of municipal services the prescribed consumer deposit shall be paid.

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- (2) A guarantee in lieu of a deposit may be accepted on application for the provision of municipal services by a business in terms of the prevailing conditions determined by the Municipal Manager at the time of the application.
  - (3) Existing consumers moving to a new address are required to pay the prescribed consumer deposit on application for the provision of municipal services at the new address.
  - (4) The minimum deposit payable is determined annually by Council and is contained in the tariff book produced annually.
  - (5) The consumer deposit paid on application for the provision of municipal services must be reviewed at least annually and **may** be increased or decreased upon written notice to consumers. The deposit will be the equivalent of at least one months charge for all municipal services supplied; however this maybe increased if it is determined that the consumer is a credit risk.
  - (6) **On termination of the supply of services the amount of the deposit less any payment due to the municipality will be refunded to an account holder, provided that payments due are less than the deposit paid, and that the account holder has provided a forwarding address.**
  - (7) Section 118 of the Municipal Systems Act is currently being amended so that a person transferring immovable property must deposit with the municipality the equivalent amount equal to sixty (90) days value of municipal rates and services.

## **9. ACCOUNTS AND BILLING**

- (1) Council provides all consumers of municipal services with a monthly consolidated account for rates and refuse removal
- (2) The consolidated account can include property rates charges. Accounts are produced on a monthly basis in cycles of approximately 30 days.
- (3) All accounts rendered by the municipality shall be payable on the due date as indicated on the account.
- (4) Account balances which remain unpaid after 30 days shall attract interest on arrears irrespective of the reason for non-payment. The interest rate is the Prime Bank interest rate plus 1%.
- (5) All accounts are payable by the due date regardless of the fact that the person responsible for the payment of the account has not received the account. The onus is on the account holder to obtain a copy of the account before the due date.
- (6) The municipality bills an owner of a property for the following rates and service charges:-

(a) Property Rates Charges

- (i) Property rates charges are billed annually or monthly as preferred by customers. Currently Government Properties and farms are levied annually
- (ii) Council's preference is that property rates charges be charged monthly. Due to historical legislation and the absence of a Property Rates Policy these charges are being charged monthly and annually.
- (iii) Property rates charges charged annually are billed on the July account of each year and the due date for the payment of these charges is 30 **December** of each year where after interest will be added
- (iv) Property rates charges charged monthly are billed on the monthly accounts and the due date for the payment of the charges is as indicated on the accounts.
- (v) The tariffs to calculate the property rates charges are determined annually and approved by the Council and are contained in the tariff book produced by the municipality.

(c) Refuse Removal

- (i) Refuse removal are billed in terms of a fixed monthly tariff based on the **valuation in case of residential properties and per square meter in case of business premises**
- (ii) Monthly accounts are rendered for refuse removal and the due date for payment of the accounts is as indicated on each of the accounts.
- (iii) The tariffs to calculate for refuse removal charges are determined annually and approved by Council and are contained in the tariff book produced by the municipality.

(d) Sundry Debtor Accounts

- (i) Sundry debtor accounts are raised for miscellaneous charges for services provided by the municipality, or charges that are raised against a debtor as a result of an action by a debtor or person which necessitate a charge to be raised by Council against the debtor or person in terms of Council's policies, by-laws and decisions.
- (ii) The sundry debtor account is included in the monthly consolidated account produced by the municipality.

(7) Due Date

The due date for the payment of accounts in the various areas of the Greater Tubatse Municipality is the date as indicated on the account.

## **10. PAYMENT OF ACCOUNTS**

- (1) All accounts rendered by the municipality are due and payable on or before the due date as indicated on the account.
- (2) All payments, whether made by cash, stop order, electronic payments or payments made through agents must be receipted by the municipality by the close of business on the due date. Cheques will be accepted as payment of an account (except in the case of payment to obtain a clearance certificate as provided for in terms of Section 118 of the Municipal System Act in which case payment must be made in cash or a bank guarantee cheque or a cheque from the trust account of an attorney). Where a cheque has been dishonoured the person issuing the cheque shall not be allowed to pay by cheque in future.
- (3) Accounts rendered by the municipality can be paid at any municipal cashier office and any other pay point as determined by the Municipal Manager from time to time.
- (4) The payment methods and facilities supported by the municipality can be used to make payments on accounts.

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- (5) Payments received in respect of rates and service charges will be allocated by the municipality entirely within its discretion, on the account of the debtor.
  - (6) Part payment received on an account shall be allocated firstly to reduce any penalty charges that may have accrued on the account ,then Assessment Rates ,then Refuse.
  - (7) An official receipt issued by the municipality will be the only proof of payments made.

#### **11. INTEREST ON ARREAR DEBT**

- (1) Account balances which remain unpaid after 30 days after the due date shall attract interest irrespective of the reason for non-payment. The interest rate shall be **the Prime Bank interest rate plus 1%.**
- (2) The following categories of arrear debt shall not attract interest on arrears: -
  - (a) Indigent debt
  - (b) Closed accounts
  - (c) Deceased estates
  - (d) Insolvent estates
  - (e) Debtors under administration (administration portion only)
- (3) Interest on arrear debt shall be calculated for each month for which such payment remains unpaid and part of a month shall be deemed to be a month.
- (4) Interest shall be charged on any outstanding amounts in respect of which an agreement had been concluded for the payment by way of installment thereof.

#### **13. ENQUIRIES AND APPEALS**

- (1) Any aggrieved person may address a grievance or query regarding charges for municipal services to the Chief Financial Officer in writing or may visit any customer care office provided by the municipality.
- (2) Every consumer has the right to ask and to be provided with a clear explanation as to the services being charged and a breakdown of all amounts shown on their account.
- (3) The aggrieved person shall clearly state the basis of his or her dissatisfaction and the desired resolution.
- (4) The lodging of an inquiry **shall not** relieve the aggrieved person of the responsibility to settle his or her account. An interim payment similar to an average account must be paid by the due date pending finalisation of the enquiry.
- (5) The municipality will respond to all inquiries from consumers in writing within twenty days from the lodging of the enquiry.



- (6) The Manager Income will keep custody of the Enquiries and Appeals Register and will carry out a weekly check on all enquiries and appeals yet to be resolved.

#### 14. DEBT COLLECTION

- (1) The Chief Financial Officer is authorised to institute agreed upon debt collection mechanisms without exception and with the intention to proceed until the debt is collected.
- (2) All accounts rendered by the municipality shall be paid on the due date as indicated on the account.
- (3) Account balances which remain unpaid after 30 days of the due date shall attract interest irrespective of the reason for non-payment.
- (4) Account balances which remain unpaid after the due date will be subject to debt collection action.
- (5) Debt collection action will be taken on the total amount outstanding on the account after the due date. The total amount outstanding includes property rates, refuse and sundry debtor charges.
- (6) The debt collection action to be taken will be as follows: -
  - (a) Recovery of Rates and Refuse Removal Charges in Arrears from Tenants, Occupiers, and Agents
    - (i) **The municipality will utilise the Property Rates Act 2004 sections 28 and 29 to recover rates from the tenants if rates are unpaid by owners where appropriate.**
    - (ii) **The municipality may recover the amount in whole or part from a tenant or occupier of a property despite any contractual obligation to the contrary on the tenant or occupier. The municipality may recover an amount only after the municipality has served a written notice on the tenant or occupier.**
    - (iii) The amount the municipality may recover from the tenant or occupier of a property **is limited to the amount of rent** or other money due and payable, but not yet paid, by the tenant or occupier to the owner of the property.
    - (iv) Any amount the municipality recovers from the tenant or occupier of the property must be set off by the tenant or occupier against any money owed by the tenant or occupier to the owner.
    - (v) The tenant or occupier of a property must, on request by the municipality, furnish the municipality with a written statement specifying all payments to be made by the tenant or occupier to the owner of the property for rent or

other money payable on the property during a period determined by the municipality.

- (vi) The municipality may, despite the Estate Agents Affairs Act 1976, recover the amount due for rates on a property in whole or in part from the agent of the owner, if this is more convenient for the municipality.
  - (vii) The municipality may recover the amount due for rates from the agent of the owner only after it has served a written notice on the agent.
  - (viii) The amount the municipality may recover from the agent is limited to the amount of any rent or other money received by the agent on behalf of the owner, less any commission due to the agent.
  - (ix) The agent must, on request by the municipality, furnish the municipality with a written statement specifying all payments to be made by the tenant or occupier to the owner of the property for rent or other money payable on the property during a period determined by the municipality.
  - (x) The municipality must provide an owner of a property in its jurisdiction with copies of accounts sent to the occupier of the property for municipal services supplied to the property if the owner requests such accounts in writing from the municipality.
- (d) Handover of debt to attorneys appointed by Council
- (i) Debt that are 60 days old may be handed over to debt collectors or attorneys
  - (ii) Only the Municipal Manager or his delegated official will hand debt over to attorneys for legal collection.

(iii) The following types of debt will be handed over to the debt collectors: -

- Debt that is 60 days and older..
- Debt for which no payment arrangements were made.
- The amount of the debt per debtor to be handed over is the amount that will be determined from time to time.

(v) **The following types of debt will not be handed over to the attorneys**

- Debts of indigent debtors that are registered as indigent at the date of handover.
- Debt that is being paid off as per an arrangement with the debtor.
- A debt that has not been under a query for more than two months.
- Government Debt

**The process of legal collection includes:-**

- Final demands for payment to debtors.
- Emolument attachment orders on debtor's salaries.
- Summons issued for debt to be paid.
- Default judgment be obtained against the debtor.
- The attachment of moveable properties and sale in execution of moveable property
- The attachment of immoveable property and the sale of immoveable property.

(i) **The following types of debt will not be handed over to attorneys:-**

- Debt of approved indigent debtors that has not yet been written off by the council.
- Debt that is being paid off as per an arrangement with the debtor.
- A debt that has not been under a query for more than two months.
- Government Debts

This repeats itself(see (v)).

(g) Withholding or offsetting grants-in-aid.

The municipality provides annual grants-in-Aid to Institutions on application. If an institution is in arrear with its services account, then the municipality will withhold the grant-in-aid or the grant-in-aid will be off set against the arrear debt with the municipality.

(h) Section 118 of the Local Government: Municipal Systems Act No 32 of 2000.

- (i) The municipality will issue a certificate required for the transfer of immovable property in terms of Section 118 of the Local Government: Municipal Systems Act No 32 of 2000, which is lodged with the municipality in the prescribed manner. This is subject to all amounts that became due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.
- (ii) Debt older than two years on the property irrespective of whether the owner of the property accumulated the debt will also have to be paid by the owner before the transfer of the property can be affected.
- (iii) If the owner refuses to pay the debt which is older than two years then the municipality will apply to a competent Court for an order in the following terms: -
  - In the case where there is no judgment debt, for an order staying transfer of the property pending the finalisation of a civil action to be instituted against the person who is in law liable for the payment of the outstanding debt.

- In the case where there is already a judgment for the payment of the amount, an order that the judgment debt be paid out of the proceeds of the sale, before the mortgage debt is settled.
- The above action must be taken before the property is transferred as the statutory lien created by Section 118(3) of the Act only endures until the property has been transferred and in terms of Section 118(5) of the Act the new owner of the property cannot be held liable for the debt that became due before a transfer of a residential property took place
- In the case of insolvency or where the property is bought by auction the outstanding amount not covered by the two year clause when issued a clearance certificate will be transferred to the new owner rates account

(i) Other debt collection methods

The debt collection methods mentioned in paragraph (a) to (g) above are not an exhaustive list of methods that can be applied to collect debts and any other methods that can be initiated will be implemented with the approval of Council.

(7) Debt Collection Costs

The commission paid to the attorneys on the amount collected will not be debited to the debtors account but any other legal cost will be recovered from the debtor

## **15. ARRANGEMENTS TO PAY ARREAR DEBT**

### Arrangements to Pay Outstanding and Due Amounts in Consecutive Installments – Residential Households

- (1) One of the key objectives of debt collection is to encourage debtors to start paying their monthly accounts in full. In addition it is also necessary to ensure that arrear debt is addressed. The current average balances on consumer accounts necessitates that innovative ideas be implemented to encourage consumers to pay off their arrears. At the same time it is also of utmost importance that regular payers not be discouraged through the implementation of any possible incentives.
- (2) The main aim of an agreement will be to promote full payment of the current account and to address the arrears on a consistent basis.
- (3) 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 a duly authorised officer.

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- (4) In order to determine monthly installments a comprehensive statement of assets and liabilities of the debtor must be compiled by a treasury official. To ensure the continuous payment of such arrangement the amount determined must be affordable to the consumer, taking into account that payment of the monthly current account is a prerequisite for concluding an arrangement.
  - (5) Implementation of the following principles **(as a once off initiative)** could enhance the success of debt collection to a great extent:-
    - (a) Households earning between R2401 and R10 000 gross per month
      - (i) Capital arrears will be written off on the following basis (for every one rand that is paid one rand will be written off from the provision for bad debt). Upon paying the total capital owed all the interest accumulated will be written off immediately from the provision for bad debt.
      - (ii) Where arrangements are made to pay off the arrear amount in installments, such an arrangement should be honoured for at least a twelve month consecutive period where after arrears will be written off.
    - (b) Households earning R10 001 and more gross per month
      - (i) Where a debtor pays 100% on his/her capital arrear debt, **all the interest accumulated will immediately be written off from the provision for bad debt.**
      - (ii) Where arrangements are made to pay off the arrear amount in installments, such an arrangement should be honoured for at least a twelve month consecutive period where after interest outstanding at that stage will be written off from the provision for bad debt).

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- (6) A consumer who cannot pay their arrear debt may enter into an arrangement to pay the account over an extended period of time.
  - (7) During the time of the debt collection process, but before the debt is handed over to the attorneys a consumer may enter into an arrangement to pay off arrear debt.
  - (8) No arrangements outside of the provisions of this policy will be entertained by attorneys on a debt that has been handed over for legal collection without prior approval of the Chief Finance Officer.
  - (9) The municipality will entertain only one arrangement with a consumer to pay off arrear debt.
  - (10) The consumer by signing the arrangement agreement to pay off arrear debt acknowledges the following: -
    - (a) The debt is owed to the municipality.
    - (b) That on default of the arrangement agreement, interest on arrears will be charged on the amount due, and legal proceedings will be instituted to collect the debt.
    - (c) That the consumer will be liable for all costs, which includes legal costs incurred to collect the debt.
  - (11) Arrangements by businesses
    - (a) At the date of the arrangement a minimum of 50% of the capital arrear debt must be paid immediately.
    - (b) After the payment of 50% of the capital arrear debt, 50% of the interest accumulated will be written off from the provision for bad debt. If 100% of the debt is paid then all the interest outstanding on that date will be written off against the provision for bad debts
    - (c) The balance of the debt which includes the capital amount and interest must be paid over a 6 to 12 month period
    - (d) The total monthly installment must include the current monthly charges plus the amount to pay off arrear debt.
    - (e) Arrangement by businesses to pay off arrear debt will only be entertained for debt on which debt collection actions have been taken and which actions are in an advanced stage.
    - (f) Failure to maintain the arrangement will result in interest being reversed and full debt collection being implemented, with no possibility of reprieve.



- (g) Any arrangement outside of the foregoing must be approved by the Municipal Manager. This function cannot be delegated.

#### **16. INDIGENT DEBTORS**

- (1) An account holder (consumer) may apply, in the prescribed manner, to be regarded as an indigent debtor as defined in the Indigent Policy approved by the council.
- (2) Any person who has been declared indigent shall be entitled to indigent subsidies for basic services on a basis determined by Council from time to time.
- (3) The approved account holder shall remain responsible for any outstanding amount at the date of application as well as for future charges.
- (4) The arrears on the accounts of households, approved as indigent, will be submitted to Council to be written off in full (including any interest charged) after the approval by Council as an indigent. This submission will only be valid as a once-off exercise after approval and will not be applicable for future consumption in excess of the approved subsidy accumulated.

#### **17. DEBT OF ABSCONDED OWNERS**

- (1) The occupant of the property must sign an agreement in which the occupant agrees to pay all property rates and service charges that are to be raised on the property of the absconded registered owner's property.

#### **18. STAFF AND COUNCILLORS – PAYMENT OF ARREARS**

- (1) All staff joining the municipality must within thirty (30) days sign an agreement to pay arrears.
- (2) All existing staff and councillors who have not entered into an agreement to pay arrears must do so within thirty (30) days of the approval of this policy by council.
- (3) The repayment period for staff must not to exceed twelve (12) months and for Councilors not to exceed 3 months
- (4) All agreements with councillors must not exceed the expiry date of the term of office.

## 19. ADMINISTRATION ORDERS – PAYMENT OF ARREARS

- (1) A person can apply for the administration of its estate in terms of section 74 of the Magistrates Court Act, 1944.
- (2) On notification that the order has been granted, Council will manage the debt that is part of the administration order separately to the current account.
- (3) The debtor will be responsible for the payment of the current monthly account and if the debtor defaults on the payment of the account, debt collection action will be implemented.

## 20. WRITE OFF OF IRRECOVERABLE DEBT

- (1) The objective to write off irrecoverable debt is to have a debt book that does not reflect irrecoverable debt.
- (2) For this purpose Council should adopt and implement a write off policy to formalise the processes for writing off such debts.

## 21. CERTIFICATES REQUIRED FOR TENDERS

- (1) A person or an institution reacting to a tender published by the municipality or wishing to enter into a contract to either provide services or goods to the municipality must produce a certificate, on the prescribed form, which states that regular payment **of rates and services accounts are maintained and that the account is currently up to date.**
- (2) A person who fails to provide such a certificate shall be disqualified from the tendering process.

## 22. THEFT AND FRAUD

- (1) The municipality does not condone theft and fraud of municipal services and will monitor the service networks for signs of tampering or irregularities.
- (2) The Council may approve specific penalties and distinguish between cases of vandalism and theft.
- (3) Subsequent acts of tampering may lead to a refusal to supply certain services for determined periods.

### **23. REPORTING AND PERFORMANCE MANAGEMENT**

- (1) The Chief Financial Officer shall report monthly to the Municipal Manager in a suitable format to enable the Municipal Manager to report to the Executive Committee as supervisory authority in terms of section 99 of the Systems Act, read with section 100(c).
- (2) The Executive Committee as Supervisory Authority shall, at intervals of three (3) months, report to Council as contemplated in section 99(c) of the Systems Act.
- (3) This report shall contain particulars on cash collection statistics, showing high-level debt recovery information (numbers of customers; enquires; arrangements; default arrangements; growth or reduction of arrear debt).
- (4) Where possible, the statistics should ideally be divided into wards, business (commerce and industry), domestic, state, institutional and other such divisions.
- (5) If in the opinion of the Chief Financial Officer, the municipality will not achieve cash receipt income equivalent of the income projected in the annual budget as approved by Council, the Chief Financial Officer will report this with motivation to the Municipal Manager who will, if in agreement with the Chief Financial Officer, immediately move for a revision of the budget according to realistically realisable income levels.

### **24. INCOME COLLECTION TARGET**

- (1) Income collection targets will be set by the Chief Financial Officer to achieve the optimum debt collection ratio i.e. receipt / billing, that will satisfy the municipalities IDP objectives.

### **25. PROPERTY MANAGEMENT LEASES**

- (1) The procedure for the recovery of arrears on leases will be in accordance with the conditions contained in the relevant lease contract.

### **26. TEMPORARY WORKERS**

- (1) Where the municipality provides temporary employment to members of the community who are in arrears with payments for municipal rates and services they will be required to enter an agreement to pay 20% of their gross remuneration towards these arrears of debt.

## 27. PROVISION FOR BAD DEBT

- (1) The provision for bad debt is based on the likelihood of non-payment. In order to determine this likelihood of payment or not, each debtor needs to be evaluated separately and categorised based on the degree of payment expectancy.
- (2) The evaluation of a debtor is firstly based on payment history, prior to the effective date of provision and secondly on the payment history during the period immediately after the effective date of provision.
- (3) The evaluation process is discussed below:-

### (a) Historical review

- i. **Likely payers** - All debtors, regardless of age or amount, who have made payments during each of the three payment periods/months prior to the effective date of provision, will be categorised as **debtors likely to pay** and no provision for bad debts will be made on these accounts.
- ii. **Possible payers** – All debtors, regardless of age or amount, who have made at least one payment within the three payment periods/months prior to the effective date of provision, will be categorised as **possible payers** and no provision for bad debts will be made on these accounts.
- iii. **Likely not to pay** – All debtors, regardless of age or amount, who have not made any payments during any of the three payment periods/months prior to the effective date of provision, will be categorised as **debtors unlikely to pay** and the full amount of the outstanding debt will be provided under the provision for bad debts.

### (b) Current review

- i. **Likely payers** – All debtors, regardless of the categorization under the historical review, who have made payments during each of the payment periods/months after the effective date of provision, will be categorised as **debtors likely to pay** and no provision for bad debts will be made on these accounts.
- ii. **Possible payers** – All debtors previously categorised under A or B, who has made payments during any of the payment periods/months after the effective date of provision, will be categorised as **possible payers** and no provision for bad debts will be made on these accounts.

- iii. **Likely not to pay (1)** – All debtors previously categorised under C, who have not made payments during each of the payment periods/months after the effective date of provision, will still be categorised as **debtors unlikely to pay** and the full amount outstanding on their accounts will be provided under the provision for bad debts.
- iv. **Likely not to pay (2)** –All debtors previously categorised under A or B, who has made no payments during any of the payment periods/months after the effective date of provision, will also be categorised as **debtors unlikely to pay** and the full amount outstanding on their accounts will be provided under the provision for bad debts.

## 28 UNALLOCATED RECEIPTS

(1) It happens that because of wrong reference numbers or no reference number at all, that some direct banking can not be allocate to the right vote or debtor account.

(2) If the Revenue Section tried there utmost best without success it will be advertised during may of each year in the local newspapers requesting all debtors to come to the Council if they did make any payments that do not reflect on there accounts. This will be opened for 30 days.

(3) After this window period the unallocated receipts up to the end of June of the previous year, with the approval of the CFO, will be taken to the accumulated surplus account of the Municipality. A list with all this amounts taken to the accumulated account will be attached to the journal for audit purposes.

(4) Even if a person bring later a proof of his/her payment it can still be remove from the accumulated surplus account and credited to the debtors account

## 30. PUBLICATION OF POLICY

- (1) The Municipal Manager shall, within 14 days from the date of adoption of this Policy by the Council, by public note draw the attention of the public to its broad contents and method of application.

## 31. APPLICATION OF THE POLICY

- (1) The Council reserves the right to differentiate between different categories of consumers, debtors, services or service standards when applying this Policy. The Council will on application of the credit control policy avoid discrimination as forbidden by the Constitution unless it is established that the discrimination is fair as allowed by the Constitution.

**32. IMPLEMENTATION AND REVIEW OF THIS POLICY**

- (1) This policy shall be implemented once approved by Council. All future investments must be made in accordance with this policy.
- (2) In terms of section 17(1)(e) of the MFMA this policy must be reviewed on annual basis and the reviewed policy tabled to Council for approval as part of the budget process.