

# **NKANDLA MUNICIPALITY**



## **Bad Debts Write Off & Provision for Bad Debts Policy**

**Financial Year: 2019/20**

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## 1. Introduction

- 1.1. The Council of Nkandla Local Municipality resolves in terms of Section 97 (1)(d)(ii) of the Local Government: Municipal Systems Act, Act 32 of 2000 as amended and section 64 (f) of Local Government: Finance Management Act, to adopt the following policy on writing off the bad debts as irrecoverable and impairment of debtors.
- 1.2. This policy is to outline the procedure for providing for bad debts (the making of a bad debt provision) and the writing off of bad debts within Nkandla Local Municipality.
- 1.3. Nkandla Local Municipality is faced with a significant amount of outstanding debt and the continuous defaulting by certain consumers who cannot afford to pay services.
- 1.4. The Debt Collection and Credit Control By-Laws have not been implemented as yet resulting in a huge amount of outstanding consumer debt that council might not be able to collect.
- 1.5. The policy seeks to bring relief to consumers who have huge outstanding debts and have no income or are registered as indigents and are currently unable to pay the outstanding debts.
- 1.6. The policy seeks that household consumers with no or lower income are not denied a reasonable service and that the municipality is not financially burdened with non-payment of service
- 1.7. The policy will enable Council to write off irrecoverable debt as recommended by the committee that will be established as in accordance to the provision of this draft policy, therefore lessening the costs of recovering the debt that is recoverable.
- 1.8. The policy will enable Council to apply the principles of writing off of irrecoverable debt in circumstances and information submitted before Council wherein it is indicated that the debt will not be recovered.
- 1.9. The policy does not override the fact that the "Accounting Officer" must ensure that all avenues are utilized to collect the municipality's debt as stipulated in the Municipal Finance Management Act.
- 1.10. The policy seeks to ensure that Council follows all principles and procedures for recovering outstanding debt prior to writing off of debt.

1.11. The policy seeks to ensure that Council appoints a committee in terms of Sec 79 of Municipal Structures Act 117 of 1998 to review and recommend to it the debt considered by the committee to be irrecoverable.

## **2. Preamble**

2.1 The Municipal Finance Management Act (MFMA), Act 56 of 2003, aims to modernize budget and financial management practices in municipalities in order to maximize the capacity of municipalities to deliver services to all residents, customers and users. It also gives effect to the principle of transparency as required by section 215 and 216 of the Constitution of the Republic of South Africa.

2.2 The Council of the municipality in adopting this policy on writing off of bad debts recognizes its responsibilities as set out in chapter 9 of the Local Government: Municipal Systems Act, Act 32 of 2000 as amended.

## **3. Responsibility and Accountability**

3.1 The Council has the overall responsibility for adopting and approving the Bad debts and Write - Off Policy.

3.2 Council has an oversight and monitoring role in the implementation and enforcement of the policy.

3.3 The Accounting Officer as the implementing authority must establish effective administrative mechanisms, procedures and processes to ensure the implementation of this policy.

## **4. Vision**

4.1 The vision of the policy is to ensure that the debtors of the municipal Council are not over-stated in the financial registers of the Council through the following:

4.1.1 Any long outstanding debt is evaluated in order to determine the possibility and the likelihood of realizing such debt as revenue.

4.1.2 Where it is evident that a particular debt cannot be turned into revenue such debt be procedurally regarded as irrecoverable.

4.1.3 The Council of the municipality makes enough provision for bad debts in the budget.

4.1.4 Outstanding debts which have been outstanding for longer period after all attempts in terms of Credit Control and Debt Collection policy have been carried out, and still no payments are received, then should be profiled and be written off if deemed irrecoverable.

## **5. Statement**

5.1 This policy aims to set down principles for the implementation of the writing off of bad debts and the provision for doubtful debts for Nkandla Local Municipality

## **6. Purpose of the policy**

6.1 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

6.2 The purpose of this policy is:

6.2.2 To provide the principles for writing off irrecoverable debt.

6.2.3 To ensure that recovery would not cause undue hardship to the debtor or his or her dependants.

6.2.4 To determine the circumstance leading to the write off of debts

6.2.5 To provide framework for procedures for writing off of debts.

6.2.6 To identify doubtful debt for the year under review (current financial year 2018/2019)

6.2.7 To write off of bad debts identified during the previous financial years, before the end of the year under review, at least one month before the end of the financial year, (for the purpose of this policy part of the month shall be deemed the full month).

6.2.8 To identify proper delegation of powers to the Chief Financial Officer of writing off bad debt as stated in the Credit Control and Debt Collection Policy.

## **7. Writing off of irrecoverable debts**

7.1 Where debts have been identified as irrecoverable the process to be followed for write off is as follows:

The Chief Financial Officer must prepare a list of all these debts showing the following:

7.1.1 Consumer details

7.1.2 Irrecoverable amount broken down by service

7.1.3 Details of procedures followed to recover the debt. (Which in the case of amounts less than R 500.00 it would be confirmation whether a final demand was sent or not, as according to credit control and debt collection policy accounts owing less than R 500.00 may not be handed over as it is not financially viable). However with regards to amounts above R 500.00, confirmation of hand over must be given and any other relevant documentation

7.1.4 After this list has been completed, an item to the Executive Committee of Council must be submitted to obtain a Council Resolution to write off these debts.

7.1.5 Reasons for identifying amounts as irrecoverable must be stated.

7.1.6 Once Council resolution has been obtained, the Income section must draw journals to write off these amounts against the bad debt reserve fund.

## **8. Principles to write off**

8.1 The following should be the guiding principles in implementing the Bad debt and Write-Off Policy

8.1.1 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.

8.1.2 Before any debt is written off it must be proved that the debt has become irrecoverable. To ensure that recommendations for write off of debt are consistent and accurate, the following principles or a combination of some of them must be followed prior to any write off:

8.1.2.1 Where the tracing of the debtors is unsuccessful

8.1.2.2 Where all debt collection procedures implemented to recover the debt were proven to be unsuccessful.

8.1.2.3 All reasonable steps, as the discretion of the appointed write off committee, were taken by the officials to recover the debt;

8.1.2.4 Recovery would cause undue hardships to the debtor or his or her dependents (The debtor or his or her dependents would be deprived of their minimum essential means of livelihood)

8.1.2.5 The Council cannot legally prove the claim, provided that such a write off must be followed by an investigation to circumstances which led to the failure to legally prove the claim.

8.1.2.6 The debtor has neither assets nor income.

8.1.2.7 The Council's claim against the insolvent estate that it is being administered as insolvent had been properly proved and the dividend of the creditors was insufficient to meet the debt;

8.1.2.8 It would be to the advantage of the municipality to effect a settlement of its claim or waive a claim.

8.1.2.9 Statutory requirements prevent debt from being claimed or recovered.

8.1.2.10 On account of a weak financial position of an estate, the danger exists that if the debt is proved, a contribution will have to be paid to the estate;

8.1.2.11 the debtor is deceased and there is no known estate.

8.1.2.12 the debtor is no longer a resident of South Africa, there are no apparent means of collecting the debt, and there is no evidence that the debtor has family or business concerns in South Africa that could lead to the debtor returning to South Africa.

8.1.2.13 the assets of the debtor or of the estate of the debtor are indispensable to the debtor's dependants or are of relatively little value.

8.1.2.14 when the debts as prescribed in terms of section 11 of the Prescription Act 68 of 1969.

8.1.3 Bad debts write offs must be considered in terms of cost-benefit analysis: meaning when it becomes too costly to recover and the chances of collecting the debts are slim, a write off should be considered.

## **9. Specific write offs**

9.1 The Chief Financial Officer may submit a report to Council from time to time for specific uncollectable debt transactions such as:

9.1.1 Liquidations in terms section 89 of the Insolvency Act, Act 24 of 1936,

9.1.2 Immovable properties bought back by Council

9.1.3 Outstanding debts that are older than two years (2) that cannot be recovered during the transfer of immovable property, as in terms of section 118 (1)(b) of the Systems Act, Act 32 of 2000 as amended,

9.1.4 A specific debt category, and or

9.1.5 Penalties and Interest that have accrued in respect of Government outstanding accounts.

9.1.6 Penalties and Interest that have accrued in respect of failure of the municipality to send monthly statements to debtors

9.1.7 Outstanding debt that arise due to using incorrect use category i.e. when a user has been categorised as a residential category instead of a place of worship category or any other non-rateable (rates exempt) category.

9.1.8 All outstanding amounts incorrectly charged on users accounts

9.2 The report for specific write offs must contain the following information:

9.2.1 Full customer details,

9.2.2 Reasons for each specific write off

9.2.3 Amount to be written off must be broken down per service, and

9.2.4 Details of procedures already exhausted in attempts to recover the outstanding amount.

## **10. Recovery of irrecoverable debts**

10.1 Should there be a payment in respect of the account which has already been written off, such monies must be allocated to the specific vote number designated for the recovery of irrecoverable debts.

## **11. Categories of debtors that may qualify for the write off**

### **11.1 Approved Indigent Household Consumers in terms of the municipality's Indigent & Subsidy Policy.**

11.1.1 Upon approval of registration as an indigent household consumer, the debtor's interest on the arrear amount will be written off and the outstanding balance on his/her municipal services account will be handed over to the appointed committee for review and possible write off.

11.1.2 Any new arrears accumulated by the debtor (i.e. any amounts in excess of the indigent allowance for free basic services) whilst registered as an indigent consumer, will not qualify to be written off and must be dealt with strictly in accordance with the Municipality's Debt Collection and Credit Control Policy and Indigent Support Policy.

### **11.2 Balances too small to recover considering the cost for recovery**

11.2.1 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 one hundred rand (R100) or less, such account must be forwarded once to the consumer for payment.

11.2.2 Where such account is not paid by the respective consumer within a period of sixty (60) days such amounts will automatically be written off subject to the provision of Sec 11.4 below

### **11.3 Insolvency of the Debtor and Insolvent Deceased Estates**

11.3.1 Where a debtor becomes insolvent the municipality must ensure that a creditor's claim is timeously registered. Any amount being not being recovered due to insufficient funds or if there is a risk of a contributing being made to an insolvent estate must after notification, be written off subject to the provision of section 11.4 & 11.5 below.

## 11.4 Untraceable Debtors

11.4.1 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 collection agent for the recovery of debt. The collection agent will be paid on an attorney client scale relating to matters of debt collection. 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 collecting agent must report to the Municipality on the actions that were taken to attempt to trace the debtor. The municipality should be responsible to pay the tracing agent.

11.4.2 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 which will be determined by Council from time to time.

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

## 11.5 Special arrangements in order to obtain a Rates Clearance Certificate

11.5.1 In terms of legislation the Municipality will under normal circumstances not issue a Rates Clearance Certificate on any property unless all outstanding amounts are paid to date, or alternatively payment of the current two years outstanding debts is made and a guarantee by the attorney handling the property transfer is issued in favour of the Municipality for the balance of debt.

11.5.2 Section 118 of the Municipal Systems Act No 32 of 2000 determines the following regarding **Restraint of transfer of Property:**

118 (1) A registrar of deeds or other registration officer of immovable property may not register the transfer of property except on production to that registration officer of a prescribed certificate-

- a) Issued by the municipality in which that property is situated: and
- b) Which certifies that all amounts due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties the two years preceding the date of application for the date of application for the certificate have been fully paid.

(2) In the case of a transfer of immovable property by a trustee of an insolvent Estate, the provisions of this section are subject to section 89 of the Insolvency Act. 1936 (Act No. 24 of 1936)

(3) An amount due for municipal services fees, surcharges on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.

11.5.3 Council must certify that all municipal charges during the two years preceding the date of the application for the clearance certificate have been paid fully.

11.5.4 The amount due for municipal charge enjoys preference over any mortgage bond registered against the property.

11.5.5 The owner is required that before a rates clearance certificate is issued that Municipal charges during the two years preceding the date of application for the certificate have been fully paid.

11.5.6 A judgment must be obtained for debt older than two years to instruct the conveyancing attorney to deduct the amount due to Council from the proceeds of the Sales of the property.

11.5.7 Where property is sold in sale of execution the Sheriff must be informed of the amount due to Council and the Sheriff will have to deduct the amount due from the proceeds of the sales of the property due to the preference municipal charges enjoys over the mortgage bond registered against the property.

11.5.8 The implementing authority must design a form for arrangements of guarantees with the attorneys handling the property transfer. The form must be attached to the policy as addendum

## **11.6 Special Incentives introduced by Council for Household Consumers in terms of the Approved Revenue Recovery Plan**

11.6.1 Notwithstanding the Municipality's Debt Collection and 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:

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

11.6.1.2 The current monthly amount must be paid in full; and  
11.6.1.3 The written agreement has to be signed on behalf of the Municipality by a duly authorized officer. Such authorization must be in writing and given by the Accounting Officer

11.6.2 In order to determine monthly installments, customers have been categorized as follows:

11.6.2.1 Indigent customer (Gross household income of less than R2, 700 per month as prescribed in the Municipal Indigent & Subsidy Policy).

11.6.2.2 Non domestic (excludes Government Departments)

11.6.2.3 Government Departments.

The Council must follow the arrangements methods of paying of municipal services as stipulated in the Credit Control and Debt Collection Policy of the municipality

11.6.3 Due to ineffective/ non implementation of credit control measures in the past, the majority of household consumers have accumulated significant arrear amounts and that there 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 consumer the Council of Nkandla Local Municipality may resolve to implement special incentives to address the arrear debt.

## **12. Establishment of a Committee to monitor any debt to be written off**

12.1 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.

**NB: In case of Nkandla Local Municipality Municipal EXCO Committee will serve as "Debt Write-Off Committee"**

12.2 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 circumstance not covered by this Policy.

12.3. The quorum for the Committee shall be 50% if the members plus one.

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

### 13. Delegation of write offs to the Accounting Officer

13.1 The Accounting Officer will, after thorough review of any applicants in terms of this Policy, be delegated to write off any amounts to the maximum of:-

13.1.2 In the case of a household consumer an amount of R100.00 (excluding interest and penalties) per submission; and

13.1.3 In the case of a business consumer an amount of R200.00( excluding interest and penalties) per submission

13.2 Any amount in excess of the delegation provided for in paragraph above must be submitted together with a recommendation from the Accounting Officer to the committee for consideration. The committee will, after thorough review of any recommendation by Accounting Officer and in terms of this Policy, make recommendations to Council to write off any amounts to the maximum of:

13.3 All amounts to be written off in terms of Section 14.5 and below must be considered individually and each case on its own merits must be separately reported to the Committee.

#### Summary of categories that may qualify for the write off

Approved Indigent customers with outstanding accounts.	100% of interest on the rates
Final Accounts with outstanding amounts, if all Credit Control and Debt Collection procedures have been exhausted	100%
Handed over customers not making any payments	100% of interest on the rates
Handed over customers making irregular payments	100% of interest on the rates
Customers' accounts with balances less that R 500,00	100%
Pensioners' accounts over 150 days	100%
Un-finalized estates accounts over 150 days	100%
Child headed families' accounts	100%
Tenants' accounts not finalized over 150 days	100%
In-active accounts with outstanding balances.	100%

## **14. Impairment of debtors (Provision for doubtful debtors)**

14.1 Accounts receivables are stated in the Annual Financial Statements at the value of billing to consumers/ratepayers, less deduction for discounts given or rebates granted less a provision for doubtful debts.

14.2 Provision for doubtful debts is made, based on review of all accounts outstanding for a period that exceed 90 days at the financial year end. Contributions to the provision are calculated on a specific debt basis as at the reporting date of the year under review.

14.3 Impairment of debtors (provision for doubtful debt) is recognized as an expense in the statement of financial performance. When under recovery occurs during the financial year an additional contribution for impairment is made at year end.

14.4 The municipality has to make provision for the debts that re identified as being irrecoverable. However, the municipality must ensure that all the means applicable to recover the debts as outlines in the Debt and Credit Control Policy are utilized.

14.5 Provision for bad debts on municipal accounts will therefore be calculated as follows:

14.5.1 Up to 90 days debt is not be considered bad

14.5.2 91-120 days 25% of the debt is considered bad

14.5.3 121-365 days 50% of the debt is considered bad

14.5.4 365 days and over 100% of the debt is considered bad

## **15. Sundry Matters**

Council may from time to time implement an incentive scheme which may entitle debtors to a write off, as may be determined by Council.

## **16. Implementation and review of this policy**

16.1 This policy shall be implemented once approved by Council. All future submissions for the writing off of debts must be considered in accordance with this policy.

16.2 This policy may be reviewed on an annual basis and be tabled to Council for approval.

16.3 The policy has been approved by the Nkandla Municipality in terms of Council resolution number **NMC: 35/2018/2019**

Approved