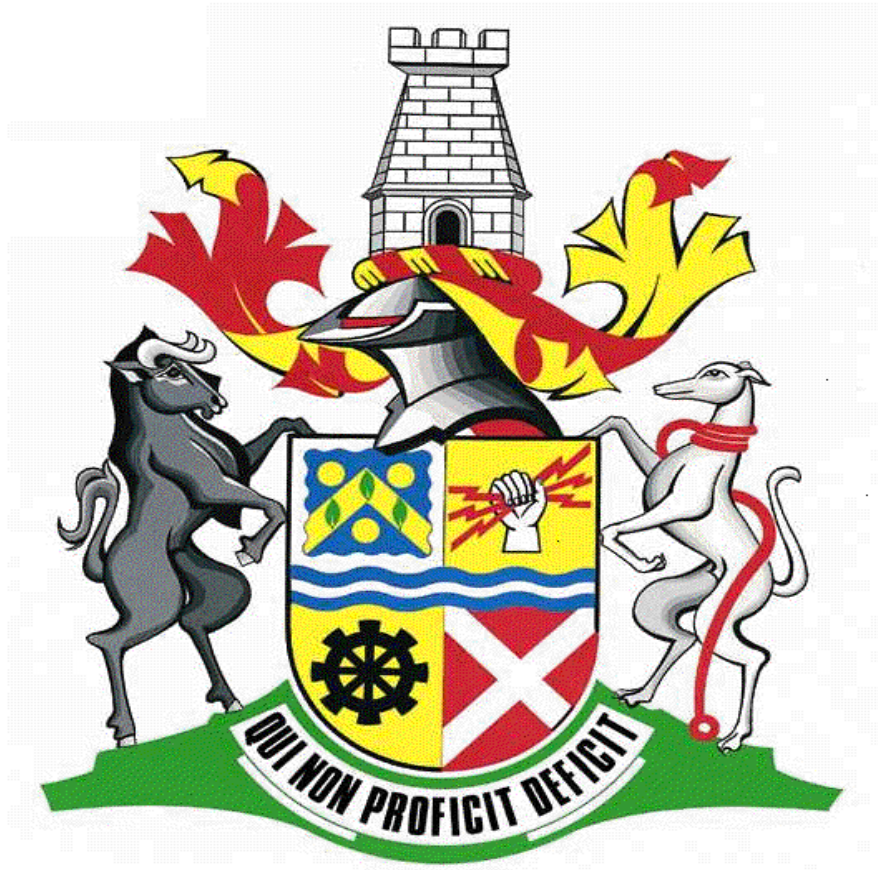


# NEWCASTLE MUNICIPLITY



## DEBT WRITE-OFF POLICY

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## 1. Definitions:

In this policy, unless the context indicates otherwise:

"the municipality" means the Newcastle Municipality;

"debt" means an obligation in money and/or services due and owing to the municipality;

"debtor" means a person, natural or juristic, who owes a debt to the municipality and who may be compelled to pay in terms of a claim or demand by the municipality;

"irrecoverable debt" means the debt which in terms of this policy meets the criteria for writing off;

"metered services" means the supply of a service in which the consumption of the commodity supplied (such as water or electricity) is measured by means of a meter;

"occupier" in relation to a property, means a person in occupation thereof irrespective of whether that person has the right to occupy;

"owner" means:

- a. in relation to an immovable property, a person in whose name ownership thereof is registered in the Deeds Office;
- b. a trustee, in the case of an immovable property which is trust property;
- c. an executor or administrator in the case of an immovable property which falls in a deceased estate;
- d. a trustee or liquidator, in the case of an immovable property in an insolvent estate or an estate in liquidation;
- e. a judicial manager, in the case of an immovable property owned by a corporate body under judicial management;
- f. a curator, in the case of an immovable property registered in the name of a person under curatorship;
- g. a lessee, in the case of an immovable property that is registered in the name of the municipality and is let by it;

- h. a buyer, in the case of an immovable property sold by the municipality to the buyer and of which possession has been given to the buyer pending registration of ownership in the name of the buyer.

## **2. Purpose and Scope of the Policy**

The purpose of this policy is to provide a framework for regulating the writing-off of irrecoverable debts and the consequent further enhancement of the municipality's debt management strategy.

## **3. Transparency, accountability and fair administrative action**

- 3.1 The municipality commits itself and its officers to act fairly and justly in an open and transparent manner in implementing this policy.
- 3.2 A proposal to write-off a debt, either as part of a group of debts, or individually, will be considered by the Council on its merits pursuant to the procedure and with due regard to the information which must be provided to it in terms of this policy.
- 3.3 The Constitution entitles everyone to administrative action which is lawful, reasonable and procedurally fair and to be given reasons for any such action which affects them.
- 3.4 The Promotion of Administrative Justice Act, No 3 of 2000 is the legislation required by the Constitution to give effect to the right to just administrative action and in order to promote an efficient administration and good governance and to create a culture of accountability, openness and transparency in public administration or in the exercise of a public power or the performance of a public function.
- 3.5 This policy incorporates the above principles by providing parameters and procedures to guide the municipality and its officers in implementing it, and thereby exercising a public power through a series of administrative actions. In so doing, this policy seeks to provide certainty on the part of those affected by it with regard to how the municipality will act in the circumstances covered by the policy and uniformity of action on the part of its officers.

## **4. Procedures for writing-off of debt**

### 4.1 General

- a. A debt may only be written-off by resolution of the Council.
- b. Unless specific provision is made elsewhere in this policy, the Council may only write-off a debt after consideration of a report and recommendations from the Accounting Officer, containing at least the information prescribed by this policy certifying that the processes provided for in the municipality's Customer Care, Credit Control and Debt Collection Policy have been adhered to and that in his/her opinion there is no reasonable prospect of recovery of the debt and/or that further efforts to do so would be uneconomical.
- c. A debt may only be written-off by the Council against the municipality's provision for doubtful debts, being a funded reserve established pursuant to the municipality's Funding and Reserves Policy.
- d. The writing-off of a debt by the Council is an accounting procedure and does not constitute abandonment by the municipality of its claim against a debtor.
- e. Copies of the reports to the Council in regard to all debts written-off are to be retained in the records of the municipality against the name of the debtor.
- f. In terms of the Indigent Policy, the arrears on an account are written-off upon registration as an indigent account and the related report is submitted to Council.
- g. Upon closure of an active account and after the security deposit is released, any outstanding balance of twenty rand (R20.00) or less after three months that cannot be transferred to another account belonging to the accountholder should be written-off and a report submitted to Council accordingly.

### 4.2 Information to be placed by the Accounting Officer before the Council in a report recommending the writing-off of a debt or group of debts:

- a. In the case of an individual debt, particulars of the debt including:
  - ii. the amount of the debt, stating separately the capital amount and interest accrued;
  - iii. the composition of the capital amount (cause of action).
- b. In the case of a group of debts, particulars of the group including:
  - ii. motivation for submission of the debts in question as a group (e.g. cause of action, collection procedures and prospect of recovery similar in each case)
  - iii. the total amount of the debts in the group, stating separately the total of the capital amounts and interest accrued;
  - iiii. the composition of the capital amount (cause of action).

- c. Steps taken to recover the debt or group of debts
- d. Particulars of the debtor including:
  - i. Account number;
  - ii. Name of account;
  - iii. Whether the account holder has been liquidated or sequestrated;
  - iv. whether the debtor can be traced;
- e. Any other information relating to the debt which may be requested by the Council.

## **5. Factors which the Council may take into account in writing-off debt**

### **5.1 A debt is deemed to be irrecoverable:**

- a. if it has prescribed in terms of the Prescription Act, No. 68 of 1969;
- b. the debtor has been sequestrated or liquidated and the proceeds of the sequestration or the liquidation are insufficient to satisfy the debt;
- c. the cost of recovery of the debt is likely to exceed the amount outstanding;
- d. the outstanding amount is due to an irreconcilable administrative error by the municipality as a result of an administrative error

### **5.2 Any other debt may not be deemed to be irrecoverable unless:**

- a. all of the debtor's attachable movable and immovable property has either been sold in execution and the proceeds have not satisfied the debt, or the cost of recovery is higher than the value of the movable property;
- b. the debtor is employed or in receipt of an income and all processes to attach that income or to obtain a court order for payment of the debt in instalments have been exhausted.

### **5.3 A debt may be considered irrecoverable if all reasonable attempts to trace the whereabouts of the debtor have been unsuccessful and no attachable assets have been found.**

## **6. General provisions relating to the writing-off of debt**

### **6.1 Not less often than once during the municipality's financial year, the Accounting Officer shall submit a report to the Council on debts to be written-off. 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

- 6.2 A debt shall not be regarded as written-off until the Council has so resolved.
- 6.3 Prior to writing-off a debt and after consideration of the report and recommendation of the Accounting Officer in terms of this policy, the Council must be satisfied that:
  - a. the municipality has exhausted all means of debt recovery provided for in its Customer Care, Credit Control and Debt Collection Policy;
  - b. recovery of the debt in question has been pursued diligently and completely;
  - c. no other reasonably possible and practical means of recovering the debt exists.
- 6.4 The writing-off of a debt must be recorded in the records of the municipality and in its books of account in terms of Generally Recognised Accounting Practice.
- 6.5 The Council must in its budget make provision for doubtful debts through the medium of a funded reserve established in terms of the municipality's Funding and Reserve Policy, compliant with regulation 8, Municipal Budget and Reporting Regulations R 3214 dated 17/4/09.
- 6.6 Should any provision of this policy conflict with a provision of the municipality's Indigent Policy relating to a debt of a registered indigent, the latter policy takes precedence.
- 6.7 In writing-off a debt, the municipality does not abandon its claim and all amounts recovered in reduction of a debt subsequent to its writing-off shall be recorded in the books of the municipality as income.