

Beaufort West Municipality
15 Church Street, Beaufort West
Tel 023-414-8133
www.beaufortwestmun.co.za



BEAUFORT WEST MUNICIPALITY

BUDGET RELATED POLICY NO.

BAD DEBT POLICY

DOCUMENT AND VERSION CONTROL

Version: Revision 1

Date: 06 June 2023

Summary:

This document describes the Bad Debt Policy that will be applicable with effect from **1 July 2023**.

Copies of this document can be viewed at the offices of the Municipality, all the public libraries in the municipality and the municipal website.

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DEFINITIONS

For the purposes of this policy the following definitions are applicable:

"Accounting Officer" – the Municipal Manager appointed;

"Council" – means the council of the Municipality;

"Debt" - means an amount owing to the Municipality;

"Debtor" – means a person who owes the Municipality money for taxes and/or services rendered;

"First time" – means registered as an indigent for the first time, not registered during the previous cycle;

"Household" - People who are jointly living on a stand or site on a permanent basis and who receive water and/or electricity from one meter.

"Municipality" – means the Beaufort West Municipality;

"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.



1. INTRODUCTION

The Municipal Finance Management Act (MFMA) 56 of 2003 aims to modernise and improve budget and financial management practises in local government in order to maximise the capacity of local government to deliver services to all its residents.

In adopting this policy, Beaufort West Municipality recognises its responsibilities as set out in Chapter 9 of the Local Government Systems Act (MSA) 32 of 2000 as amended.

The policy aims to assist and provide guidelines for effective management of debtors to the extent of:

- ↳ That long outstanding debt is evaluated to determine the possibility of realising such debt;
- ↳ That long outstanding debt is evaluated to determine if it is still economical to collect the debt;
- ↳ Ensuring that the municipality provides sufficiently in the budget for bad debt;
- ↳ Ensuring that where it is evident that a particular debt cannot be turned into a revenue such debt be procedurally regarded as irrecoverable;
- ↳ That, after exhausting all avenues of recovering debt, outstanding monies be written off as irrecoverable.

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2. LEGISLATION

The Municipal Finance Management Act No 56 of 2003 (MFMA)

Section 64 of the MFMA sets out the responsibilities of the municipality's Accounting Officer and requires that the municipality has and maintains a management, accounting and information system which accounts for debtors; and that the municipality has and maintains a system of internal control in respect of debtors and revenue, as may be prescribed.

Prescription Act, 1969 (Act No. 68 of 1969)

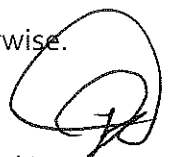
Section 10 (1) of the Prescription Act provides that a debt shall be extinguished by prescription after the lapse of the period which in terms of the relevant law applies in respect of the prescription of such debt. The Municipality cannot legally enforce payment of a debt once the debt has prescribed, but the period of prescription is interrupted –

- a) By the service on the debtor of any process whereby the creditor claims payment of the debt (Section 15). "Process" means a Summons or Notice of Motion, which must actually be served on the debtor and not simply issued by the court, and does NOT include a registered letter of demand;
- b) the debtor acknowledges liability, whether expressly or tacitly (Section 14); payment of a portion of the debt can constitute a tacit acknowledgement of liability.

The completion of prescription may also be delayed in certain circumstances (Section 13).

In terms of Section 11 of the Prescription Act, 1969 (Act 68 of 1969), the periods of prescription of debts are as follow:

- c) Thirty years in respect of –
 - i.) any debt secured by a mortgage bond;
 - ii.) any judgment debt;
 - iii.) any debt in respect of any taxation imposed or levied by or under any law; and
 - iv.) any debt owed to the State in respect of any share of the profits, royalties, or any similar consideration payable in respect of the right to mine minerals or other substances.
- d) Fifteen years in respect of any debt owed to the State and arising out of an advance or loan of money or a sale or lease of land by the State to the debtor, unless a longer period applies in respect of the debt in question in terms of paragraph (i) above.
- e) Six years in respect of a debt arising from a bill of exchange or other negotiable instrument or from a notary's contract, unless a longer period applies in respect of the debt in question in terms of paragraph (a) or (b) above.
- f) Three years in respect of all other debts, save where an Act of Parliament provides otherwise.



Municipal Systems Act, 32 of 2000,

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.

National Credit Act No 34 of 2005 (NCA)

Section 103(5) of the NCA -

Despite any provision of the common law or a credit agreement to the contrary, the amounts contemplated in section 101(1)(b) to (g) that accrue during the time that a consumer is in default under the credit agreement may not, in aggregate, exceed the unpaid balance of the principal debt under that credit agreement as at the time that the default occurs.

The municipality may recover "collection costs" from the account holder in arrears but inline with the provisions of the National Credit Act.

3. OBJECTIVES OF POLICY

The objectives of this policy are to:

- a) Ensure that debtors disclosed in the annual financial statements are stated at amounts that are deemed to be collectable;
- b) Ensure that sufficient provision is made for doubtful debts;
- c) Ensure that debt deemed not to be collectable and/or uneconomical to collect, can be written off within the framework established by this policy, guidelines of existing policies and applicable legislation; and
- d) Promote transparency as required by sections 215 and 216 of the Constitution (1996) when dealing with debtors and debt.

4. IMPAIRMENT OF DEBTORS

Consumer debtors, long term receivables and other debtors are stated at cost less a provision for bad debts. The provision is made on an individual basis (significant and other debtors) and on a group basis (debtors with similar credit risk characteristics) and based on the remaining expected cash flows.

In accordance with GRAP 104 - Financial instruments, an objective assessment of debtors is made at each financial year-end to determine the need for possible impairment. Each debtor will be evaluated taking into account their payment history per service and that will be impaired according to their individual payment ratios, and this will guide the probability of collecting money owed to the



municipality from individual debtors. This policy and the accounting policy needs to be aligned on this item, if there is to by any difference the accounting policy will take preference.

In terms of mSCOA budgeting, the municipality will budget actual write-offs forecasted against "Irrecoverable debts written off", with it to be offset against "Debt impairment" a gains and losses item.

Outstanding debtors not to be impaired will include:

- All government accounts;
- Any balances on departmental accounts not yet cleared; and
- Accounts in the name of the municipality if applicable.

5. STEPS TO BE TAKEN BEFORE WRITING OFF DEBT

Before consideration is given for the write-off of any debt the following steps should be taken –

5.1 Credit Control and Debt Collection Policy Actions

All the applicable actions as contained in the credit control and debt collection policy of the municipality should have been executed and implemented.

5.2 Estate Notices Monitoring

Estate notices in the Government Gazette must be checked regularly (at least on a bi-monthly basis) to enable the municipality to institute claims against insolvent and deceased estates of persons owing money to the municipality.

5.3 Tracing of Debtors

In the event that the debtor's address is not known, all reasonable steps must be taken to trace the debtor. A reasonable effort to trace the debtor will include, but is not limited to, the following:

- a) Utilising all the information available like vehicle registration number and by contacting the vehicle registration authorities;
- b) Contacting the Department of Home Affairs;
- c) Utilising social media (Facebook etc.) and/or
- d) Officials and/or colleagues at the debtor's last place of employment.

The Accounting Officer shall consider all other economically viable avenues for debt recovery, including the use of tracing agents, factoring of debts, recourse against sureties, guarantors or lessees, etc.



5.4 Prevention of Prescription of Debt

Proceedings out of the appropriate court having for the recovery of a debt must be commenced as soon as is appropriate in order to prevent prescription of the debt. A summons process for payment of the debt must be successfully concluded as soon as possible to prevent prescription of the debt in terms of the Prescription Act. A payment made in the last three years towards an account in arrears for more than three years (service charges, rates will be 30 years), also should be considered as an interruption of prescription (See section 2 dealing with legislation – Prescription Act No 68 of 1969).

6. DEBT WRITE-OFF

6.1 General Conditions

The Municipality will consider debts for write-off in the following general circumstances:

- a) When debts have prescribed in terms of the Prescription Act No 68 of 1969;
- b) When debts have not been recovered from the deceased, where their estates have been finalized, and recovery of the debts from the heirs is deemed to be not collectable;
- c) When debts are owed by debtors who cannot be traced, notwithstanding compliance with the provisions in paragraph 5.3 above;
- d) When no source documentation is available to substantiate or prove the claims, provided that the Accounting Officer must have satisfied him/herself that all reasonable steps have been taken to locate the source documents;
- e) When the debtor has emigrated without paying the debts, leaving no assets available for attachment and the debtors' whereabouts are unknown;
- f) When it is not economical to pursue the debt further.
- g) Erven / Property purchased back by the municipality; or
- h) Outstanding debts older than two years that cannot be recovered during the transfer of ownership of immovable property as per section 118 of the MSA.

Unless affordable arrangements can be made with tracing agents or attorneys, the costs associated with the tracing of a debtor and subsequent legal costs occasioned thereby, could exceed the amount claimed and therefore it would therefore not be in the Municipality's interest to attempt recovery of debts where the prospects of recovery are remote, and where the possibility exists that the costs associated with recovery may exceed the debt.



6.2 Specific Conditions

The Municipality will consider debts for write-off in the following specific circumstances:

6.2.1 Debt associated with ownership of property (Rates accounts):

Debt raised by Council for the services rendered to registered owners of the property/land, i.e. Assessment rates, Refuse removal, Sewerage, Availability fees for Electricity and Water, will not be written-off except when the property is disposed of in the liquidation process and the proceeds do not cover the outstanding debt, the balance can then be written-off as irrecoverable.

6.2.2 Debt associated with ownership of property in the absence of a registered estate:

On the death of the owner, where no last will or testament exist, no estate has been registered and/or findings of an investigation indicate that the estate is insolvent, all outstanding rates and service charges on the property, up to the date of the death of the owner, should be written off. The write-off in instances like this is subject to the following conditions being complied with:

- a) A certified copy of the death certificate of the owner be obtained;
- b) A sworn affidavit regarding the insolvency be obtained.

Should the new owner not qualify to be registered as an Indigent in terms of the Council's Indigent Policy, the outstanding rates and service charges for the period from the death of the previous owner till the date of the new service application remain payable by the new owner and cannot be written off.

Should the new owner qualify to be registered as an Indigent, in terms of the Council's Indigent Policy, the outstanding rates and service charges for the period from the death of the previous owner till the date of the new service application can be written off.

6.2.3 Metered Services Debt:

Debt owed to Council due to consumed metered services, i.e. Water and Electricity consumption will be regarded as irrecoverable in the following instances:

- a) If the debt has prescribed;
- b) In circumstances contemplated in 6.1 (a) to (h) above

6.2.4 Sundry Debt:

Debt owed to Council arising from auxiliary services rendered by Council will be regarded as irrecoverable in the following instances:

- a) If the debt has prescribed;
- b) In circumstances contemplated in 6.1 (a) to (h) above

6.2.5 *Indigent Household Debt:*

- 6.2.5.1 Debt owed to Council by an Indigent Household, when registering for the first time in terms of the official Indigent Policy, shall be written off as a once off concession, subject to a thorough audit investigation and certification to the effect that the household is a bona fide indigent as stipulated in the Indigent Policy.
- 6.2.5.2 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 Credit Control and Debt Collection Policy and the Indigent Policy.
- 6.2.5.3 Debt owed by the deceased estate of the breadwinner of a registered indigent household shall be written off up to the date of the death of the owner.

The write-off in instances like this is subject to the following conditions being complied with:

- a) a certified copy of the death certificate of the owner be obtained;
- b) a sworn affidavit regarding the indigence be obtained.

Should the new owner not qualify to be registered as an Indigent, in terms of the Council's Indigent Policy, the outstanding rates and service charges for the period from the death of the previous owner till the date of the new service application remain payable by the new owner and cannot be written off.

Should the new owner qualify to be registered as an Indigent, in terms of the Council's Indigent Policy, the outstanding rates and service charges for the period from the death of the previous owner till the date of the new service application can be written off in instances where the next of kin/new owner present proof that the property transfer fees has been paid and the service contract is signed in his/her name.

6.2.6 *Special cases:*

The allocation of RDP houses by the Housing Department has in some instances resulted in debt raised in relation to the property in the name of the person the house was allocated to, but who never took occupation due to one of the following reasons:

- a) Occupation taken up by illegal occupants;
- b) Failure to inform the rightful owner about the allocation;
- c) Alteration of allocation not effected in Council records;

In the above-mentioned cases there will never be a need to implement the Credit Control and Debt Collection Policy; therefore, write-off should take place immediately when the Directorate involved in the allocation of property issues a memorandum that confirms the above. Furthermore, the write-off should be affected and reported to Council for ratification purposes.

6.2.7 *Traffic Camera Fines:*



Traffic camera speed fines will only be valid for 18 months after the fine was issued and if there was no summons. It should be written off / Cancelled in terms of the Criminal Procedures Act.

6.3 Final Action

Whenever all the legal avenues, procedures and steps listed above have been exhausted, the arrear amounts should be classified as irrecoverable and should be written off by the person to whom the authority to do so has been delegated under the Municipality's system of delegations.

Immediately after 30 June each year, or more regularly if requested by Council, the Accounting Officer must present to the Council a report listing the following:

- a) For noting – details of the debts that was written off during the year ending 30 June under delegated authority, together with the reasons for the write offs; and
- b) For consideration – details of any debt, not included under (a) above, which is believed to be irrecoverable, together with the reasons for this conclusion. The council shall then approve the write-off of such arrears, if it is satisfied with the reasons provided.

7. DELEGATED AUTHORITY

The Accounting Officer is given delegated authority to write-off debt under the following circumstances:

- a) Debt amounts relating to interest charges to the amount of fifty thousand rand (R50 000.00) or less; and
- b) All reasonable steps have been taken to recover the debt as stipulated under paragraph 5 above; and
- c) The debt is considered to be irrecoverable in terms of any one of the conditions stipulated in paragraph 5 above.

In such cases, the reason for each write-off be listed in the report against each individual item, and audit trails for each write-off must be kept for control purposes.

The write-off of any capital amounts can only be done by the approval of Council after all reasonable steps were taken as stipulated in section 4 and conditions were met in terms of section 6 of this policy.



