



## CREDIT CONTROL & DEBT COLLECTION POLICY

Council resolution number and date

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## **CREDIT CONTROL & DEBT COLLECTION POLICY**

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## 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.

**IT IS HEREBY ADOPTED:** a credit control and debt management policy of the Senqu Municipality.

## DEFINITIONS

For the purpose of this policy, the wording or any expression has the same meaning as contained in the Act, except where clearly indicated otherwise and means the following:

- “Act”** The Local Government Act: Systems Act, 2000 (Act No 32 of 2000) as amended from time to time;
- “Arrangement”** A written agreement entered into between the Council 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.
- “Authorized Representative”** Person or instance legally appointed by the Council to act or to fulfil a duty on its behalf;
- “CFO”** Person appointed as the Chief Financial Officer of the Municipality, or his or her nominee;
- “Council”** The municipal council, as referred to in section 157 of the Constitution of the Republic of South Africa Act 108 of 1996, of the Senqu Municipality established by part 7 of provincial notice 80, dated 27 September 2000;
- “Credit Control”** Credit control begins when the first contact is made with a consumer applying for Municipal services. It contains all the functions relating to the collection of monies owed by ratepayers and the users of municipal services including:
- [a] Signing of a valid consumers agreement, the payment of a consumers deposit and the verification of the client’s creditworthiness;
  - [b] An accurate meter reading at fixed intervals;
  - [c] The issuing of accurate and regular statements;
  - [d] Engaging in regular communication to consumers;
  - [e] Provide support to people who are declared as Indigent;
  - [f] Maintain affordable service levels and standards;
  - [g] Implement appropriate payment terms and options;
  - [h] Provide an effective and efficient enquiry system;
  - [i] Implement consistent credit control measures with the aim to enforce a culture of payment for services;

[j] Furnish monthly reports to Council on the performance of revenue collection;

**“Customer”** Any occupier of any premises to which 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;

**“Defaulter”** Any Person who is owing the Council arrear monies in respect of rates and / or service charges;

**“Engineer”** The person in charge of the civil and/or electrical component of Council;

**“Equipment”** A building or other structure, pipe, pump, wire, cable, meter, engine or any accessories;

**“Gender”** Any reference to the one gender shall include reference to the other;

**“Implementing Authority”** Means the Municipal Manager or his or her nominee, acting in terms of section 100 of the Systems Act.

**“Interest”** A charge levied with the same legal priority as service fees and calculated at a rate determined by council from time to time on all arrear monies;

**“Municipal account”** An account rendered specifying charges for services provided by the municipality, or any authorised and contracted service provider, and/or assessment rates levies;

**“Municipality”** Means the Senqu Municipality.

**“Municipal Manager”** The person appointed as Municipal Manager in terms of section 82 of the Local Government: Structures Act, 1998, (Act 117 of 1998) and include any person acting in that position or to whom authority was delegated;

**“Municipal services”** Those services provided by the municipality, such as, inter alia the supply of water and electricity, refuse removal, sewerage treatment, traffic, sundries and any other services for which service charges are levied;

**“Occupier”** Any person who occupies any property or part thereof, without regard to the title under which he or she occupies the property,

**“Owner”**

[a] The person in whom from time to time is vested the legal title to premises;

[b] In a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

- [c] In a case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with a building thereon;
- [d] In the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- [e] In relation to-
  - [i] A piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986, (Act 95 of 1986), and without restricting the above the developer or the body corporate in respect of the common property; or
  - [ii] A section as defined in such Act, the person in whose name such a section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- [f] Any legal person including but not limited to-
  - [i] A company registered in terms of the Companies Act, 1973 (Act 61 of 1973), a trust, a closed corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984) and a voluntary association;
  - [ii] Any department of State;
  - [iii] Any Council of Board established in terms of any legislation applicable to the Republic of South Africa;
  - [iv] Any Embassy or other foreign entity;

**“Premises”** Includes any piece of land, the external surface boundaries of which is delineated on-

- [a] A general plan or diagram registered in terms of the Land Survey Act, 1927 (9 of 1927), or in terms of the Deed Registry Act, 1937 (47 of 1937); or
- [b] A sectional plan registered in terms of the Sectional Titles Act, 1986 (95 of 1986), which is situated within the area of jurisdiction of the Council;

**“Supervisory Authority”** Means the Mayor of the Municipality or his or her nominee, acting in terms of Section 99 of the Systems Act.

**“Tampering”** Means any unauthorised interference with Council's supply, seals pipes, wiring, connections and metering equipment to cause damage to Council's property and to evade payment for services.

## [1] PRINCIPLES

- [a] The administrative integrity of the municipality must be maintained at all costs. The democratically elected councillors are responsible for policymaking, while it is the responsibility of the Municipal Manager to ensure the execution of these policies.
- [b] All customers must complete an official application form, formally requesting the municipality to connect them to service supply lines. Existing customers may be required to complete new application forms from time to time, as determined by the Municipal Manager.
- [c] A copy of the application form including conditions of services must be handed to every new customer on date of application for services. A copy of the council's ***Credit Control and Debt Collection Policy*** would on request be made available to any customer
- [d] Billing is to be accurate, timeously and understandable.
- [e] The customer is entitled to reasonable access to pay points and to a variety of reliable payment methods.
- [f] The customer is entitled to an efficient, effective and reasonable response to appeals, and should suffer no disadvantage during the processing of a reasonable appeal.
- [g] Enforcement of payment must be prompt, consistent and effective.
- [h] Unauthorised consumption, connection and reconnection, the tampering with, damage and or theft of meters, service supply equipment and the reticulation network and any fraudulent activity in connection with the provision of municipal services will lead to disconnections, penalties, loss of rights and criminal prosecutions.
- [i] Incentives and disincentives may be used in collection procedures.
- [j] Results will be regularly and efficiently reported by the Municipal Manager and the Mayor.
- [k] Application forms will be used to, inter alia, categorise customers according to credit risk and to determine relevant levels of services and deposits required.
- [l] Targets for performance in both customer service and debt collection will be set and pursued and remedies implemented for non-performance.
- [m] Debtors may be referred to third party debt collection agencies and may be placed on the credit bureau.



## **[2] DUTIES AND FUNCTIONS**

### **[2.1] Duties and Functions of Council**

- [a] To approve a budget consistent with the needs of communities, ratepayers and residents in line with the financial capability of Council.
- [b] To impose rates and taxes and to determine service charges, fees and penalties to finance the budget.
- [c] To facilitate funds to give access to basic services for the poor.
- [d] To provide for a bad debt provision, in line with the payment record of the community, ratepayers and residents, as reflected in the financial statements of the municipality.
- [e] To consider and approve by-laws to give effect to the Council's policy.

### **[2.2] Duties and Functions of the Municipal Manager**

- [a] To implement good customer care management systems.
- [b] To implement council's credit control and debt collection policy.
- [c] To install and maintain an appropriate accounting system.
- [d] To bill customers.
- [e] To demand payment on due dates.
- [f] To raise penalties for defaults.
- [g] To appropriate payments received.
- [h] To collect outstanding debt.
- [i] To provide different payment methods.
- [j] To determine credit control and debt collection measures.
- [k] To determine all relevant work procedures for, inter alia, public relations, arrangements, disconnections of services, summonses, attachments of assets, sales in execution, write-off of debts, sundry debtors and legal processes.
- [l] To instruct attorneys to proceed with the legal process (i.e. attachment and sale in execution of assets, emolument attachment orders etc.).
- [m] To set performance targets for staff.

- [n] To appoint staff to execute council's policy and by-laws in accordance with council's staff policy.
- [o] To delegate certain functions to the Directors of departments.
- [p] To determine control procedures.
- [q] To monitor contracts with service providers in connection with credit control and debt collection
- [r] To report to the Council

### **[2.3] Duties and Functions of Communities, Ratepayers and Residents**

- [a] To fulfil certain responsibilities, as brought about by the privilege and or right to use and enjoy public facilities and municipal services.
- [b] To pay service fees, rates on property and other taxes, levies and duties imposed by the municipality.
- [c] To observe the mechanisms and processes of the municipality in exercising their rights.
- [d] To allow municipal officials access to their property to execute municipal functions.
- [e] To comply with the by-laws and other legislation of the municipality.
- [f] To refrain from tampering with municipal services infrastructure and property.

### **[2.4] Duties and Functions of Ward Councillors**

- [a] To hold regular ward meetings wherein the credit control and debt collection policy and procedures of Council are addressed.
- [b] To adhere to and convey council policies to residents and ratepayers and in particular the credit control and debt collection policy and procedure.
- [c] To adhere to the Code of Conduct for Councillors.
- [d] Ward councillors through Ward Committees will act in terms of roles and functions as approved by Council and assist in the dissemination and distribution of information.

## **[3] Area of Application**

This policy applies throughout the area of the Municipality of Senqu.

#### [4] Application for Services

- [a] Consumers who require a service must enter into a written service agreement with the Municipality. In the instances where the occupant is not the owner of the property, service agreements will only be entered into with the lawful owner of the property to which the services are to be provided.
- [b] The process must occur at least five working days prior to taking occupation of the premises, so that the Municipality can ensure that a meter reading is taken on the appropriate day and that the services are available when occupation is taken. Failure to adhere to the timeframe may result in customers not having the services available when occupation is taken.
- [c] The Municipality will render the first account after the first meter reading cycle to be billed following the date of signing the service agreement.
- [d] Consumers who illegally consume services without this agreement will be subject to punitive action.

#### [5] Customer Service Agreements

- [a] Customer service agreements are those agreements that are entered into between the land owner and the Municipality for the supply of municipal services and shall include the documentary annexures as required.

- [b] The contents of the agreement includes:

An undertaking by customers:

- [i] That they are liable for the costs of collection, including any administration fees, penalties for late payment, legal costs on arrear collections on an attorney client basis, (out) interest, and administrative levy relating to disconnection and/or reconnection of services;
- [ii] That any alleged non-receipt of an account does not stop the collection process;
- [iii] To consent / agree that Council may conduct a credit bureau verification if his credit records for purposes of data updating tracing listing and other collections activities.
- [iv] An additional/higher deposit may be required to be paid depending on the associated risk as determined by the CFO.

An undertaking by Council:

- [i] That it delivers accounts to customers, failing which
- [ii] It will inform customers that they are required to request statements in

the event that they do not receive an account.

- [c] When it is established that the applicant has been placed under administration, permission need to be obtained from the Administrator and the owner of the property before the Municipality may enter into such an agreement.
- [d] Cancellation of Services
  - [i] The Client shall notify the Municipality no less than five days in advance, of his intention to terminate his services and cancel his service agreement. The client must furnish all the information required to the financial official in order for Council to ascertain the final account and to attend to the disconnection of services.
  - [ii] The client shall be liable and responsible to ensure that the termination documentation is submitted in terms of these requirements and for payment of all costs up to and including the date of final reading and disconnection of services by the Municipality.
- [e] Prior to the Municipality entering into a new agreement with a client, the client shall provide to the Municipality information pertaining to previous Municipal accounts and to assist in assessment of his credit worthiness. The Municipality shall not enter into an agreement without compliance with this requirement and the Municipal Official shall conduct a verification search of previous Municipal accounts held. Any outstanding accounts should be paid in full.

## **[6] Deposits and Guarantees**

- [a] Before services can be provided, a service deposit is required to be paid by the consumer to the Municipality.
  - [i] The deposit is payable in cash for domestic clients.
  - [ii] Deposits that are paid will only be refunded at the closure of the account after settlement of all levies, service charges, sundry charges, rates & taxes due to the Municipality.
  - [iii] Cash deposits retained on behalf of clients shall not earn interest.
  - [iv] Any deposit held by or on behalf of a client shall, on being claimed, be refunded within 60 days after the termination of the clients agreement after deducting any amount due by the client to the Municipality.
  - [v] Unclaimed deposits will be forfeited, after allocation to any arrears outstanding to the Municipality, 6 months after the final account has been

processed.

- [vi] The Municipality may at any time when the deposit is found to be inadequate require a client to increase the deposit, in which event the client shall, within 30 days after being so required, deposit with the Municipality such additional sum.
- [vii] The Municipality may in lieu of a deposit, accept, solely within its discretion, from a business applicant, a guarantee from a financial institution (not a letter of undertaking), acceptable to the Municipality, as security for the payment of the deposit and any amount that may become due by the client for the supply of services.
- [viii] Provided that no such guarantee shall be accepted unless the estimated monthly account in respect of the supply to the premises concerned amounts to at least not less than R1000.00.  
  
The guarantee shall state that the applicable guarantor shall give the Municipality 60 days written notice by registered post of its intention to withdraw from the said guarantee. The business client shall furnish the deposit and or acceptable alternative guarantee within the 60-day period failing which the services will be terminated.
- [ix] Deposits of new business and industrial clients may be reviewed and adjusted three months after the initial application.
- [x] Consumers deposits shall be applicable only to the account for which they have been allocated initially and may not be transferred by the Municipality between client service agreements.
- [b] Customers must pay a deposit which will be determined by Council annually on the following:
  - [i] Residential properties- electricity consumption (conventional and pre-paid);
  - [ii] Non-SA Citizens- all persons who are not SA Citizens shall be required to pay double the deposit as determined for residential properties;
  - [iii] Businesses - As determined by the CFO dependant on the estimated usage for the specific category of business stipulated in the tariff schedule.
- [c] The Municipality may increase or decrease deposits and guarantees to suit the particular circumstances.

- [d] The Municipality shall increase the required deposit of defaulting consumers who are disconnected or should be disconnected in accordance with this policy, to equal three months average consumption which deposit shall be payable prior to reconnection of services.
- [e] The Municipality may apply the deposit towards any and all arrears arising on a service account and thereafter shall apply (6.d) hereof.

## **[7] Accounts and Billing**

- [a] Customers will receive one consolidated bill for all services to a property, which is situated within the boundaries of the Municipality.
- [b] Accounts are produced in accordance with the meter reading cycles.
- [c] An account will be rendered each month in cycles of approximately 30 days.
- [d] The Municipality will undertake to have the accounts delivered to all consumers. However non-receipt of an account does not prevent interest charges and debt collection procedures. In the event of non-receipt of an account, the onus rests on the account holder to obtain a free copy of the account, before the due date.
- [e] Accounts must be paid on or before the due date as indicated on the account.
- [f] Interest as determined annually by council, on arrears will accrue after due date if the account remains unpaid as at due date, irrespective of the reason for non-payment with exception of organs of state.
- [g] A levy on late payments determined by Council may be raised if the account remains unpaid as at due date irrespective of the reason for non-payment.
- [h] Payments for accounts must be received by:
  - [i] Close of business on or before the due date at a Municipal pay point.
  - [ii] In the case of any electronic payments, direct deposits or payments via agents, the money must be received in the municipal bank account by close of business on or before the due date. two days before the due date.
- [i] Consumers who have failed
  - [i] To pay the service charges levied by due date,
  - [ii] or to comply with the conditions of supply of services shall receive

notification of Councils intention to disconnect services 7 days from notification where after the debt collection process will be implemented.

## **[8] Metering of Consumable Services**

- [a] The municipality may introduce various metering equipment and customers may be obligated to convert to a system preferred by the municipality.
- [b] Customers who default (fail to pay by a due date) may be required by the municipality to convert to another metering system preferred by the municipality.
- [c] Prepayment metering is the preferred installation for all domestic and where applicable, business accounts.
- [d] Meters (credit) will be read monthly. Should circumstances prevent reading the Municipality is entitled to estimate a reading that is within reason comparable to past consumption.
- [e] A customer is responsible to allow municipal officials access to their property to execute municipal functions and will accept any cost to ensure access (such as relocating the meter) if satisfactory access is not possible.
- [f] Voluntary readings:
  - [i] These will be permitted provided the municipality does it's own reading at least once every quarter.
  - [ii] Customers may be liable for a fee to cover the costs of obtaining a reading if no advance warning is given and special arrangements are required to obtain a reading.
  - [iii] The Municipality is entitled to make suitable adjustments to the readings should the debtor fail to ensure that a final reading is obtained.
- [g] Routine or special maintenance of metering equipment will be communicated to the customer. The meter replacement advice will indicate the removal reading.

## **[9] Valuation of Properties**

All properties within the boundaries of the Senqu Municipality are to be valued in terms of the legislation, applicable to the valuation of properties for the purpose of levying property rates noting the allowable exceptions.

## [10] Assistance Programmes

These are programmes that the Municipality has designed to assist customers meet their obligations, such as:

### [10.1] Rates Rebate

Council may grant rebates on rates in terms of Council's *Property Rates & Valuation Policy*.

### [10.2] Arrangements for Settlement

- [a] Arrangements are permissible for debtors who experience difficulties in paying their accounts.
- [b] Where the applicant has been put under administration, written permission need to be obtained from the Administrator and the owner of the property before such arrangement could be made.
- [c] All arrangements will be made in writing according to section 57 and others of the Magistrates Act No 1938 on the prescribed form.
- [d] The CFO or his representative will in line with the Debt Collection Procedure approve the terms applicable for the settlement of arrear debt.
- [e] No arrangements for business clients are allowed without approval of the CFO or his designate.
- [f] Only one arrangement should be concluded between the Municipality and the client. In the event the said arrangement has been honoured with satisfactory pay record, another first arrangement can be concluded with the client.
- [g] It shall be a condition on the arrangement agreement that if the arrangement wasn't honoured, the electricity supply will be terminated without any further notice to the client. A Municipal official should monitor all arrangement's due dates and affect discontinuation of services where necessary.
- [j] No arrangement on electricity supply is permissible without the approval of the CFO or his designate.
- [k] When a prepayment meter is installed due to defaults on payments, the arrears can be collected;
- [i] by adding the debt as a surcharge to the prepaid electricity cost, and be repaid by allocating 50% with each purchase of electricity until the debt is



fully recovered to all consumers who failed to make/fulfil their arrangements

### [10.3] Payment of Rates by Instalments

- [a] In terms of council's *Property Rates & Valuation Policy* owners may pay the property rates
  - [i] Monthly in equal monthly instalments over a period of 11 months or on request annually before the 31st May.
- [b] Interest shall accrue on all rates accounts if they are not paid by the due date as indicated on the account.
- [c] Regular monthly instalment payments must be maintained. Failure to maintain monthly instalment payment for three (3) consecutive months shall result in the cancellation of the facility and all future instalments become payable.

### [10.4] Indigent Subsidy Support

An account holder may apply to the Municipality in terms of the laid down ***Free Basic Service & Indigent Subsidy Support Policy*** and by-law to be considered For Indigent support.

### [10.5] Free Basic Services

Council will provide free basic services to Indigent domestic consumers, as determined in the *Free Basic Service & Indigent Subsidy Support Policy* and Bylaw.

### [11] Communication

- [a] The municipality will at its own cost make the Credit Control and Debt Collection policy brochure available to the community. Any amendments may be communicated in a newsletter.
- [b] Councillors must on a regular basis, address ward committees and their wards on the contents of the policy and any amendments thereto.

### [12] Payment Facilities and Methods

- [a] Municipal payment and enquiry facilities will be maintained subject to acceptable levels of activity when compared to the operational costs. The Municipal Manager or his designate has the discretion to open and close offices as required.
- [b] The consumer acknowledges that any agent used for transmitting payments to the Municipality is at the risk and cost of the consumer. In addition, the consumer must

take into account the transfer time of the particular agent.

- [c] A range of payment methods is available and may be extended as required subject to financial implications. The Municipality shall actively monitor the effectiveness of pay facilities, methods and convenience for consumers.
- [d] The Chief Financial Officer shall allocate payments according to predetermined priorities of Council.
- [e] The client is not allowed to selectively nominate any monies paid by him for specific Service. The allocation of payments are automatically done according to priorities as determined by the CFO in line with Councils direction.
- [f] No allegation for the non-receipt of an account will be exempted from the responsibility to pay on or before the due date.
- [g] Officials and Councillors service accounts to be either paid in cash or be deducted on a monthly basis from their salary / remuneration.
- [h] In terms of section (9) Schedule 2 of the Municipal Systems Act Municipal officials and Councillors are not allowed to be indebted to the Municipality on their municipal service accounts for more than 90 days.
- [i] The Municipality may enter into agreement with businesses, other government institutions and their employees for the business to deduct from and pay over to the Municipality the Municipal service account due and owing by the employee.

### **[13] Enquiries and Appeals**

- [a] Any client who has a query/dispute concerning his service account or on the application of the credit control and debt collection policy and procedure to himself must address a letter to the Municipal Manager or Chief Financial Officer or visit any pay point operated by the municipality (in) to lodge the query/dispute.
- [b] A customer who has lodged a query/dispute is not relieved of the responsibility to maintain regular payment of the account. An interim payment similar to the average account must be paid by the due date pending finalisation of the enquiry. Failure to make a payment will result in debt collection action been instituted against the customer.
- [c] The client will receive a response within 10 working days of being lodged.
- [d] If a customer is not satisfied with the response received he shall make a written submission, to the Municipal manager, setting out the reasons for his dissatisfaction. The Municipal manager shall investigate the written submission and forward his findings to the client within 21 days of receipt thereof. The Municipal Managers decision shall be final.
- [e] The testing of a water or electricity meter may be done on request of the client at the prescribed fee, as approved.

- [f] The deposit will be refundable to the client on the following conditions:
  - [i] that if an error as defined in the applicable by-laws is found to exist which is not the responsibility of the client. The verification of the meter is undertaken with a 5% allowance either way of the consumption being absolutely correct. If the variance is more than 5% Council must investigate whether the meter is faulty and if it is found to be faulty the meter must be replaced at Council's cost.
  - [ii] Refunding of consumption in respect of faulty meters will be restricted to a period of 12 months from the date of confirmation of the meter being faulty.

#### **[14] Municipal Service Account - Letter of Good Standing: Tenderers**

The *Supply Chain Management Policy* and Tender Conditions of the Municipalities will Include the following:

- [a] When inviting tenders for the provision of services or delivery of goods, potential contractors may submit tenders subject to a condition that consideration and evaluation thereof will necessitate that the tenderer obtain from the municipality a Letter of Good Standing stating that all relevant municipal accounts owing by the tenderer and/or its directors, owners or partners have been paid.
- [b] No tender will be allocated to a person/contractor until proof of payment of any arrear debt for the repayment of arrears, has been made. No further debt may accrue during contract period.
- [c] A condition allowing the municipality to deduct any moneys owing to the municipality from contract payments.

#### **[15] Restraint on Transfer of Property**

Section 118 of the Municipal Systems Act stipulates that all amounts due during the two years preceding the date of application for the clearance certificate have been fully paid.

#### **[16] Debt Collection**

The Chief financial Officer is authorised to institute these mechanisms and with the intention of proceeding until the debt is collected.

The following mechanisms are to be used to collect:

- [a] Disconnection / restriction of metered services for all overdue rates and service accounts.
- [b] Barring from buying prepayment services by debtors who are in arrears with all overdue rates and service accounts.
- [c] Allocating a portion of any payment for prepayment services to arrear debt as

determined by the municipal manager or his representative.

- [d] Insisting that a prepayment meter be installed at the cost of the debtor.
- [e] Withholding of rates clearance certificates under certain conditions. (Refer to section 118 of the Systems Act of 2000.)
- [f] Legal process, including proceeding(s)/arrangements) in terms of section 65 J of the Magistrates court act 1944 and all amendments in 1997, an emoluments attachment order on the debtor's salary, the attachment and sale of moveable or immovable property and section 65 J proceedings.
- [g] Withholding payments of grants-in-aid.
- [h] Withholding payment on contracts
- [i] Any other method authorised by Council. When any of the above methods has been followed and proved to be unsuccessful, and the account is in arrears for more than 60 days, a letter of demand will be produced and delivered to the client.

This will notify the client of the Municipality's intention to start with legal proceedings against him. A predetermined levy will be charged against the debtors account for this final notice and 14 days will be then allowed officials should investigate and perform collection activities that include tracing. Tracing activities should also be performed on all returned mail and debtor information should be updated.

Should Councils tracing procedures seems to be unsuccessful, a registered Tracing Agent may be requested to assist in the tracing process. A no trace no pay basis is preferred. Information obtained by the tracers need to be guaranteed for 30 days. Should no new data been obtained and or no response from the client concerned, the official should ascertain the viability to proceed with the issuing of a summons and or further legal action.

## **[17] Handing Over**

The handing over of defaulters is the beginning of a legal process and payments for arrears can only be made to the relevant appointed agent of Council. It is important that defaulters be handed over to debt collectors when the Credit Control Section or debt collection unit was unsuccessful with the collection process. Defaulters who do not respond to the debt collectors and or council's in-house debt collection unit if provided by the municipality will be handed to Council's attorneys for collection and further legal action. Councils appointed attorneys for the purpose of arrear collections and legal action should be used and monitored by the CFO or his designate. The CFO or his designate must compare the success of attorneys and their cost.

Legal steps are taken to collect arrears in the following cases:

- [a] Where the cut-off and other similar restrictive action yielded no satisfactory result.

- [b] Where no cut-off action is possible due to the nature of services for which the account has been rendered or where special circumstance is prevalent.
- [c] The accounts administration on accounts handed over will be guided by the superseding legislation

The Council or an appointed attorney may take the following actions:

- [a] A pre-investigation into the account and debtor detail is carried out before the preparation of a summons takes place. The data of an appointed Credit Bureau is utilised in this regard, often resulting in telephonic contact with the client, which obviates the need for summoning. The cost of the tracing as well as the telephone cost is debited to the account of the debtor at the approved tariff of the Municipality.
- [b] Arrear accounts in excess of R100 000 which are to be summoned are Supreme Court matters, which are referred to the suitably qualified legal appointed panel of representatives.
- [c] Arrear accounts smaller than R100 000 are Magistrate Court matters for which the summonses are prepared by appointed panel of attorneys or the Finance Department.
- [e] If debtors react on the summonses received within 10 working days after delivery by the Sheriff, by either payment in full or partial payment and arrangement for monthly payment of the balance, no further legal costs are debited as in the case of an attorney or debt collection agent, and the matter is not further pursued for as long as the debtor complies with the agreed monthly payment.
- [f] Summonses not reacted upon within the 10 working days window period are referred to the local Magistrates Courts in conjunction with the legal division, who have jurisdiction in these Courts. Default judgement is obtained and the relevant debtor is automatically also blacklisted at the credit bureau. A notice of the default judgement is then obtained and posted to the debtor by registered mail.
- [g] Default judgements not reacted upon within a further 10 working days are again presented at the Magistrate, who issues a warrant of execution, which can either order the sale of property of the debtor to recover arrears or order the debtor to be evicted in case of arrear rentals. Where the debtor has no fixed property a court order can be served on him/her to appear in court where the Magistrate can approve a garnishee order on the debt.
- [h] If the Council experiences a capacity problem in the recovery of arrears, a selected portion of the work overflow can be handed to an appointed attorney for the recovery of the debt. Any cost that arises from such action is directly recovered from the debtor by the attorney.

#### **[18] Cheques marked as “Refer to Drawer”**

If cheques are returned and marked as return to drawer, the full balance will immediately be payable in cash, electricity supply will immediately be terminated after a telephone call was made to inform the consumer of the RD cheque and the client failed to remedy the cheque within 12 hours. Bank charges will be payable

immediately by the client. In the event of a client having tendered a RD cheque once, no further cheques will be accepted from him, excluding bank guarantee cheques.

#### **[19] Persons placed under Administration / Liquidation**

Once the Municipality is notified of a person been placed under administration, all debt immediately before the date of administration should be placed in abeyance. The debtor should not be allowed to get into arrears again. No arrangements is to be made with the owner of the property without the written approval of the Administrator. Monthly contributions from the Administrator is to be deducted from the debt placed in abeyance. Municipality may restrict the water and / or electricity services or request the client to install pre-paid devices.

#### **[20] Training**

All relevant officials need to be trained on a regular basis on new legislation and best practices. Regular meetings need to be held with officials to obtain feedback on current work procedures and possible improvements.

#### **[21] Disconnections and Restriction Procedure**

The Council shall ensure that:

- [a] Services in respect of clients in arrears after due date shall be disconnected after a disconnection notice, as provided for herein, is issued to the client.
- [b] A monthly report on the outstanding debt and collection rate per ward, as allowed by the municipal finance software, is to be submitted to the finance standing committee and to the quarterly Council meetings.
- [c] Before the supply of services is restored the outstanding Municipal account together with all levies charged must be paid in full or an arrangement must be made for settlement of the account in full.
- [d] Only one arrangement per client will be entertained by Council.
- [e] No services will be provided to any client in arrears with his arrangement until and unless the outstanding arrears on the current arrangement and all levies charged have been paid in full or with permission of the CFO.
- [f] The account of the arrear debtor is debited with the applicable levies and charges as provided for herein before the services are restored.
- [g] That the deposit of the arrear debtor is adjusted as provided herein.
- [h] In the event of a dispute arising the duty shall be on the client to submit the dispute in writing in terms of the appeal procedure



- [i] That regular follow-ups are conducted on disconnected services to prevent illegal reconnection or tampering and to implement action in terms of the Credit Control and Debt Collection By-law on all illegal reconnection and tampers found.
- [j] The account of the client is to be debited with the cost of such actions. The Municipality may also request the client to install a pre-paid device.

## **[22] Estate Accounts**

In the event of a deceased client the Council must notify and request the legal occupants of the household to sign a new service agreement within a certain time period determined by the municipal manager or his representative. The final account in the name of the deceased will then be forwarded to the respective executor of the estate for payment.

## **[23] Meter Readings**

Meters will be read on a monthly basis. Deviation lists to be verified every month to ensure the correctness of the billing process. Serious deviations to be investigated by a meter reader before billing.

## **[24] Theft and Fraud**

- [a] The Municipality condemns theft and fraud of municipal services and will monitor the service networks for signs of suspected tampering or irregularities. If it appears that any service was utilised or consumed without prior authorisation, or that any of the Council's property or equipment used for the provision or measuring of services has been stolen, tampered with or damaged, the matter must be investigated and can lay criminal charges if and where it deems it to be appropriate.
- [b] The Council may approve specific penalties and distinguish between cases of vandalism and theft.
- [c] Subsequent acts of suspected tampering might lead to a refusal to supply certain services for at least 90 days (in) or other periods decided by Council.
- [d] Illegal reconnection/tampering of electricity If consecutive follow-up actions due to no reaction by the debtor reveal that a connection has been tampered with, damaged or the municipal seal has been broken, a permanent disconnection is done and is accompanied by the gathering of evidence for the purpose of prosecution of the offending client. In such cases, the Municipality will also block any further vending of prepay electricity where such a meter is installed. A request to reconnect a permanent disconnection would only be done once all arrears on such property has been settled and advance payment for a new connection was received and an increase deposit will be required from the debtor.
- [e] The reconnection will be considered as a new application and current installation costs will apply.
- [f] Electricity supply discontinued due to non-payment will be reconnected after receipt of the required amount and the signing of the repayment contract set out in this policy.

- [g] If the reconnection of the electricity involves the installation of a prepay type meter, the installation/reconnection can only take place after payment for the provision of the meter has been received by the Municipality.

## **[25] Reporting and Performance Management**

- [a] The Chief Financial Officer shall report quarterly to the Municipal Manager in a suitable format to enable the Municipal Manager to report to the Executive Committee. This report shall contain particulars on:
- [i] Cash collection statistics, showing high-level debt recovery information (numbers of customers; enquires; arrangements; default arrangements; growth or reduction of arrear debt). Where possible, the statistics should ideally be divided into business (commerce and industry), domestic, state, institutional and other such divisions.
  - [ii] If in the opinion of the Chief Financial Officer, Council 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 he agrees with the Chief Financial Officer, immediately move for a revision of the budget according to realistically realisable income levels.
- [b] Debt will be regarded as irrecoverable / bad debt if:
- [i] All reasonable notifications and cost-effective measures to recover a specific outstanding amount have been exhausted; or
  - [ii] If the amount to be recovered is too small to warrant further endeavours to collect; or
  - [iii] The cost to recover the debts does not warrant further action, i.e. to summons in another country; or
  - [iv] The amount outstanding is the residue after payment of a dividend in the rand from an insolvent estate; or
  - [v] A deceased estate has no liquid assets to cover the outstanding amount; or
  - [vi] It has been proven that the debt has prescribed; or
  - [vii] The debtor is untraceable or cannot be identified so as to proceed with further action; or
  - [viii] It is impossible to prove the debt outstanding; or
  - [ix] The outstanding amount is due to an administrative error by Council

## **[c] Authorisation -**

- [i] As rates are deemed to be recoverable in all instances, all requests to write-off debt



in respect of rates must be presented as individual items to the Chief Financial Officer who would submit it to the Accounting Officer / Council for consideration with a view to write-off such debt as irrecoverable.

- [ii] In terms of this policy the authority to write-off Irrecoverable / Bad Debt not exceeding R 100 000.00 is delegated to the Accounting Officer. Does this refer to per debtor or in total for a year.
- [iii] In respect of other debt, schedules indicating the debtor account number, the debtor's name, the physical address in respect of which the debt was raised, address erf number, if applicable, amount per account category as well as the steps taken to recover a debt and a reason to write off the amount, must be compiled. The debt should be discussed and endorsed with the Chief Financial Officer where after it would be submitted to the Accounting Officer / Council for consideration with a view to write-off such debt as irrecoverable.
- [iv] Notwithstanding the above, the Accounting Officer and or Council will be under no obligation to write-off any particular debt and will always have the sole discretion to do so.

**[d] Provision -**

- [i] The Chief Financial Officer will annually with the compilation of the annual financial statement take into account and report on all outstanding debt.
- [ii] The Chief Financial Officer will ensure that provision is made for irrecoverable / bad debt for all debt outstanding for more than 90 days. This does not necessarily mean that authorization as required above is given upon approval of the annual financial statements.

**[26] Income Collection Target**

The long-term target is a debtor turnover ratio of 45 days, that is, debtors are expected to pay for services on average in a month and a half.

**[27] Application of the Policy**

The Council reserves the right to differentiate between different categories of consumers, debtors, services or service standards when applying the 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.