

## THE CITY OF HAMILTON

### PROVINCIAL OFFENCES WRITE-OFF PROCEDURES

**EFFECTIVE DATE: May 8, 2008**

**Revised: March 6, 2017**

#### PURPOSE

The purpose of the City of Hamilton Provincial Offences Act (POA) Write-Off Best Practices is:

- To provide for a responsible and proactive approach to City of Hamilton POA receivables that have either been deemed “Uncollectible”, or have met minimum requirements established by the City of Hamilton in conjunction with the Ministry of Attorney General (MAG) for write-off.
- The City of Hamilton, POA court must demonstrate Due Diligence with respect to write-off's of POA accounts receivable.
- All reasonable efforts are made to minimize the value of POA accounts receivable recommended for “Write-off”.

#### DEFINITIONS

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|-----------------|--|
| • CAMS          | Court Administration Management System   |
| • CW            | Council Write-off  |
| • DP            | Dead Person  |
| • ICON          | Integrated Courts Offence Network  |
| • MAG           | Ministry of the Attorney General   |
| • MLEO          | Municipal Law Enforcement Office   |
| • MOU           | Memorandum of Understanding  |
| • POA           | Provincial Offences Act  |
| • Write-off     | Means removal from City of Hamilton financial statements and cessation of collection activity  |
| • Underpayments | Outstanding POA accounts receivable of less than \$35.00. Underpayments for an amount over \$35.00 are to be written-off by Lynn Matthews, Shirley Wetherup or Lorraine Ophoven. |
| • UPs           | Underpayments  |

#### SCOPE

- The decision to write-off POA accounts receivable is a local decision. However, the Best Practice is subject to a POA Transfer Agreement and related Memorandum of Understanding (MOU) with MAG.
- This Best Practice for POA accounts receivable write-off has been developed to comply with guidance established through MAG and their Write-off Directive.

- The recommended Best Practices contained herein have been developed to provide the City of Hamilton, POA with a Best Practice regarding the write-off of POA accounts receivable that have been deemed “uncollectible”, plus underpayments and deceased persons.
- Where the City of Hamilton has written-Off POA accounts receivable and any part of the account is subsequently paid, the requirements of the POA Transfer Agreement and the Provincial Offences Act regarding remittance of funds to the Province of Ontario shall continue to apply.
- POA accounts receivable may be written-off for accounting purposes only. It does not absolve the convicted offender from the requirement to pay the outstanding fines. All fines imposed through POA courts are debts to the Crown and are not subject to the *Limitations Act*.

## PRACTISE

- The City of Hamilton has established a threshold for the collection of outstanding POA accounts receivable.
- With the exception of minor underpayments and deceased persons, POA accounts receivable marked for write-off must have been in default for a minimum of seven years.
- The City of Hamilton shall exhaust all reasonable and appropriate measures and efforts to collect unpaid fines prior to considering write-off. The following collection activities must be applied progressively before consideration of write-off is given. Once completed, they are deemed to be adequate evidence sufficient for write-off of Account Receivable:
  1. Timely creation and distribution of notices and communications.
  2. Progressively severe delinquency notices, including letters.
  3. Consideration of an extended payment plan.
  4. All administrative sanctions available have been applied.
  5. The use of specialized collection assistance.
  6. The use of appropriate Civil Enforcement mechanisms where deemed cost effective.
- Documentation in support of a write-off recommendation must at a minimum include the following:
  1. Copy of original Certificate of Offence or Part III information.
  2. Documentation as to all collection activities undertaken.
  3. Adequate records and reason for the recommended write-off.
- Action to collect accounts receivable outstanding less than seven years from individuals for whom a Death Certificate has been received may be undertaken should the City of Hamilton collection policy and protocols specifically require recoveries from Estates.
- The MOU requires that an equal effort to collect all unpaid fines regardless as to whether they are retained by the municipality or paid to a third party must be demonstrated.
- Write-off decisions of all POA accounts receivable must be transparent and justifiable and must not place the administration of justice into disrepute.

- Where the City of Hamilton has written-off POA accounts receivable and any portion of those accounts receivable are subsequently paid, the City of Hamilton must remit to the Province of Ontario, in a timely manner, all monies received in respect to fines, surcharges and fees that are payable to Ontario pursuant to section 165 (5) of the *Provincial Offences Act*.
- Where the City of Hamilton has written-Off POA accounts receivable and the related cases have been purged from ICON and any portion of those accounts receivable are subsequently paid, the cases related to the payment received must be re-entered into ICON and the payment must be recorded as revenue with supporting documents and distributed in accordance with the MOU.
- On an annual basis, the City of Hamilton must provide MAG, POA Unit, with information regarding the total value of all fines deemed "Uncollectible" and written-off during the previous municipal fiscal year as part of the annual performance and progress report.

## PROCEDURE

- Each year, in March, a report to Council will be prepared to obtain approval for the total amount of uncollectibles pulled from CAMS and the amount of underpayments and the amount for deceased persons pulled from ICON report Monthly Audit Write-off Report (RICO 2218) to determine the total amount to be written-off.
- The Collection Co-ordinator will generate two lists. One will be forwarded to MLEO to approve their portion of the write-off and one list to the Senior Court Administration Clerk for verification of POA fines.
- Upon Council approval, all original Defaulted Fine informations will be pulled and updated to CW in ICON. No suspensions are to written-off.
- UPs will be updated to CW from the Monthly Audit Write-off Report (RICO 2218) and sent to Production control in a flat file.
- The ICON purge will pick up the deceased persons from the DP code which appears on the Monthly Audit Write-off Report (RICO 2218).
- All write-offs are to be completed in ICON by June. Electronic file is sent to MAG once the Senior Court Administration Clerk has verified the list.
- MAG will produce a Preliminary Write-off Report which POA will balance to its CAMS reports and RICO 2218 in order to confirm the dollar amount to be written-off.
- Any disputes pertaining to the report will be forwarded to MAG by the end of June.
- If no disputes, files will be purged and a final write-off report is produced by MAG in October.

- The Collections Co-ordinator will pull the CAMS numbers in March of each year which will be added to the Underpayments amount pulled from the Monthly Audit Write-off Report (RICO 2218) from the ICON system for April 1 – March 31 annually. Deceased Persons fines being written-off will be pulled from the RICO 2218 ICON report for the same time frame each year thereafter. The ICON system will automatically purge all cases with a DP code in it and include this number in the final purge report. POA can determine that the amount reported to Council will be more than the actual write-off amount as the CAMS number provided will include the Victim Fine Surcharge (VFS) where the ICON final write-off report does not include VFS. The Collections Co-ordinator determines if the author of the CAMS report can create a report that will separate the VFS from fine, costs and fee to better permit POA to provide a more accurate write-off number. MAG will generate a preliminary write-off report in June of each year and the final write-off report in October. Upon issuance of the preliminary purge report, the Collections Co-ordinator and the Co-ordinator of Court Services will compare the ICON purge numbers to the Council write-off numbers for reconciliation purposes.