



# **POLICY No. 2018-04**

## **Provincial Offences Act Fine Collection & Write-Off Policy**

**Originating Department** Clerks Division

**Council in Committee:** 2018-06-19

**Recommendation #:** 19

**Council Approval:** 2018-06-25

**Resolution #:** 92-18

**Revision History:**

[Click here for revision history](#)

### **1. PURPOSE**

The purpose of the Provincial Offences Act Fine Collection & Write-Off Policy is to provide an effective and proactive approach to the collection of fines and a process for the write-off of arrears that have been deemed uncollectible.

### **2. POLICY STATEMENT**

The objective of the Provincial Offences Act (POA) collection and write-off process is to support efficient and responsible financial reporting that provides an accurate reflection of collectible POA revenue. The policy will provide guidelines and best practices to ensure staff are demonstrating due diligence with respect to the collection and write-off of POA arrears, as well as applying reasonable efforts to minimize the amount of accounts recommended for write-off on an annual basis.

### **3. DEFINITIONS**

- 3.1. Integrated Courts Offense Network (ICON) – the provincially mandated database that POA offices are required to use as per the transfer agreement between the Province and Haldimand County.
- 3.2. MAG – Ministry of Attorney General
- 3.3. MTO – Ministry of Transportation
- 3.4. MOU – Memorandum of Understanding
- 3.5. POA – Provincial Offences Act
- 3.6. Uncollectable – a financial obligation, in this case a fine and any associated fees or charges, that have been deemed to have little or no chance of being collected.
- 3.7. Write-off – cessation of active collection activity and removal of accounts receivable from the ICON system and municipal financial statements.

#### 4. LEGISLATIVE AUTHORITY

The collection of POA fines by municipalities and the remittance of dedicated fines, surcharges and fees that are payable to the Province and/or a municipality is legislated by the Province of Ontario. The regulations and authority related to this function is subject to the POA Transfer Agreement between Haldimand County and the Province and the related MOU with MAG.

#### 5. SCOPE

- 5.1. The decision to write off POA accounts receivable that have been deemed uncollectible is a local decision, and is subject to the directives and operating guidelines outlined by MAG.
- 5.2. The municipality must ensure all available efforts to collect unpaid, defaulted fines have been exhausted prior to recommending any outstanding amounts for write-off.
- 5.3. Where any POA fine has been written off and any portion is subsequently paid, the requirements to remit certain funds to the Province of Ontario still apply, as set out in the POA Transfer Agreements and the *Provincial Offences Act*.
- 5.4. Writing off POA fines is for accounting purposes only and does not absolve a convicted offender from the requirement to pay the fine. Debts owed to the Crown are permanent and are never forgiven nor subject to the *Limitations Act*.
- 5.5. Collection activities related to a written off account may resume should conditions change and the account be deemed once again collectible.
- 5.6. Records must be retained with respect to the accounts being written-off to provide an audit trail to support any future reinstatement of collection efforts.
- 5.7. The municipality will ensure that equal treatment and efforts regarding the collection of all POA fines will be applied, without any regard to whether the resulting fine will be retained by the municipality or remitted to another third party.
- 5.8. The municipality must ensure that decisions to write off POA accounts receivable are justifiable and transparent.

## 6. POLICY FRAMEWORK

6.1. The following collection activities must have been applied and exhausted in order to provide sufficient evidence to consider recommending write-off of an outstanding fine:

Collection Method	Timeframe
Notices of Fine and Due Date	x1 Letter for each individual fine that remains unpaid 45 Days after conviction and automatically generated by MAG
Consideration of an extended payment plan	Any time after conviction, upon request of the defendant and with approval currently at the discretion of the Justice of the Peace
Collections Notice of Unpaid Fine(s) (Internal collection letter)	x1 Letter sent out after the Notice of Fine and Due Date is sent out but prior to driver's licence suspensions and Third Party Collection Agency referrals
Suspension of driver's licence through the MTO, if applicable	Automatically carried out 16-30 days after the Notice of Fine and Due Date is sent out where no response received and failing all other attempts to collect
Licence Plate denial program through the MTO (effective as of May 1, 2017), if applicable	Occurs concurrently with driver's licence suspension activities
Use of Third Party Collection Agencies	All unpaid accounts are referred to the County's Collection Agencies 60 days after conviction and are subject to additional attempts to find and contact the defendant
Transfer of outstanding fines to tax roll if name is identical	If applicable and at the discretion of the Treasurer, any time after the above methods have been exhausted
Civil enforcement measures through Small Claims Court, if applicable	On larger accounts, previously uncollectible by a collection agencies, with a fine value that warrants the cost of this process or civil enforcement is deemed necessary for other business reasons

6.2. The threshold for the write-off of outstanding POA fines is limited to the following:

- a. Any outstanding fine that is eight years or older (as of January 1<sup>st</sup> of the current year) and where all available collection efforts have been exhausted;
- b. Any case where the collection options are not available due to a company in default with satisfactory proof of dissolution, inactive status or bankruptcy (satisfactory proof includes articles of dissolution, notice of bankruptcy or Ministry notification that the corporation is inactive/cancelled);
- c. Any outstanding balance of \$25.00 or less resulting from incomplete payment of fines (i.e. an individual paid the fine but did not pay the added costs) and where the remaining balance owing has been in default for a minimum of two years (as of January 1<sup>st</sup> of the current year);
- d. Any fine of a deceased person for whom a death certificate has been received.

- 6.3. The following information is required in support of a recommendation for write-off and shall be noted within the supporting documentation pertaining to each fine for use in the POA office only:
- Copy of original Certificate of Offence or Part II Information;
  - Record of additional costs and fees included in the outstanding amount;
  - Indication of the collection activities utilized;
  - Reason the write-off is recommended.
- 6.4. For any POA fine that has been written-off and purged from ICON whereby a portion of that account is subsequently paid, the account related to the payment must be re-entered into ICON so the payment can be recorded as revenue. All monies received related to any fines, surcharges and fees that are payable to the Province of Ontario must be remitted, in a timely manner, to the Province as outlined in Section 165(5) of the *Provincial Offences Act*.
- 6.5. By way of the Annual POA Report to MAG, information related to the total value of all fines deemed “uncollectible” and written-off in a fiscal period must be provided to the MAG, POA Unit.

## 7. PROCEDURE

- In February of each year, POA staff will compile a report indicating the outstanding fines. This report will be analyzed as to the collection steps outlined in Section 6.1 of this policy which will be used to identify any gaps in previous collections attempts or deem fines as uncollectable where all collection methods have been exhausted.
- The report will be reviewed by the POA Supervisor to determine the potential fines that should be recommended for write-off, followed by a report to Council to obtain approval.
- Upon approval from Council and in accordance with MAG’s annual write-off timelines, POA staff will notify the Ministry of the Council approved write-offs and forward the supporting documentation related to each fine including the date of the offence, the defendant’s name, the total amount owing and any related fees added to the fine such as the Victim Fine Surcharge and Collection Agency fees.
- MAG will produce a Preliminary Write-off Report for the municipality to review and approve.
- The final write-offs will be completed by MAG following confirmation of the amounts and approval to proceed from the County.

REVISION HISTORY					
REPORT	CIC		COUNCIL		DETAILS
	Date	Rec#	Date	Res#	
	Date	Rec#	Date	Res#	
	Date	Rec#	Date	Res#	
	Date	Rec#	Date	Res#	
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