

SWARTLAND MUNICIPALITY

**INDIGENT MANAGEMENT
POLICY**

REVIEWED AND AMENDED

MAY 2024

Preamble

Whereas section 96 of the Local Government: Municipal Systems Act, 32 of 2000 (“The Act”) requires a municipality to adopt, maintain and implement a credit control and debt review policy which is consistent with its rates and tariff policies and complies with the provision of the Act.

And whereas section 97 (c) of the Act further requires that such policy must provide for “Provision of indigent debtors that is consistent with its rates and tariff policies and any national policies on indigents”

And whereas section 10 of the Credit Control and Debt Collection by-law (“The By-law”) of the Swartland Municipality provides that financial assistance may be granted by the municipality to person/s that meet the criteria as set-out in this indigent policy.

Now therefore the Municipal Council of the Swartland Municipality adopts and confirms the Indigent policy as set out in this document.

Constitutional Framework

Section 156 of the Constitution of the Republic of South Africa, 1996 (“The Constitution”) provides amongst other for the following:

A municipality has executive authority in respect of, and has the right to administer—

The local government matters in part B of Schedule 4 and part B of Schedule 5. These services include water, electricity, sanitation and refuse removal.

In terms of section 227 of the Constitution, local government is entitled to an equitable share of nationally raised revenue to enable it to provide basic services and perform the functions allocated to it. The local government equitable share is an unconditional transfer that supplements the revenue which municipalities can raise themselves (including revenue raised through property rates and service charges). The equitable share provides funding for municipalities to deliver free basic services to registered poor households and subsidises the cost of administration and other core services.

In order to achieve the objective cited above the Swartland Municipality receives an annual Equitable Share from National Government and elected that the bulk of this Share may be utilised to finance those basic services to households who qualify in terms of this Indigent policy and for the express purpose of poverty alleviation and dignified living conditions.

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1. Definitions

In this policy, unless the context indicate otherwise–

"account" includes–

- (a) levies, surcharges or service charges in respect of the following services:
 - (i) electricity consumption;
 - (ii) water consumption;
 - (iii) refuse removal;
 - (iv) sewage services;
- (b) rates;
- (c) rental;
- (d) loan instalments
- (e) interest on arrears;
- (f) any other levies and money owing to the Municipality;

and **"municipal account"** has a corresponding meaning;

"arrears" means any amount due and payable to the Municipality which has not been paid on or before the due date for payment;

"Applicant" means, registered homeowner, occupant or child headed household who makes a formal written application on the prescribed form required for the indigent subsidy and for purposes of clarity exclude those instances in 2014 where the subsidy was allocated automatically with the criteria only being the property value of \leq R 115 000.00;

"child-headed household" means a household where both parents are deceased and where all the occupants of the property are children or beneficiaries of the deceased or any other previous occupant and are younger than 18 years old, i.e. a child-headed household is a household consisting only of children;

"household" means a registered homeowner, including all members of the household and/or occupants with or without children who reside on the same premises inclusive of the definition of a child headed household;

"illegal practises" means any practise or trade exercised on premises which is in contravention of any National or Provincial legislation or any by-laws or regulations of the municipality;

"household income" means any form of income of the entire household whether as a full-time or part-time employee which shall include old age grants (Old persons grants) and social disability grants, but exclude foster care grants and child support grants; and shall be known as the combined income of the household;

"indigent household" means a household, including a child-headed household, registered as such with the Municipality lacking the necessities of life which –

- (a) complied with the property threshold criteria as set in 2014 until such time that an audit or in-loco inspection is performed or re-application is made ;or
- (b) qualifies per the requirements set in paragraph 3; or
- (c) still qualifies as per an audit or an in-loco inspection as referred to in paragraph 4; and
- (d) occupies property within the boundaries of the jurisdiction of the municipality; and
- (e) includes all persons who live on the property;

“Covid-19” means the name given by the World Health Organization (WHO) on February 11, 2020 for the disease caused by the novel coronavirus SARS-CoV-2. It started in Wuhan, China in late 2019 and has since spread worldwide. COVID-19 is an acronym that stands for coronavirus disease of 2019;

“Lock-down” means the confining of people to their homes or a state of isolation or restricted access instituted by the President as a preventative measure typically in order to manage a pandemic or any other disaster ;

“Member” means any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, and shall include adoptive relationships;

"municipality" means the Swartland Municipality established in terms of Section 21 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorized agent or any employee acting in connection with this policy by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"municipal services" means the provision of water and electricity, the removal of domestic waste, the disposal of sewage or any one combination of these services;

"municipal valuation" means the value of the property as determined in terms of the Property Rates Act, 6 of 2004;

"occupier" means any person who occupies any property or part thereof or has control over such premises, without taking cognisance of the title in which such person occupies the property;

“official” means any municipal official in the Credit Control Department whether as a permanent employee or under a temporary contract or intern;

"owner" in relation to immovable property means –

- (a) the person in whom is vested the legal title thereto provided that –

- (i) the lease of immovable property which is leased for a period of not less than fifty years, whether lease is registered or not, shall be deemed to be owner thereof, and
- (ii) the occupier of immovable property occupied in terms of a service or right analogous thereto shall be deemed the owner thereof;
- (b) if the owner is deceased, or the deceased estate is insolvent, or has assigned his or her estate for the benefit of his or her creditors, or has been placed under curatorship by order of court or is a company being wound up or under judicial management, then the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be;
- (c) if the owner is absent from the Republic or if his or her address is unknown to the municipality, then any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property; or
- (d) if the municipality is unable to determine who such person is, then the person who is entitled to the beneficial use of such property;
- (e) if the owner is deceased and the executor being duly authorised issues an affidavit that the occupier is the legal beneficiary of the estate or the authorised occupier of the property;

“POPIA” means the Protection of Personal Information Act 4 of 2013

"pre-payment electricity meter" means a type of electricity meter that requires consumers to pay for energy before using it and that will allow the flow of the pre-purchased amounts of energy in an electrical circuit;

"property" means any portion of land of which the boundaries are determined within the jurisdiction of the Municipality;

"Property Rates Act" means the Local Government: Municipal Property Rates Act, 6 of 2004 as amended from time to time;

"water demand management meter" means a device designed to manage/restrict the water flow, water consumption or water needs of a residential or any other property.

2. Objective

(1) The objective of the indigent policy is to ensure the following –

- (a) the provision of basic services to the community in a sustainable manner, within the financial and administrative capacity of the council; and
 - (b) provide procedures and guidelines for the subsidization of basic service(s) charges to its indigent households, using the council’s budgetary provisions and the equitable share grant received from national government in accordance with prescribed policy guidelines.
- (2) The council also recognizes that many of the residents can simply not afford the cost of full municipal service provision and for this reason the council will endeavour to ensure affordability through,

- (a) setting tariffs in terms of the councils tariff policy, which will balance the economic viability of continued service delivery.

3. Purpose of the indigent policy

- (1) The purpose of the policy is to consider the socio-economic and other conditions presently prevalent in South Africa, such as the level of unemployment and poverty.
- (2) The policy aims to address this through the application of services rendered to consumers who cannot afford to pay.
- (3) The council accepts that it is responsible for the rendering of services in terms of schedules 4 and 5 of the constitution as well as other services, which may be delegated by national and provincial government.
- (4) The council endeavours to render a basic level of service necessary to ensure an acceptable and reasonable quality of life, which takes into consideration health and environmental concerns.
- (5) The council is therefore of the view that none of the residents should fall below the minimum level of services.

4. Qualification of automatic indigent approvals granted in 2014 based on the property valuation threshold of \leq R 115 000.00(which includes the impermissible tax of R 15 000) as the single qualification criteria:

- (1) Indigent households who qualified as a result of the threshold value in 2014 are deemed to still qualify for the subsidy (this however does not justify that indigent households who do not qualify, still receiving same as this directly disadvantage deserving households).
- (2) Council has the responsibility to act within the interest of all its citizens and to equitable and fairly ensure that those households who are able to pay for services does so and only those deserving families received the free basic services.
In the event that the annual vetting and/or audit process finds that a household may no longer qualify for the indigent subsidy, based on income or other set criteria as outlined in this policy, the subsidy eligibility may be reassessed/cancelled.
- (4) Council is acutely aware of the social demise this could cause, and therefore;
 - (a) Council will certainly apply the principles of The Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) ("PAJA") that gives effect to the right to administrative action that is lawful, reasonable and fair; and
 - (b) Affected indigent households will have 14 days to object/appeal after receiving a letter of termination and will have to re-apply for the free basic services component should they be successful in their object/appeal.

5. Qualification criteria for financial assistance where an application was or is made

(1) Financial assistance may be granted by the municipality to a household that meets the following criteria:

(a) where the property occupied by such owner is valued at R105 000.00 or less, or as determined by council annually, provided that the R15 000.00 exemption as contemplated in section 17(1)(h) of the Act shall be excluded from the R105 000.00 and the combined income of the occupants of the property does not exceed R4 515.00;

(b) where the property that is occupied by the owner is valued at more than R105 000.00, but the combined income of the occupants does not exceed R4 515.00; or

(c) where the occupier is not the owner of the property and the combined income of the occupants does not exceed R4 515.00; and

where it is found that a state official whether from a national, provincial or local department is resident on a property, the indigent subsidy will not be granted or cancelled as the case may be.

(2) The Manager: Legal and Credit Control may as a discretionary provision increase the income limitation in sub paragraph 1 where extraordinary circumstances prevail, such as—

(a) where a large number of the persons living in the property are without any income or where the living conditions warrant such approval;

(b) where they have to care for dependents or family members who are handicapped or who suffer from chronic or terminal illness; or

(c) where elderly persons reside with an income that does not exceed an amount that is equal to or less than twice the age grant paid by the Government to qualifying beneficiaries as from time to time determined by the Minister of Social Development, with the proviso that the household consumption does not exceed the monthly indigent allowable consumption allocation and where the monthly consumption exceeds, such will become due and payable by the consumer and therefore credit control measures may be executed.

(3) The applicant must be a resident of the municipal area of jurisdiction. (the applicant must be a South Africa citizen with valid South African identity documentation) or in the case where such applicant is not a South African citizen then such applicant should possess a valid foreign national resident status and should be resident within the jurisdiction of the municipality.

(4) The applicant must either receive the municipal services and be registered as an account holder on the municipal financial system or be a beneficiary of the estate of the owner or be the occupier who has the consent of the owner or executor of the estate.

- (5) For purposes of a service connection and updating of the indigent register only the lawful beneficiary's information, where such information is readily available, shall be processed subject to the minimum conditions for lawful processing in terms of the provisions of POPIA. The municipality recognize the complexities involved in the winding-up processes of estates. The municipality's approach aims to facilitate this transition smoothly, respecting the sensitive nature of these circumstances and may include, correcting the beneficiary's information on the financial system for purposes of regularizing the occupants, in a bid to have the correct information on the financial system that coincides with the indigent register. The aforementioned must not be read to mean that it suggests or infer any rights on the individual/household as it pertain to the property concerned.
- (6) The applicant, applicant's spouse or legal children who reside with their parents may not be the legal owners of other immovable property, irrespective whether such property is situated within or outside of the municipal boundary.
- (7) If the applicant is a seasonal worker the income limits shall be calculated over a period of one year to approximate a monthly income. (ie:seasonal workers with a 6 months contract, as a yearly with an average monthly income @ R2500-00 monthly $6 * R2500-00 = R15000-00 / 12 \text{ months} = R1250-00$)
- (8) Households that are child headed, can apply for financial assistance when—
- (a) the parents of the household has died;
 - (b) a minor has assumed the role of care giver in respect of another minor in the household;
 - (c) the main caregiver of the household is younger than 18 years of age; or
 - (d) such minors reside permanently on the property,
- the situation pertaining to the household must be verified in writing by a registered Social Worker and Ward Councillor.
- (9) The onus to apply for financial assistance, rest with the occupier or household.
- (10) An application shall be accompanied by the following documentation and shall be processed subject to the minimum conditions for lawful processing in terms of the provisions of POPIA:
- (a) duly completed application whether electronically(as a paperless application) or on the prescribed hard copy form signed in full by the applicant or with a thumbprint when done electronically (this shall not be applicable when adhoc audits and in loco visits are conducted by a municipal official or it's duly appointed agents from time to time unless re-application is required in terms of this policy);
 - (b) certified copies of all occupants' identity documents, excluding minor children, unless the minor child is the applicant whether it be a SA identity document or

a valid foreign national identity document; (where re-applications and audits are conducted during in loco visits non-certified copies will suffice, and written confirmation from the official and agent that he/she cited the original document will be accepted)

- (c) proof of income, or an affidavit confirming unemployment status as per (b) above;
 - (d) three months bank statements for working members of a household where a banking accounts exist;
 - (e) particulars of any other grants received by the occupants;
 - (f) any other proof of ownership or residence which excludes municipal accounts; (where applicable)
 - (g) birth certificates where necessary, and only and most notably in the case of child headed households when the minor child is the applicant;
 - (h) copy of the applicant's all pay cards or any proof that the applicant is a SASSA recipient ;
 - (i) a marriage certificate (only where applicable),
- with the proviso that the Manager: Legal and Credit Control may in his/her sole discretion, and on good cause or any extraordinary circumstances, consider less or more of the above.

6. Accepted qualification criteria for indigent households being audited inclusive of those indigent households that qualified under the 2014 property threshold criteria and in order for an indigent household to receive ongoing subsidy, the following will be sufficient:

- (a) an audit report or a new electronic application completed by a duly authorised official or duly appointed agents from the Credit Control Department; or
- (b) any other documentation in support of the status of the occupants, with the proviso that the Manager :Legal and Credit Control may in his/her sole discretion, and on good cause or any extraordinary circumstances, consider more or less of the above.

7. Appropriation of financial assistance

- (1) Subject to sustainability and affordability, financial assistance to an indigent household shall be appropriated as follows –
 - (a) 50 kWh electricity per month; which shall include the basic charge of electricity for the month where a conventional meter is applicable;
 - (b) sanitation fees or the fees payable in respect of the pumping of a suction tank to an amount equal to the tariff determined;
 - (c) fees for waste removal;
 - (d) 6 kl water per month; which shall include the water network charge for the month; and
 - (e) rates payable to a maximum amount calculated at the tariff multiplied by R105 000,00 or less, provided that the R15 000.00 exemption as contemplated in section 17(1)(h) of the Act shall be excluded ,

- (2) sewerage blockages for indigent households will be subject to a reduced sewerage service fee as determined by the director of finance and subject to the municipality's rates and tariff policies.
- (3) The municipality may, annually during the budget process, revise the financial assistance given to indigents.

8. Free bulk services

- (1) Free bulk services shall be the provision of services (water stand pipes, high mast lighting and refuse removal) to informal settlements.
- (2) The cost of the provision of free bulk services is recovered from the equitable share and in the case of water recovered per the Tariff Policy and approved tariffs from the Equitable Share Allocation by National Government.

9. Excess usage of allocation and arrear municipal accounts

- (1) If the level of consumption of the indigent household exceeds the consumption level provided by the municipality, the household will be liable to pay for the excess consumption on a monthly basis. Should the municipal account be in arrears due to the non-payment for the excess consumption used, such account will be subject to the municipality's credit control and debt collection measures.
- (2) If the level of consumption or use of a municipal service is less than the subsidized service, the unused portion shall not be transferable from one month to another.
- (3) The municipality reserves the right to install a prepaid electricity meter on a property that is occupied by an indigent household, where the electricity supply has been disconnected for non-payment or tampering, or where the electricity usages are excessive and not affordable, in which case the meter remains the property of the municipality.
- (4) The municipality may withhold or limit the units purchased for a prepayment electricity meter or offset a portion of any payment against arrears as a result of non-payment of the municipal account in the case of excess consumption, therefore—
 - (a) the municipality may in the above instance if and when so decided allow only 20% for pre-paid electricity use when a payment is made towards an outstanding pre-paid electricity account of an indigent consumer whose arrears accounts was provisionally suspended. During any period of disaster ie: lock-down due to Covid-19 limitation on the purchase of pre-paid electricity will be suspended (until such time that the disaster is lifted whether nationally or provincially).
 - (b) such consumers can only purchase pre-paid electricity from the local municipal office - this is applicable to indigent households only.

- (5) The municipality reserves the right to install a water demand management meter on a property that is occupied by an indigent household and located in an area where Eskom is the service provider, or for non-payment or tampering, or where the water usages are excessive and not affordable, in which case the meter remains the property of the municipality. The installation of water demand management meters will be suspended during any period of disaster ie: lock-down due to Covid-19 (until such time that the disaster is lifted whether nationally or provincially).
- (6) The cost of the replacement of a conventional electricity meter with a prepayment electricity meter, as well as the cost of the installation of a water demand management meter on a property, will be recovered from the Equitable Share Allocation received from National Treasury.

10. Processing and verifications of applications

- (1) The application for financial assistance will be registered and the information of the indigent beneficiaries will be contained in an indigent register.
- (2) The indigent register, together with the applications and required documentation will be maintained with due consideration of the Protection of Personal Information Act, 4 of 2013.
 - (3) The municipality reserve its rights, when deemed necessary and subject to capacity, to conduct audits to verify the authenticity of the information furnished or possible changes in the status of applicants.
 - (4) The frequency of such audits will depend on the institutional capacity and subject to the discretion of the Director of Financial Services. Audits during the period of any disaster ie: lock-down due to Covid-19 will be suspended (until such time as the state of disaster is lifted whether nationally or provincially).
 - (5) Any official from the Credit Control Department including it's appointed agents are herewith duly authorised in terms of this policy to conduct audits or in-loco inspections to indigent households and to provide such audit reports as referred to in paragraph 6.

11. Cancellation of financial assistance/ or request for deregistration of subsidy

- (1) All steps necessary must be taken to prevent unlawful access to financial assistance as an indigent household, and for this reason the Manager: legal and Credit Control may—
 - (a) at any time, investigate the financial circumstances of an indigent household;
 - (b) request documentary proof or information pertaining to the income or lifestyle of the household;

- (c) verify the information furnished by a household or member by;
 - (i) conducting interviews with; and
 - (ii) the taking of statements from such member or any other person; and
 - (d) after proper notice, review, suspend or cancel the indigent household's financial assistance if illegal practises are present on the premises which include, but are not limited to –
 - (i) building operations without approval;
 - (ii) business or commercial uses in contravention of the Town Planning Scheme Regulations;
 - (iii) dealing in liquor or prohibited substances;
 - (iv) false information had been furnished in an effort to obtain or retain financial assistance; or
 - (v) circumstances have changed to such an extent that the indigent household no longer complies with one or more of the requirements mentioned in paragraph 5.
- (2) In case of cancellation of financial assistance in terms of paragraph .11(1) the indigent household shall forfeit all financial assistance with immediate effect and the municipality shall be entitled to re-claim the financial assistance granted to the indigent household, by giving notice to the affected household within 48 (forty eight) hours of such decision –
- (a) from the date it was originally granted where sub paragraph .(1) (d) (i) & (ii) applies; or
 - (b) from the date on which the circumstances referred to in sub paragraph .(1) (d) (iii) - (v) changed or, if such date cannot be determined, from the date on which it was established that the owner or tenant no longer complied with the qualifying criteria and other requirements as set out in the policy.
- (3) An indigent household, whose indigent support has been suspended or cancelled, shall at the discretion of the Manager: Legal and Credit Control, be reconsidered for support if the circumstances leading to the suspension or cancellation have been rectified and the required documentary proof is provided.
- (4) An indigent household should immediately or as soon as reasonably possible request deregistration of the subsidy when –
- (a) the property had been sold; or
 - (b) the household's circumstances have change and the need for the subsidy is no longer required; or
 - (c) the household no longer qualify for the subsidy in terms of the qualifying criteria of the policy (this relates to the duty that rest on the indigent household of keeping the municipality informed).

12. Duration of Indigent Subsidy

- (1) All subsidies will be granted and processed on the municipality's financial system based on the income profile of the household or any such criteria required by this policy.
- (2) Subsidies are not approved indefinitely and in this regard the municipality reserves the express right to cancel same should information become available that justifies cancellation. An annual vetting of all indigent households will be conducted using a third-party vendor system. This vetting process is essential to ensure compliance with the qualifying criteria year-on-year.
- (3) Reasonable notice will be given to the affected indigent households in this regard, prior to cancellation.

13. Irrecoverable Debt

- (1) Debt will only be written off as irrecoverable if it has been approved by council.
- (2) Once an indigent application has been registered council may consider writing off such debt

14. Legal Process

No legal process will commence against any indigent household for outstanding debt as long as such household is recognised as an indigent household in terms of this policy.

15. Appeals Process

The Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) ("PAJA") gives effect to the right to administrative action that is lawful, reasonable and fair, therefore all persons whose indigent subsidy was terminated for whatever reason shall be given the right of appeal and will be required to either make formal written submission; or those who cannot read or write can visit the municipal office credit control and make formal oral submissions to the designated officials.

16. Short title and commencement

This policy is the Indigent Policy of Swartland Municipality which came into effect on 1 July 2017, suffice for the subsequent revisions and the automatic approvals granted in 2014 deemed to still qualify subject to the further provisions set herein.