MCMA – POA Collections Committee Best Practices – POA Write-Offs

BACKGROUND:

Municipalities should periodically review POA fines deemed uncollectable and recommend them for write-off. Write-off means the cessation of active collection activities. The Write-Off of a fine is only for accounting purposes and does not absolve a convicted offender from the requirement to pay the fine as a debt to the Crown is owed in perpetuity and never forgiven.

On February 25th, 2008, the Ministry of the Attorney General released the 'Write-Off Directive and Operating Guideline', (MAG Bulletin 089) to provide guidance to Municipalities outlining the minimum requirements to be met in order to write-off POA fines. The directive applies to all Municipal Partners who are subject to the POA Transfer Agreement and the related Memorandum of Understanding (MOU) with the Ministry of the Attorney General.

The decision to write-off POA fines which have been deemed to be uncollectable is a local decision to be made by the individual Municipalities. Each Municipality must follow the Ministry of the Attorney General Directive to ensure that the Province, its Ministries and Agencies will not try to collect any portion of the written off fines.

The Municipal Partner should have its written policy and protocol for the collection of unpaid, defaulted POA fines and criteria for write-off of uncollectible amounts approved by The Municipalities' Council or by the Council Committee responsible for the administration of POA courts via a Municipal By-law.

When a Municipal Partner has written off a POA fine and any portion of the fine amount is subsequently paid, the requirements of the POA Transfer Agreement and the Provincial Offences Act, including requirements with respect to the remittance of certain funds to the Province of Ontario upon collection continue to apply.

MAG WRITE-OFF PRINCIPLES:

- All reasonable effort to collect fines imposed under the POA must be made before any consideration for write-off is made.
- In accordance with the requirements of the MOU, an equal effort to collect unpaid fines, regardless as to whether they are retained by the Municipality or paid to a third party, must be demonstrated.
- Collection activities of written-off fines can be resumed when conditions change as fines imposed by POA Courts are debts owed to the Crown and therefore are not subject to the Limitations Act.

- Municipalities must retain adequate records after an account is written-off in order to support the possible future reinstatement of collection efforts.

DEFINITIONS & ACRONYMS:

CAC	Collection Agency Costs
CAMS	Court Administration Management System
COD	Certificate of Default
DER	Data Extract Request
DFCC	Defaulted Fines Control Centre
ICON	Integrated Court Offences Network
IACVH	ICON Re-instatement Screen
IOWRF	ICON Write-off Screen
MAG	Ministry of the Attorney General
MOU	Memorandum of Understanding
MTO	Ministry of Transportation Ontario
POA	Provincial Offences Act
RICO2218 Report	ICON Monthly Audit Write-off Report
RICO 3041	Final Write Off Report
Third Party	Licenced Collection Agency
Writ	Writ of Seizure and Sale of Land
Write Off	means cessation of active collection activities
❖ For the purpose of this document the term POA Fine(s) has been used to replace the term POA Accounts Receivable(s) as stated in the MAG Write-Off Directive.	

PROCEDURES:

MAG Mandatory Requirements:

1. **Write-off Policy -** Each Municipal Partner shall create a formal Write-Off Policy establishing protocols and thresholds under which POA fines shall be deemed to be uncollectible and therefore eligible for write-off.

2. **Collection Procedures and Practices -** Equal treatment and effort regarding the collection of all POA fines must be applied, without regards to whether the resulting revenue will be retained by the Municipal Partner or remitted to another third party. Municipal Partners must have exhausted all reasonable and appropriate measures and efforts to collect unpaid, defaulted fines prior to the consideration of recommending a write-off. This may include, but not be limited to:

   - Timely preparation and mailing of all communications and progressively severe overdue notices.
   - Application of all available administrative sanctions where permitted by legislation, (i.e.: licence suspension, plate denial).
   - Assignment of accounts to one or more collection agencies.

- Civil enforcement mechanisms, including, but not limited to filing of a certificate of default, filing of writ of seizure and sale of land, filing of garnishment of wages and/or bank account(s).

- Addition of the fine to the tax roll.

3. **Minimum Default Period** - With the exception of minor underpayments (i.e.: less than $25.00 outstanding), POA fines marked for write-off must have been in default for a minimum of 2 years.

   - Accounts should be reviewed semi-annually or at least annually to identify potential write-offs.

4. **Deceased Person Collection -** Action to collect fines outstanding less than 2 years from individuals for whom a death certificate has been received may be undertaken should the Municipal Partner's Collections Policy and Protocol specifically require recoveries from Estates.

5. **Write-off Justification** - When a Municipal Partner decides to write-off POA fines, the reasons for the write-off must be transparent and justifiable and must not place the administration of justice into disrepute.

6. **Write-off Documentation -** The documentation in support of a write-off recommendation must, at a minimum include the following:

   - Copy of original Certificate of Offence or Part III Information. If originals are not available, ICON Screen Prints of the Debtor's Information will suffice.

   - Record of additional costs and fees included in the outstanding amount.

   - Documentation as to all collection activities undertaken.

   - Reason the write-off is recommended.

   - **Authorization Levels -** The Municipality may identify various levels of authority for the write-off of POA fines. Below are some **examples** of various levels of authority.

   - Sr. Collection Clerk
   - Group Leader (Collection or Court Administration)
   - Collection Manager
   - Manager of Finance
   - Director of Revenue
   - Director of Legal Services
   - Commissioner
   - Committee of Council

- Council

7. **Requirements -** On an annual basis, each Municipal Partner must provide the POA Unit of the Ministry of the Attorney General with information regarding the total value of all fines deemed uncollectible and written-off during the previous municipal fiscal year (i.e.: January 1st to December 31st) as part of the Annual Performance & Process Report to be **Reporting** submitted no later than June 30th of each year.

Write-Off Codes and Criteria Selection:

Municipal Partners will need to select the desired criteria to use for identifying potential Write-off Accounts using MAG ICON codes as a guideline.

1. **Minimum Default Stage -** MAG has established a recommended minimum date for write-offs as no less than 2 years in defaulted stage to ensure a reasonable amount of time has been devoted to fine collection.

2. **Selection Criteria -** It is recommended that Municipal Partners use their Administrative Software (i.e.: CAMS) to produce reports using various selection criteria to get an idea of the volume and dollar amount of the proposed annual write-off. Municipal Partners can change their selection criteria until they are satisfied with a volume and a dollar amount to present to Authorized Personnel for Write-off.

   Some criteria examples are as follows:
   - Small balance owing (underpayments)
   - Age of offender
   - Age of fine
   - NFA – No found address

<table>
<tr><th colspan="4">COMMON ICON
WRITE-OFF CODES</th><th>Example of Municipal Partner’s Criteria</th></tr>
<tr><td colspan="5">*NOTICE: Annual purge from ICON is done only for fines coded CW and DP. Fines coded with any other code will remain in ICON unless converted to above noted Codes before the annual final write-off review is completed.</td></tr>
<tr><td>Write-off Category</td><td>Write-Off Criteria</td><td>Comments</td><td>Write-off Amount</td><td>Authorization</td></tr>
<tr><td>Under Payment (small Balances/administrative fees)</td><td>Case balance of $25.00 or less</td><td>Proposed increase to $25.00 is as a result of legislative increased in administrative fees.</td><td>Up to $25.00</td><td>Manager, Court Services</td></tr>
</table>

Deceased Person	Requires satisfactory proof of death and is not applicable when case is secured by a Writ of Seizure and Sale	Satisfactory proof includes: 1)Funeral directors death certificate; or 2)Government issued death certificate; or 3) Notification from MTO/enforcement agency of death; or 4) Copy of newspaper obituary	Any balance	Manager, Court Services
Signed Affidavit	Requires statutory declaration by the offender as to payment and payment details	Requires investigation and approval from the Supervisor, POA Collections.	Any Balance	Manager, Court Services
Company in Default (Bankrupt, Dissolved, Inactive)	Requires satisfactory proof of dissolution, inactive status or bankrupt corporation.	Satisfactory proof includes: 1)Articles of Dissolution; or 2) Notice of Bankruptcy; or 3) Ministry notification that the corporation is inactive/cancelled.	Any Balance	Manager, Court Services
Missing Information (unable to enforce)	Requires satisfactory proof that the case is unenforceable or that the charging document cannot be located for enforcement.	Applies to cases when the charging document does not contain a date of birth or address; or when the offender is not a legal entity; or cases where the charging document cannot be located for enforcement.	Any Balance	Manager, Court Services

POA Court Write-Off (Deemed Uncollectible)	N/A	Applies to aged cases (over six years past due) once all reasonable collection efforts have been exhausted and the case is deemed uncollectible	Fine balances from 1) $26 up to $4,999 2) $5,000 to $9,999 3) over $10,000	Authorization Level • Court Manager • Director Council
Preliminary Write-Off Code	Cases the Municipal Partner want to include on the yearly preliminary write-off report provided by MAG are to be Coded with OS	Cases coded OS will appear on the yearly preliminary write-off report provided by MAG for review by the Municipal Partner.		Authorization Level • Court Manager • Director
Final Write-Off Code	CW code indicates that appropriate approval from JBM, Treasurer (and where applicable), Audit Committee and Regional Council has been obtained	CW is the final write-off code. All CW cases will be purged from ICON twice yearly and must be reported to MAG annually.		Authorization Level • Court Manager • Director • Council
• For a complete list of ICON write-off codes, please refer to refer to ICON Write-Off Code Table ICPOSSWO				

Monthly (Manual) Write-off Process:

During the regular course of day to day operations, POA staff members will become aware of fines which will qualify for write-off due to circumstances such as a minor underpayment of the fine or the death of an offender.

Administrative Steps:

1. Fines are assigned the appropriate write-off code in ICON IOWRF screen manually.
2. Write-off of fine is approved by authorized Personnel in accordance to Municipal Partner's Write-off Policy and Procedures.
3. MAG provides a monthly RICO2218 report listing write-off accounts coded from the previous calendar month for review.
4. Fine(s) listed on the monthly RICO2218 to be noted as moved to Write-Off Stage in Court Administrative Software (i.e.: CAMS).
5. Remove administrative or civil enforcement if required (i.e.: C.O.D, Writ of Seizure).
6. Remove CAC fees from ICON if applicable.
7. Write-Off fine records (documentation) to be stored in compliance with MAG retention requirements.

8. Fines coded for Write-Off will be purged from ICON on an annual basis.
9. Court Manager to report to MAG the total value of Write-Off amounts in Annual Performance and Progress Report.

Annual (Electronic) Write-off Process:

Municipal Partners wishing to write-off a large number of fines identified as uncollectable can now choose to partner with MAG and use ICON to electronically code and purge selected fines on an annual basis.

Administrative Steps:

1. Compile list of fines for Write-Off using Municipalities' predetermined and approved Write-Off Criteria.
2. Submit Data Extract Request (DER) Form as per MAG Annual Write-Off Schedule.
3. Receive Preliminary Write-Off List/Report from MAG as per MAG Annual Write-Off Schedule. Fines noted on the list will be electronically assigned the Write-Off Code "OS" in ICON.
4. Review and edit Preliminary Write-Off List. Remove fines from list no longer under consideration for write-off such as fine(s) with active extension for time to pay or other reasons as deemed necessary.
5. Prepare Authorization Write-Off Report(s) to submit to designated Authorization Level, (i.e.: Manager, Director, Council, etc.).
6. Secure approval of Write-Off list from designated Authorization Level.
7. Fine to be noted as moved to Write-Off Stage in Court Administrative Software (i.e.: CAMS).
8. Remove administrative or civil enforcement if required.
9. Remove CAC fees from ICON if applicable.
10. Submit Final Write-Off report to MAG as per MAG Annual Write-Off Schedule. ICON will electronically convert Fine(s) listed on the final Write-Off report to Write-Off Code "CW". Fine enforcement to be removed automatically from DFCC records.
11. Fine(s) coded for Write-Off will be purged from ICON on an annual basis as per MAG Annual Write-Off Schedule.
12. Final Write off report to be received from MAG as per MAG Annual Write-Off Schedule. Report will act as Municipal Partner's record of Council Approved Write-Offs.
13. Write-Off fine records (documentation) to be stored in compliance with MAG retention requirements.
14. Court Manager to report to MAG the total value of Write-Off amounts in Annual Performance and Progress Report.

Reinstatement of Fine:

- Where a Municipal Partner has written off a POA fine and any portion of the fine amount is subsequently paid, the Municipal Partner must remit to Ontario, in a timely manner, all monies received in respect of fines, surcharges and fees that are payable to Ontario pursuant to subsection 165(5) of the Provincial Offences Act.

- Where a Municipal Partner has written off a POA fine(s) and the related case(s) has been purged from ICON and any portion of the fine amount is subsequently paid, the case(s) 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.

Administrative Steps:

1. Access the IACVH (conversion) screen with the case number.
   Note: Access to the IACVH (conversation) screen is limited to Court Managers.
2. The IIOFE (entry screen) will appear, allowing for entry of the case information. It is suggested that Municipal Partners use a common identifier to be able to recognize these cases when they are re-entered into ICON following a write-off and subsequent payment. Cases should be keyed with a common court date (i.e : 010194). Once you hit the enter key, the ISCDS (update) screen will automatically appear.
3. Update the case information of the ISCDS (update) screen with the disposition information, including entering the same date in the conviction date field as was entered in the court date field on the previous IIOFE (entry) screen (i.e.: 010194 as noted above). Update the fine and cost information and hit the enter key. The case has now been re-entered into ICON and payment can be processed through the IFCR (cash) screen.
4. The payment information related to the case should appear on the daily RICO reports.

Log of Changes

Date	Specific Change	Editor	Reason
May 10, 2019		Linda Beaver	Add to MCMA Template