

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON NOVEMBER 19, 2019
FROM:	ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	2019 ANNUAL REPORT ON WRITE-OFF OF PROVINCIAL OFFENCES ACT (POA) ACCOUNTS RECEIVABLE

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, Civic Administration **BE AUTHORIZED** to write-off \$52,411.25 in the outstanding Provincial Offences Act (POA) Accounts Receivable, in accordance with the Ministry of the Attorney General (MAG) Write-Off Directive and Council Policy, being the Accounts Receivable and Collections Policy.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Request for Write-Off of Provincial Offences Act (POA) Accounts Receivable
(November 21, 2017 meeting of Corporate Services Committee)
<https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=38308>

Amendment to Council Policy Pertaining to “Accounts Receivable and Collections Policy”
(March 7, 2017 meeting of Corporate Services Committee)
<https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=30051>

Amendment to Council Policy 8(5) “Uncollectible Accounts Receivable”
(December 13, 2016 meeting of Corporate Services Committee)
<https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=28609>

Provincial Offences Act (POA) Collections – Ministry of Attorney General (MAG) Write-Off Directive
(November 26, 2008 meeting of Board of Control)
<http://council.london.ca/CouncilArchives/Agendas/Board%20of%20Control%20Agendas/Board%20of%20Control%20Agendas%202008/2008-11-26%20Agenda/Item%206.pdf>

BACKGROUND

On March 26, 2001, the Province of Ontario transferred the responsibility for the administration and prosecution of provincial offences in London-Middlesex to the City of London.

This transfer was part of the Province's strategy to realign provincial and municipal roles in the delivery of public services. As a result, the City was required to establish its own administration and prosecution office and courtrooms to deal with charges laid under the *Provincial Offences Act*.

What are provincial offences?

Provincial offences are regulatory (non-criminal) offences that include, but are not limited to:

- *Speeding, careless driving, or not wearing your seat belt.*
- *Failing to surrender your insurance card or possessing a false or invalid insurance card.*
- *Being intoxicated in a public place or selling alcohol to a minor.*
- *Trespassing or failing to leave premises after being directed to do so.*
- *Occupational Health and Safety Act and Ministry of Environment violations.*
- *Noise, taxi and animal care city bylaws.*

Source (retrieved November 2019): https://www.attorneygeneral.jus.gov.on.ca/english/justice-ont/tickets_and_fines.php

This transfer allowed the City to retain the *fine* revenue associated with Part I and Part III of the charges and old Part II (parking – pre1994) charges. Part I, II and III are defined below:

- **Part I** charges are minor offences commonly referred to as “tickets” and typically carry a maximum penalty of \$1,000.
- **Part II** charges are exclusively parking tickets (pre-1994 collected by POA and post-1994 are part of the City’s Parking division).
- **Part III** charges are serious offences that require a court appearance and may result in jail time in addition to substantial fines.

A ticket charge is comprised of:

- **Fine** – as legislated by the courts and various Acts
- **Victim Fine Surcharge (VFS)** –
 - a component of the fine but not retained by the City
 - imposed on every non-parking fine and deposited by the provincial government into a special fund to help victims of crime
 - the amount of the VFS is usually \$20 of the imposed fine but fines over \$1,000 carry a surcharge of 25%
- **Cost** – additional charge laid if not paid within the required time limit
- **Fee** – additional enforcement fee laid if not paid within the required time limit

If the ticket remains outstanding, additional costs may be added, such as:

- Collection agency costs – costs of recovery if collected by the City’s third party collection agencies
- Other collection costs – certificate of default fee, writ fee, etc.

To further understand the composition of a ticket, the following numerical example has been included:

Example of a fine composition:

Fine		85.00	
Victim Fine Surcharge (VFS)		20.00	B 13.33%
Total Fine		105.00	
Fail to Respond (FTR) docket cost		5.00	
Total Cost		5.00	
Enforcement fee		40.00	
Total Fees		40.00	
Total fine per MAG file		150.00	100.00%
Add Collection Agency Costs (CAC)	14.75%	22.13	A
Total amount collected by Collection agency		172.13	
Less Collection agency Commission paid	14.75%	(22.13)	A
Net amount collected from Collection agency		150.00	
Less Victim Fine Surcharge (VFS)		(20.00)	B
Gross Revenue to City of London		130.00	
Less County Share	17.22%	(22.39)	C
City Share of Gross Revenue		107.61	71.74%

- A - user fee by-law allows Collection Agency Costs (CAC) to be added to the fine and included in the amount assigned to collection agencies
- results in net effect of nil cost to City for cost of collection agencies
- B - Victim Fine Surcharge is not shown as revenue
- collected and shown as liability on balance sheet
- remitted to MAG each quarter
- C - the County Share is calculated based on the annual weighted average assessment. The calculation is part of the Intermunicipal Service Agreement between the County, the City and all of the neighbouring municipalities within the County of Middlesex.

Collections

As part of the transfer of responsibility for the operation of Provincial Offences Courts in 2001, the Province also downloaded responsibility for the collection of a delinquent cases portfolio containing over 74,000 cases, having a total value of approximately \$17 million.

The devolvement of defaulted POA fines from the Province immediately required Ontario Municipalities to establish effective methods for the management of court administration, support functions, collection and civil enforcement activities. The opportunity to attempt the collection of this substantial receivable portfolio required proper tools and adequate staffing resources. As the receivable balance continued to grow after devolvement, it became evident that the City would have to develop and implement a collection strategy.

Internal collection processes

A series of processes and a number of tools were implemented in order to effect the most expeditious collection of default fines. New tools and processes are continually being developed to increase collection efforts of the service area. These processes include:

- Data received from MAG each month is “scrubbed” to correct addresses, add postal codes and telephone numbers.
- A series of collection letters have been developed and are sent out based on the default status of the POA fines.
- If mail is returned undeliverable, various skip-tracing tools are utilized to research updated addresses and telephone numbers and the appropriate collection notice is generated.
- Various enforcement activities are undertaken by the POA staff, which may include:
 - driver's licence suspension,
 - licence plate denial,
 - credit bureau reporting,
 - the filing of Certificates of Default;
 - further civil enforcement action.

There is no relief or reprieve from a fine as the court determines the fine, not the municipality. Once a fine has been imposed by the court, options for defendants include:

- applying for an extension of time-to-pay (determined by the court) and/or
- appealing a sentence to a judge.

Collections and administration staff do not have statutory authority to reduce fines due to hardship. Collection staff may consider payment plan arrangements on a case by case basis but there must be evidence of a good faith intention to pay based on these arrangements. Payment plans are documented in the collection system and flags indicate when payments have been missed. Missed payments would result in resuming of the collection process listed above.

External collection processes

As a part of its strategy to collect POA fines in default, the City also contracts with four professional collection agencies that are selected through an RFP process. If the POA collection staff are unsuccessful in collection activities through in-house activities, they then assign the receivables to the collection agencies. The collection agencies are monitored on a regular basis and will be given a portion of the receivables based on their prior months' recoveries.

It is only after the POA collection team have applied their best efforts to the collection of the debt through the various means listed above that they would recommend that a fine be deemed uncollectible and recommend to Council that collection activities cease.

It is currently POA collection's strategy to concentrate collection efforts on fines that are less than 2 years old and assign older debt to the collection agencies, after exhausting in-house collection methods.

The MAG directive and guideline (Appendix “A” attached) provides municipalities with the written authority to establish write-off criteria for those aged delinquent cases deemed uncollectible and staff have developed the required operating procedures to comply with the MAG directive.

The recommendations contained in this report will allow POA collection staff to fully concentrate their efforts on the most recent delinquent cases and will assist in maximizing the effectiveness of the POA collection process. The removal of cases deemed uncollectible will reduce the size and value of the delinquent fines portfolio to a more meaningful level and assist in forecasting future potential revenue based on a more accurate database.

Accounts Receivable and Collections Policy

In March 2017, the new Council Policy on Accounts Receivable and Collections (By-law No. CPOL.-346-337) was adopted. The policy is a statement of policies and goals relating to the procedures and collection of accounts receivable. The policy also provides authorization and guidelines for the write-off of uncollectible miscellaneous and POA receivables.

The authorization for write-off of uncollectible POA accounts receivable is as follows:

Dollar Value of POA Account	Person or Body Responsible for Deciding Further Action
\$0 to \$2,000.00	Manager III, Courts Administration or delegate <u>and</u> Director, Financial Services or delegate.
\$2,000.01 to \$10,000.00	City Treasurer or delegate <u>and</u> City Manager or delegate
Over \$10,000.00	City Council

Write-offs

As set out in the Council Policy, being the Accounts Receivable and Collection Policy, after exhausting established best practices, staff are seeking Council approval to write-off a total of four (4) cases with a total value of \$52,411 (2018 – 0 cases) of the total being written off for 2019, as summarized below:

Write-offs to be Approved by Council > \$10,000.00

Enforcement Year	Cases #	Total \$
2011	2	27,301.25
2012	2	25,110.00
4		\$52,411.25

Administrative write-offs have been delegated to staff for approval as per the policy.

It should be noted that cases are **written off for accounting purposes only.**

Such write-offs do not absolve a convicted offender from the requirement to pay a case, as debts to the Crown are owed in perpetuity and are never forgiven.

As part of the write-off process, the electronic record will be removed, however all original source documents must be retained by the court office in accordance with the MAG directive and a separate data base containing these written-off cases will be maintained.

Financial Impact

The write-off does not impact the operational results for 2019.

For accounting purposes, revenue should be recognized when the critical event occurs. Due to legislative procedures and numerous factors that could affect the timing and ultimate payment of a fine, it was determined that the appropriate time to recognize the revenue is when the fine is paid. As a result, this revenue is recorded on a cash basis.

Policy Assessment

2019 is the third year of applying the amended Accounts Receivable and Collections Policy, using the new thresholds.

Staff have reviewed the amended policy and are not recommending any amendments to the policy at this time. The policy will be reviewed on an annual basis when the annual write-off report is brought forward to Council for approval in order to ensure it continues to meet the business needs of the Corporation in an effective manner.

Summary

This report recommends that the delinquent cases listed in this report, be approved for write-off and removed from the electronic POA system, as they meet the MAG's approved criteria for write-off.

This report was prepared with the assistance of Shannon Manders, Accounts Receivables Collection Officer of Financial Services.

SUBMITTED BY:	CONCURRED BY:
SHARON SWANCE, CPA, CGA MANAGER, ACCOUNTING FINANCIAL SERVICES	CHRIS HEPPLER MANAGER, PROVINCIAL OFFENCES COURTS ADMINISTRATION
CONCURRED BY:	RECOMMENDED BY:
IAN COLLINS, CPA, CMA DIRECTOR, FINANCIAL SERVICES	ANNA LISA BARBON, CPA, CGA MANAGING DIRECTOR CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER

Attach.

Appendix "A"

Provincial Offences Act

Write-Off Directive and Operating Guideline

Provincial Offences Act Unit
POA and Strategic Planning Branch
Court Services
Division Ministry of the Attorney
General

February 25, 2008

PROVINCIAL OFFENCES ACT

WRITE-OFF DIRECTIVE AND OPERATING GUIDELINE

PURPOSE:

1. To ensure that Municipal Partners administering the *Provincial Offences Act* (POA) courts can demonstrate that they have exercised due diligence with respect to the write-off of POA accounts receivable and made all reasonable efforts to minimize the value of POA accounts receivable recommended for write-off.
2. To provide guidance with respect to best practices regarding the write-off of POA accounts receivable that have been deemed uncollectible.

SCOPE AND APPLICATION:

1. This Directive and Operating Guideline applies to all Municipal Partners that are subject to a POA Transfer Agreement and the related Memorandum of Understanding (MOU) with the Attorney General.
2. This document has been developed to provide Municipal Partners with guidance as to the minimum requirements they are expected to meet in order to write-off POA accounts receivable. While the decision to write-off POA accounts receivable that have been deemed uncollectible is a local decision to be made by a Municipal Partner once all reasonable efforts to collect unpaid, defaulted fines have been exhausted, a Municipal Partner must follow the directives contained herein in order to ensure that the Province of Ontario, its Ministries and Agencies will not attempt to collect any portion of the written off funds from the Municipal Partner, including funds related to dedicated fines, fees or surcharges, subject to clause 4 below.
3. The Recommended Best Practices contained in this document have been developed to provide Municipal Partners with guidance with respect to best practices regarding the write-off of POA accounts receivable that have been deemed uncollectible.
4. Where a Municipal Partner has written off POA accounts receivable and any portion of those accounts receivable are subsequently paid, the requirements of the POA Transfer Agreements 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.

Appendix "A"

PRINCIPLES:

1. All reasonable effort to collect fines imposed under the POA must be made before any consideration for write-off is made. For purposes of this policy, "write-off" means the cessation of active collection.
2. 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.
3. POA accounts receivable may be written off for accounting purposes only and do not absolve a convicted offender from the requirement to pay a fine, as debts to the Crown are owed in perpetuity and are never forgiven.
4. Collection activities of written-off accounts 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*.
5. Municipalities must retain adequate records after an account is written-off in order to support the possible future reinstatement of collection efforts.

MANDATORY REQUIREMENTS:

General

1. Each Municipal Partner shall create a formal Write-off Policy establishing protocols and thresholds under which POA accounts receivable shall be deemed to be uncollectible and therefore eligible for write-off.
2. Equal treatment and effort regarding the collection of all POA fines must be applied, without regard to whether the resulting revenue will be retained by the Municipal Partner or remitted to another third party.
3. With the exception of minor underpayments (i.e., less than \$25 outstanding), POA accounts receivable marked for write-off must have been in default for a minimum of 2 years.
4. Action to collect accounts receivable 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. Where a Municipal Partner decides to write-off POA accounts receivable, the reasons for the write-off must be transparent and justifiable and must not place the administration of justice into disrepute.

Appendix "A"

6. Each Municipal Partner must have exhausted all reasonable and appropriate measures and efforts to collect unpaid, defaulted fines prior to the consideration of recommending a write-off.
7. 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;
 - Record of additional costs and fees included in the outstanding amount;
 - Documentation as to all collection activities undertaken; and
 - Reason the write-off is recommended

Ongoing Administration

1. Where a Municipal Partner has written off POA accounts receivable and any portion of those accounts receivable are 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*.
2. Where a Municipal Partner has written off POA accounts receivable and the related case(s) have been purged from ICON and any portion of those accounts receivable are subsequently paid, the case(s) related to the payment received must be re-entered into ICON (see related ICON instructions in Appendix A) and the payment must be recorded as revenue, with supporting documents, and distributed in accordance with the MOU.
3. Where, under the terms of the POA Transfer Agreement, a Municipal Partner proposes the contracting out of any services related to the performance of its obligations under the POA Transfer Agreement, the Municipal Partner must ensure that the contract provides that the person or organization performing the contract will meet the mandatory requirements and have due regard for the recommended best practices contained within this directive and operating guideline.
4. 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 & Progress Report to be submitted no later than June 30th of each year.

Appendix "A"

RECOMMENDED BEST PRACTICES:

1. 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 Council or by the Council committee responsible for the administration of the POA courts via a municipal By-Law.
2. Examples of reasonable and appropriate measures and efforts to collect unpaid fines prior to the consideration of recommending a write-off include the following collection activities, applied progressively. While the actual measures and efforts to be employed by a Municipal Partner should be documented in its Write-off Policy, the following steps provide guidance as to what is reasonable and appropriate:
 - Timely creation and distribution of all notices and communications;
 - Progressively severe delinquency notices, including letters via registered mail;
 - Consideration of extended payment plan;
 - Application of available administrative sanctions;
 - Specialized collection assistance; and
 - Civil fine enforcement mechanisms.
3. Accounts receivable should be reviewed semi-annually to identify potential write-offs and annually to identify accounts deemed uncollectible and to be recommended for write-off.

RESPONSIBILITIES:

Municipal Partners:

- Setting thresholds and formalization of own write-off policy based on the principals and requirements of this document;
- Specifying the format and reporting detail for write-offs recommendation submissions; and
- Final approval to cease active collection and write-off a fine.

Court Managers:

- Coding and processing in ICON;

Appendix "A"

- Document collection efforts made prior to the recommendation of a write-off; and
- Monitor outstanding accounts receivable on a semi-annual basis for potential write-offs.

Ministry of the Attorney General:

- Provision of continued access to ICON or its successor;
- Timely and regular scheduling of ICON purges; and
- Assistance to municipalities in dealing with other Provincial Ministries

ADDITIONAL INFORMATION:

If you have any questions or require further information regarding this document, please contact Pam Elliott, Provincial Offences Act Unit, at (416) 326-2590 or Pamela.Elliott@ontario.ca.

Appendix "A"

Appendix A

Process for Re-Entering Cases into ICON

1. Access the IACVH (conversion) screen with the case number.
2. The IIOFE (entry) screen will appear, allowing for entry of the case information. Please note that ICON will only allow dates prior to December 31, 1994 to be entered into the court date field. It is suggested that, in order to identify these cases, all cases being re-entered after write-off and subsequent payment should be keyed with a common court date (e.g., 010194). Once you hit the enter key, the ISCDS (update) screen will automatically appear.
3. Update the case information on 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 (e.g., 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.

The payment information related to the case should appear on the daily RICO reports.

Please note that access to the IACVH (conversion) screen is limited to Court Manager's.