

# uMFOLOZI LOCAL MUNICIPALITY



## DRAFT

## INDIGENT POLICY

## February 2018

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## 1. PREAMBLE

uMfolozi Local Municipality is committed to supporting measures that assist and empower its community. It is accepted that large sections of the community cannot exist without intervention and it is therefore the duty of the Municipality to support and to ensure that citizens are able to access their constitutional rights to have access to a basic level of services.

The Municipality must therefore at all times strive to fulfil the constitutional objectives as contemplated in Section 152 of the Constitution and to meet the criteria for a credible indigent policy as laid down in the Credible Indigent Policy Assessment Framework, 2008, provided by the Department of Local Government.

The successful implementation of this Policy depends entirely on affordability and the social analysis of the area that should be included in the Municipality's Integrated Development Planning. With regard to affordability the foundation is laid in section 74 of the Municipal Systems Act, 2000, which stipulates that poor households must have access to basic services through tariffs that cover only the operating and maintenance costs.

The Municipality therefore adopts an Indigent Support Policy which embodies an indigent support programme that not only provides procedures and guidelines for the subsidisation of service charges to indigent households in its area of jurisdiction, but aims to increase the quality of life of the beneficiaries by assisting them to exit from indigence.

## 2. DEFINITIONS

**Programme officer** - an official duly authorised by the municipality, or an employee of a services provider appointed by the municipality, who is responsible for the following:

- to ensure that applications for indigent support are received and assessed;
- to ensure that applications are captured on the Indigent Management System;
- to ensure that information on applications is verified and that regular audits are executed; and
- to authorise expenditure with regard to indigent support.

**Child headed household** means a household where both parents are deceased and where all occupants of the property are children of the deceased and under the legal age to contract for services;

**Household** means a registered owner or tenant with or without children who reside on the same premises;

**Indigent** means any household or category of households, including a child headed household, earning a combined gross income, as determined by the municipality annually in terms of a social and economic analysis of its area, as vested in municipal policy, which qualifies for rebates or remissions, support or a services subsidy, provided that the child support grant is not included when calculating such household income;

**Indigent Management System** - an electronic management system applied by other municipalities for the smooth and efficient management of the register of indigent households;

**Municipality** means the list of municipal categories, established in terms of section 12 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 by-law by virtue of the power vested in the municipal council.

**Programme officer** an official duly authorised by the municipality, or an employee of a services provider appointed by the municipality, who is responsible for the duties:

**Occupier** means the person who controls and resides on or controls and otherwise uses immovable property provided that:

- the spouse of the owner of immovable property, which is used by such spouse or owner as a dwelling at any time, shall be deemed to be the occupier thereof;
- Where both spouses reside on immovable property and one of them is an occupier thereof, the other shall also be deemed occupied.

**Indigent register** means the municipal list of indigent customers as per the municipal policy, which has to be updated on a monthly basis, designed to contain all the data in completed indigent application forms, including the following:

**Owner** in relation to immovable property means the person in whom the legal title is vested provided that:

The lease of immovable property which is leased for a period of not less than fifty years, whether the lease is registered or not, shall be deemed to be the owner thereof;

The occupier of immovable property occupied in terms of a service or right analogous thereto shall be deemed the owner thereof;

If the owner is deceased, insolvent, has assigned his or her estate for the benefit of his or her creditors, 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;

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

If the municipality is unable to determine who such person is, then the person who is entitled to the beneficial use of such property;

**Premises** includes any piece of land, the external surface boundaries of which are delineated on a general plan or diagram registered in terms of the Land Survey Act, 1997 (Act No. 8 of 1997) or in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937); or

A general plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), and situated within the jurisdiction of the municipality;

**Rates** means any tax, duty or levy imposed on property

### 3. OBJECTIVES

(3.1) Tariffs that cover only operating and maintenance costs;

(3.2) Special tariffs or life line tariffs for low levels of use or consumption of services for basic levels of service; or

(3.3) Any other direct or indirect method of subsidisation of tariffs for poor households.

The following are the guiding principles for the formulation of an Indigent Support Policy:

(a) the Indigent Support Policy must be formulated in accordance with the Constitution of the Republic of South Africa, 1996, (Act No. 108 of 1996 and

other applicable legislation, amongst others, the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) which provides that everybody has a right to administrative justice that is lawful, reasonable and procedurally fair.

- (b) It must be provided by uMfolozi Local Municipality to registered residential consumers of services who are indigent.
- (c) Council must, wherever possible, ensure that any relief is in accordance with the Constitution and is cost effective, sustainable, practical, fair, equitable and justifiable.
- (d) The subsidising of minimum service levels should not result in the creation of a massive bureaucratic administration that would not be cost effective to implement.
- (e) Differentiation must be made between those households who cannot afford to pay for basic services and those who do not want to pay for these services.
- (f) In addition to free basic services, other municipal services should, where possible, be affordable and beneficial to indigents.
- (g) The relief should be valid for a maximum period of 36 months.
- (h) The Council may review and amend the qualification criteria for indigent support.
- (i) The joint gross income of all the household occupants will be taken into account.

**(3.4) In recognition of the abovementioned National Framework the Municipality undertakes to promote the following principles:**

- (a) To ensure that the Equitable Share received annually will be utilised for the benefit of the poor only and not to subsidise the rates and services charges of those who can afford to pay;
- (b) To link this policy with municipal Integrated Development Planning, Local Economic Development initiatives and poverty alleviation programmes;
- (c) To promote an integrated approach to free basic service delivery; and
- (d) To engage the community in the development and implementation of this policy.

**(3.5) The objective of the indigent support 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) To provide procedures and guidelines for the subsidization of basic service(s) charges to its indigent households, using the Council's budgetary provisions received from central government in accordance with prescribed policy guidelines.
- (c) The Council also recognizes that many residents can simply not afford the cost of full provision and for this reason the Council will endeavour to ensure affordability through:
- (d) Setting tariffs in terms of the Council's tariff policy, which will balance the economic viability of continued service delivery; and determining appropriate service levels.

#### **4. APPLICATION**

This Policy shall apply to:

- The Mayor.
- The Speaker.
- Executive Committee Members.
- Councillors.
- Municipal Manager.
- Directors.
- Any other official and/or representative

specifically authorised to represent the Municipality and on official business of the Municipality.

#### **5 SCOPE OF POLICY**

**This policy is designed and implemented within the framework of the following legislation:**

- 4.1. The Constitution of the Republic of South Africa, 1996;
- 4.2. The Municipal Systems Act, 2000 (Act 32 of 2000);
- 4.3. The Municipal Finance Management Act, 2003 (Act 56 of 2003);
- 4.4. The Promotion of Administrative Justice Act, 2000 (Act 3 of 2000);
- 4.5. The Promotion the of Access to Information Act, 2000 (Act 2 of 2000);

4.6. The Property Rates Act, 2004 (Act 6 of 2004).

## **6. PURPOSE OF INDIGENT POLICY**

The purpose of the Policy is to consider the socio-economic and other conditions currently prevalent in South Africa, such as the level of unemployment and poverty. The Policy aims to address this through the application of principles for services rendered to members of society who cannot afford to pay.

The Council accepts that it is responsible for rendering 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. The Council endeavours to render a basic level of service necessary to ensure an acceptable and reasonable quality of life and which takes health and environmental concerns into consideration. None of the residents should fall below the minimum level of services.

## **7. TARGETING OF INDIGENT HOUSEHOLDS**

For a household to qualify as indigent, it should comply with the following requirements:

- 7.1 The applicant must be a resident of the Municipality.
- 7.2 The applicant must be eighteen (18) years of age and above.
- 7.3 The total joint gross income of all occupants or dependents in a single household must be less than two (2) state pension grant incomes.
- 7.4 The applicant must be the owner or tenant who receives municipal services and is registered as an account holder on the municipal financial system, provided that the requirement of being registered as an account holder does not apply to households in informal settlements and rural areas where no accounts are rendered.
- 7.5 The applicant must have a single property (stand); the applicant cannot have two properties registered in his/her name in order to qualify.
- 7.6 All households that are child headed, even if they are below eighteen (18) years of age can apply for indigent support.
- 7.7 The registered indigent must be either the owner or occupant (tenant) of the property concerned.
- 7.8 Subsidies apply to households and not individuals.
- 7.10 The onus for applying for indigent subsidy rests with the consumer who cannot afford to pay the full municipal tariff for services received.

## **8 SOURCES OF FUNDING**

- 8.1 The Council will have to provide funds annually in the budget for the subsidization of indigent households for rates and refuse removal.
- 8.2 Indigent subsidies will have to be financed from the equitable share contribution to the Municipality obtained from National Treasury.
- 8.3 Existing indigent arrears on rates and services charges will be written off against the provision for bad debts.

## **9 CRITERIA FOR INDIGENT GRANT**

- 9.1 Households with an income based on a combined government pension grant as annually approved by council + 30%.
- 9.2 Application should be made on a prescribed form. A payment arrangement in addition to the grant should be made if the account is in arrears. Application shall be made every 12 months.
- 9.3 The grant will take effect from the date of approval of the application.
- 9.4 Owners with more than one property do not qualify.
- 9.5 Proof of unemployment, a pension card or a salary advice must be submitted with the application.
- 9.6 The grant period is dependent on the funds available from Government.
- 9.7 The grant is only given if the tenant of municipal property or owner is staying on the premises.
- 9.8 The Equitable Share is only payable on a current account.
- 9.9 The subsidy grant is annually determined by Council and will be credited towards the current account during the monthly billing run.
- 9.10 In the case of pensioners in old age homes, the home's sewerage and refuse account will be credited with the prescribed amount as determined by Council, per pensioner (room), who qualifies, residing in the old age home after an application form and affidavit are completed stating the number, etc.
- 9.12 Individuals who are guilty of any malpractices will forfeit the payment of the grant.

## **10 EXTENT OF MONTHLY INDIGENT SUPPORT**

The extent of the monthly indigent support granted by Council to indigent households in the municipal area will be determined based on budgetary allocations for a particular financial year and the tariff increases for that

specific financial year. This should be based on the amount of an average monthly service account as indicated in the National Allocation Guideline as reviewed annually (Equitable Share) stated as follows:

- 10.1 Refuse collection
- 10.2 Sewerage
- 10.3 House rentals
- 10.4 Assessment rates on residential property Page 6. The subsidy for the above should be in line with the Municipality's tariffs which will change from time to time as tariffs increase. The following forms of assistance could also be given to indigent households:
- 10.5 The accounts of successful applicants should be flagged to prevent credit control measures.
- 10.6 No interest should be charged on arrears.
- 10.7 The accrued arrears of an indigent household should be placed in a suspense account and be reviewed every 12 months.
- 10.8 The account of an indigent household that applied for an Indigent Grant should be credited with the total amount as approved by the Council.

The Municipality reserves the right to install prepaid meters in all households classified as indigent.

## **11 INDIGENT HOUSEHOLDS IN RETIREMENT CENTRES AND OLD AGE HOMES**

- 11.1 The onus will be on the Board of Trustees/Managing Agent (hereinafter referred to as the representative) to apply to the Municipality for indigent status to be granted in respect of property rates on behalf of the owners of those units, who meet the criteria and conditions for qualification. Indigent consumers living in retirement centres or old age homes are eligible to qualify for assistance and support in terms of this Policy, subjected to the following rules and procedures:
- 11.2 The onus will be on the unit owner to apply to the Municipality for indigent status to be granted in respect of property rates related charges.
- 11.3 The representative will submit applications to the Chief Financial Officer.
- 11.4 **The free basic services sub-directorate will verify all applications and he or she must notify:**
  - 11.4.1 The unit owner whether an application was successful or not, with regard to the property rates and other related charges.

### **11.4.3 The Chief Financial Officer will credit the monthly municipal charges as:**

11.4.3.1 Rates and refuse charges account of the unit owner with the amount determined by the Municipality.

11.5 The representative must, in respect of monthly property rates credits allowed under indigent support, ensure that such credits are off-set against the monthly levies of the relevant individual units; such representative is also required, once every six months, or at such intervals as may be determined by the Municipality, to provide proof to the Chief Financial Officer that the monthly levies of poor households which qualify for assistance, have been adjusted by the amounts credited to the account of the retirement centre or old age home.

## **12. PROCESS MANAGEMENT**

### **12.1 Validity Period**

The validity period of assistance will be for a maximum of 12 months. Households must re-apply at the end of a 12 month period.

### **12.2 Death of Registered Applicant**

In the event that the approved applicant passes away the heir/s of the property must re-apply for indigent support, provided that the stipulated criteria are met.

### **12.3 Publication of Register of Indigent Households**

Names of indigent beneficiaries must be open for public perusal and comment.

Written objections from the public must be referred to the Directorate: Community Services who will be responsible for investigating the validity of the complaint and referral to the Finance for appropriate action.

### **12.4 Termination of Indigent Support**

- Indigent Support will be terminated under the following circumstances:
- Death of the account holder,
- End of the 12 month cycle, except in the case of pensioners and child-headed households,
- Upon sale of the property.

### **12.5 Exit programme**

Members of households registered as indigent should be prepared to participate in exit programmes coordinated by the Municipality in collaboration with other government departments and the private sector. The expectation of this clause excludes pensioners and child-headed households.

**13 CONCLUSION**

The granting of an indigent subsidy shall be the sole prerogative of Council whose decision shall be final. The free service policy should be seen as a revenue protection mechanism for uMfolozi Local Municipality to protect its revenue. The indigent support policy must be applied consistently. Political support and community participation is important in implementing the free basic services policy.

**14. ADOPTION AND IMPLEMENTATION**

This policy was adopted by the Municipal Council on ..... per Resolution Number: .....

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
MUNICIPAL MANAGER

