
Subject: Court Services Write-Off Recommendations for the period ending October 31, 2020

Report to: Joint Board of Management, Niagara Region Courts

Report date: Thursday, December 17, 2020

Recommendations

1. That Report JBM-C 13-2020, dated December 17, 2020, respecting the Court Services Write-off Recommendations for the period ending October 31, 2020, **BE RECEIVED**; and
2. That the delinquent cases summarized in Table 1 of the Analysis Section of the Report, **BE APPROVED** for write-off and removal from the Integrated Court Offences Network (ICON) system in accordance with the Ministry of the Attorney General (MAG) Provincial Offences Act Write-off Directive and Operating Guideline and the Niagara Region Courts approved write off criteria (POA Write-off Criteria).

Key Facts

- In February 2008, the Ministry of the Attorney General (MAG) released a *Provincial Offences Act Write-Off Directive and Operating Guideline* document which provides municipalities with the authority to establish write-off criteria for delinquent cases deemed uncollectible.
- Staff reported on this issue in report JBM 02-2008 dated September 25, 2008 and pursuant to the MAG directive, the Joint Board of Management and Regional Council approved the POA Write-off Criteria for delinquent Provincial Offences deemed uncollectible (Appendix I).
- Writing off these fines will reduce the overall amount for outstanding defaulted receivables for Court Services. These cases would be written off for accounting purposes only and will not absolve a convicted offender from the requirement to pay a fine, as debts to the Crown are owed in perpetuity.

Financial Considerations

1161 delinquent cases valued at \$915,024.88 have been identified for write-off for the period November 1, 2019 to October 31, 2020.

Revenue from fines is recorded by the Region only when it is collected (on a cash basis rather than an accrual basis). The receivable is set up in the Integrated Court Offences Network (ICON) system, but no receivable is set up in the Region's financial statements. Writing off these fines will reduce the overall amount for outstanding defaulted receivables for Court Services in ICON; however, there is no impact to the local area municipalities in terms of the net revenue distribution as these cases will be written off for accounting purposes only.

Such write-offs do not absolve a convicted offender from the requirement to pay a fine, as debts to the Crown are owed in perpetuity.

Analysis

Each fine that meets the criteria for write-off is thoroughly investigated to make sure there are no options to collect the fines such as garnishing wages, writs or adding the fine to municipal tax roll.

Each month the Integrated Court Offences Network (ICON) system generates a list of cases that have been identified as meeting the criteria listed in **Appendix I**. At the end of the year, all of the monthly reports are compiled to create the write-off report. The electronic record of the delinquent case is removed from ICON, however all original source documents are retained by the court office in accordance with MAG's directive. If funds are received on a delinquent fine that has been previously written off, the case is written back on and the payment accepted.

Cases under the "Deceased Persons" category are identified through submissions of Proof of Death either to the Court or to the Ministry of Transportation. It should be noted that the Table 1 below provides the number of cases related to deceased persons, as opposed to the number of defendants who are deceased. In this regard for the number of cases proposed for write-off in the current report is 1118, whereas the number of defendants those cases pertain to is 261. In addition the number of cases is not only reflective of fines due in 2020 but rather also reflects delinquent fines with due dates dating back to 1991. The number of cases in this category has been higher in 2019 and 2020 than historically in part due to a technology change at MTO whereby vehicle plate and drivers licence databases were consolidated (resulting in increased numbers of cases being identified for example when seeking plate denials as a collections enforcement tool). In addition as part of the Region's enhanced collections strategy, a large volume of older delinquent cases have been assigned to collection agencies for more proactive enforcement which has resulted in receipt of a larger

number of notifications of deceased persons than previous years. Further detail regarding the deceased persons category is provided in Table 2 below.

All cases included in Table 1 below of this report have been investigated and none qualify for further collections activity. Staff submits these cases in accordance with the Ministry of the Attorney General (MAG) Provincial Offences Act Write-Off Directive and Operating Guideline and the Niagara Region Courts approved write-off criteria ("POA Write-off Criteria").

Table 1: Summary of Cases Recommended for Write-off:

2020 COURT SERVICES WRITE-OFF SUMMARY For the period November 1st, 2019 to October 31, 2020		
Write-off Category	No. of Cases	Dollar Value
Deceased Person (DP)	1118	\$807,871.36
Under Payment (UP)	37	\$178.03
POA Write-off – Unable to Enforce (PW)	2	\$330.00
Company in Default – Bankrupt, Insolvent (CD)	4	\$106,641.49
TOTAL	1161	\$915,024.88

Table 2: Summary of Deceased Person Category included in Write-off Summary:

Fine Due Date	# of Cases	Dollar Value
APR 1991 to JAN 28 2001 (Pre-Transfer)	76	\$ 81,805.09
JAN 29 2001 to DEC 31 2011	572	\$ 383,594.91
2012 to 2017	410	\$ 290,996.36
2018-2019	53	\$ 41,900.00
Up to Oct 31, 2020	6	\$ 9,255.00
Deceased before due	1	\$ 320.00

Total Cases	1118	\$807,871.36
Total Defendants	261	

Alternatives Reviewed

None

Relationship to Council Strategic Priorities

N/A

Other Pertinent Reports

- JBM 02-2008 POA Write-off Criteria for delinquent Provincial Offences deemed uncollectible dated September 25, 2008

Prepared by:

Jackie Foley
Supervisor, POA Collections
Corporate Services

Recommended by:

Miranda Vink
Manager, Court Services
Corporate Services

This report was prepared by Jackie Foley, Supervisor, POA Collections and reviewed by Miranda Vink, Manager, Court Services.

Appendices

Appendix 1 Write-Off Recommendations Criteria

ICON Code	Write-off Category	Write-off Criteria	Comments
UP	Under Payment	Case balance of \$25.00 or less	Small balances/Administrative Fees
DP	Deceased Person	Satisfactory proof of death – not applicable when case is secured by a Writ of Seizure and Sale	Satisfactory proof includes: 1. Funeral Director's Death Certificate, or 2. Government issued Death Certificate, or 3. Notification of death from MTO/enforcement agency, or 4. Copy of newspaper obituary.
SA	Signed Affidavit	Requires statutory declaration by the Offender as to payment and payment details	Requires investigation and approval from the Supervisor, POA Collections
CD	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.
PW	POA Write-off Unable to Enforce	Requires satisfactory proof that the case is unenforceable, that the charging document cannot be located for enforcement or supervisor approval obtained	Applies to cases over 2 years past due : 1. Where the charging document does not contain a date of birth or address, or 2. When the Offender is not a legal entity, or 3. Where the charging document cannot be located for enforcement, or 4. Where technical issues with ICON prevent the case from completing once payment has been satisfied
PW	POA Write-off Deemed Uncollectible	N/A	Applies to aged cases (over six yrs. Past due) once all reasonable collection efforts have been exhausted and the case is deemed uncollectible.
CW	Final Write-Off Code (Approval Obtained)	CW code indicates that appropriate approval from JBM, Treasurer (and where applicable), Corporate Services 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.
NOTE:	Cases 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 never forgiven.		