

Debt Recovery and Hardship Policy

Local Government Act 2009

1. POLICY STATEMENT

This policy provides the framework that will be used in the collection of rates, charges and commercial debts payable to Council.

2. PRINCIPLES

The Council has a responsibility to recover monies owing to it in a timely and efficient manner to finance its operations and ensure effective cash management. When recovering rates, charges and commercial debts the Council will:

- make the recovery processes clear, simple to administer and cost effective;
- make clear to debtors their payment obligations and the processes used by Council to assist them to meet those obligations;
- consider each debtors capacity to pay, while endeavouring to treat debtors consistently; and
- demonstrate flexibility when necessary in responding to changes in the local economy.

3. SCOPE

This policy applies to the recovery of rates, charges and commercial debt only and does not apply to the recovery of all debt owed to Council.

4. RESPONSIBILITY

The Chief Executive Officer, and/or delegate are responsible for ensuring that this policy is understood and adhered to by all Workers involved in the recovery of rates, charges and commercial debtor's arrears.

5. DEFINITIONS

Any term used in this policy that is defined in the *Local Government Act 2009* or *Local Government Regulation 2012* has that definition.

Accounts Receivable/Sundry Debt – means an amount owed to Council in payment for the supply of goods or services, other than services for which a Charge is payable.

Charges – means any amount that is charged to the property that is not considered a rate.

Debt – means an amount owed to the Council, including Rates, Charges, or payment for goods and/or services provided.

Debtor – means any person, group or entity that owes Council a debt.

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Overdue – means a debt is **overdue** if any portion of it is unpaid on the day after the due date for payment stated in the original notice/invoice. For clarity, later dates set out in reminder notices, payment arrangements or other documents do not change that original due date.

Receivable – means the value of an amount owing to council by a debtor.

6. POLICY

6.1 SAFEGUARDING COUNCIL'S AND COMMUNITY'S INTERESTS

The Chief Executive Officer or delegate may direct that recovery action for any debt be conducted in a way that differs from the processes set out in this Policy when that is considered to be in the Council's or the community's interest.

Nothing in this policy binds the Council to precisely follow any process set out in this policy, and a failure to follow any process does not change or relieve a debtor's obligation to pay a debt when due.

6.2 RATES AND CHARGES

Legal action for the recovery of outstanding rates and charges may commence any time after a rate becomes overdue for the purposes of the *Local Government Act 2009*. Unless there are circumstances which justify taking an alternative course of action, the Council's usual process to recover overdue rates or charges is set out in this section.

STEPS

Rates and charges are levied by a rate notice (or a supplementary notice if the customer is not liable to pay rates but receives services for which charges are payable). The notice will show a due date for payment and in some cases a discount date.

OVERDUE REMINDER LETTERS

Council will issue an overdue reminder letter if:

- 7 days after the due date on the rates notices the ratepayer has \$20.00 or more in rates (or charges) owing to council; and
- a current payment plan has not been entered into; and
- a Hardship application has not been approved; and
- no other recovery action has been commenced.

LETTER OF DEMAND

Council will issue a letter of demand if:

- 7 days after the date for payment set out in the overdue reminder letter the ratepayer has \$100.00 or more in rates (or charges) owing to council; and
- a current payment plan has not been entered into; and
- a Hardship application has not been approved; and
- no other recovery action has been commenced.

CLAIM AND STATEMENT OF CLAIM

The usual practice of council is that legal action will be commenced if:

- a letter of demand has been sent; and
- the ratepayer has \$1,000.00 or more in rates (or charges) owing to council; and
- there is no current payment plan to pay the outstanding rates, or the payment plan has not been adhered to; and
- a Hardship application has not been approved, or if approved, has not been adhered to.

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PROPERTIES WITH A PAYMENT PLAN

If there is a current payment plan, and/or hardship application in place, the council will commence legal action if:-

- the ratepayer has not fully complied with the terms of the agreed payment plan/hardship application; and
- the ratepayer has \$1,000.00 or more in rates (or charges) owing to Council.

Legal action may be temporarily suspended if the debtor enters into a payment plan satisfactory to council which includes the provision for the payment of legal costs.

SALE OF LAND – RESIDENTIAL

Where rates and charges remain unpaid for 3 years and no approved payment plan exists, council may, by resolution, commence proceedings to sell the property subject to and by virtue of its powers under the *Local Government Act 2009* and Regulations.

SALE OF LAND – VACANT LAND AND COMMERCIAL PROPERTY

Where rates and charges remain unpaid on vacant land or land used solely for commercial purpose for 1 year or more and no approved payment plan exists and judgment has been obtained, Council may, upon resolution, and by virtue of its powers under the *Local Government Act 2009* and *Local Government Regulation 2012*, commence proceedings to sell the property.

6.3 COSTS

All costs incurred with respect to formal recovery action will be passed on to the ratepayer.

Once formal recovery action has been commenced it will not be discontinued until the amount of the claim and any further interest levied in accordance with the *Local Government Act 2009* has been paid in full.

Legal action may be temporarily suspended if the debtor enters into a payment plan satisfactory to Council which includes the provision for the payment of legal costs.

6.4 AGREED PAYMENT PLAN

Council may grant a payment plan for the payment of rates and charges. There is no limitation of the scope of the payment plan that can be provided by the Act. However, due to practical and economic reasons this Council has determined that the arrears, including any additional charges applied in return for Council agreeing to defer payment of rates or charges, should be paid in full by the end of the relevant rating period.

All payment plans will be confirmed in writing. Failure to meet the agreed payments will result in the cancellation of the payment plan. A broken payment plan letter will be forwarded to the ratepayer upon cancellation of the agreed payment plan. The broken arrangement letter should allow the ratepayer at least 7 days in which to bring the payment plan back into order. In particular circumstances, legal recovery action may commence immediately in the event of default by the ratepayer.

If a ratepayer is eligible under Council's hardship policy, a 3-month interest free deferral of the due date and/or an interest free payment plan may be granted where overdue rates and charges and any accruing rates and charges will be paid within specific timeframes. (Refer Council's Hardship Concessions Policy for eligibility criteria)

6.5 PENSIONERS

Council recognises that Pensioners as a class may face financial difficulties in meeting their obligations however, as specific concessions are provided to them and extended times to pay, pensioners with arrears are encouraged to take advantage of payment schedules that will ensure that the balance in arrears does not escalate beyond their means.

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All pensioners that are in arrears as at 30 June 2016, will be required to negotiate an acceptable payment arrangement with Council.

All pensioners who fall into arrears after 1 July 2016 will be subject to Council's usual recovery action for overdue rates in accordance with this policy.

6.6 GENERAL ACCOUNTS RECEIVABLE / SUNDRY DEBTORS

Prior to a debtor being given an account with Council, a credit check is to be completed and references contacted. The following exceptions can be excluded from this requirement, Government Departments, Hall Hirers, Emergency repairs, waste collection customers who are invoiced and pay in advance for services and various one-off debtors.

The Council's usual process to recover overdue Accounts Receivable/Sundry Debts is set out in this section.

STEPS:

Accounts Receivable/Sundry Debts are created after Council makes a supply of goods or services to a customer. An Invoice is then raised showing details of the goods and/or services provided and a due date for payment.

Council's commercial credit terms are strictly 30 days. Where invoices remain outstanding after 30 days from issue of the invoice:

- Overdue Notices will be issued monthly on all invoices that have an outstanding balance.
- Letters of Demand may be issued if the customer fails to pay the outstanding balance within the prescribed time frame set out in the Overdue Notice. The account will then be placed on hold.
- if the invoice remains unpaid upon expiry of the Letter of Demand, legal recovery action may be commenced.

CLAIM AND STATEMENT OF CLAIM

The usual practice of Council is that legal action will be commenced if:

- a letter of demand has been sent; and
- the commercial debtor has \$500.00 or more in outstanding invoices owing to council; and
- there is no current payment plan to pay the outstanding accounts, or the payment plan has not been adhered to.

6.7 AGREED PAYMENT PLAN

Council may grant a payment plan for the payment of commercial debts. There is no limitation of the scope of the payment plan that can be provided by the Act. Due to practical and economic reasons Council has determined that the arrears should be paid in full by the end of the relevant financial year.

All Payment Plans will be confirmed in writing. Failure to meet the agreed payments will result in the cancellation of the payment plan. A broken payment plan letter will be forwarded to the debtor upon cancellation of the agreed payment plan. The broken arrangement letter will allow the debtor at least 7 days in which to bring the payment plan back into order. In particular circumstances, legal recovery action may commence immediately in the event of default by the debtor.

7. LEGAL PARAMETERS

Local Government Act 2009

Local Government Regulations 2012

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8. ASSOCIATED DOCUMENTS

Revenue Policy

Revenue Statement

Hardship Concession Policy

Pensioner Rates Concession Policy

Debtor Management Administrative Directive

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