

Title of Policy	Debt Management Policy		
Responsible Department	Finance	Document Register ID	250.2019.511.1
Policy Owner	Chief Financial Officer	Review Date	March 2021
Date of Council Meeting	7 March 2019	Resolution Number	92/19
Legislation, Australian Standards, Code of Practice	Local Government Act 1993 Local Government (General) Regulations 2005 (NSW) Civil Procedures ACT 2005 Office of Local Government – Debt Management and Hardship Guidelines 2018		
Aim	To ensure the efficient and effective recovery of Rates and Charges and Sundry debts owed to Council by applying the principles of integrity, consistency, confidentiality and compliance to the relevant statutory requirements in all proceedings for both the Council and the debtor. To recover monies owed to Council in a timely, efficient and effective manner in order to ensure effective cash flow management.		

1. POLICY

Council recognises that it is in the community interest to maximise the collection of Rates and Charges and to recover interest, costs and expenses where these are necessarily incurred by Council. However, Council recognises that the collection of all debt needs to be balanced with identification and consideration of individual cases of genuine hardship.

2. DEFINITIONS

LGA – refers to NSW Local Government Act 1993

Pensioner – an eligible pensioner as defined in Clause 134 of the Local Government (General) Regulations 2005

Application form – Council’s financial hardship application form for the purpose of applying for assistance under this policy

3. Debt Recovery Processes for Rates and Charges

3.1 The Rates Reminder Notice

A Rates Final Reminder Notice shall be issued in accordance with the debt management and hardship guidelines from the NSW Office of Local Government for those ratepayers who have not made previous satisfactory payment arrangements. The Reminder Notice will be issued 14 days after the due date for outstanding debts greater than a materiality threshold set within Council’s Debt Management Procedure. Conditions relating to payment arrangements include;

- a) Mutually suitable arrangements may be entered into with ratepayers requesting extensions to pay outstanding amounts under section 564 of the LGA.-Interest will continue to accrue on any arrears during the period of the arrangement.
- b) All requests for extensions or payment arrangements are to be made in writing or by completing Council's Application for Payment Arrangement form. Payments can be made either weekly, fortnightly, monthly or by other suitable arrangements.
- c) If the arrangement is in arrears for a period greater than 14 days, without prior notification, Council will contact the ratepayer in writing advising that legal action may commence as a result of the default arrangement.

3.2 Proceeding with Legal Action

- a) If Council receives no response from the debtor after the due date of the Rates Reminder Notice or as a result of a defaulted payment arrangement notification Council may commence legal action.
- b) Legal Action will commence for amounts set by Council's Debt Management Procedure. A 'Letter of Demand' will be issued to the ratepayer from Council's external debt recovery agent giving the ratepayer 7 days to respond.
- c) If payment in full or an arrangement for payment has not been received within 15 days of the sending of the 'Letter of Demand' then Council's external debt recovery agent may issue and serve a 'Statement of Claim'. The debtor may, within 28 days of the service of the Statement of Claim lodge a defence to the claim made by Council.
- d) If the debtor does not file any defence, pay the claim or make payment arrangement, Council's external debt recovery agent may apply for 'Default Judgment'. The Default Judgment may be recorded against the debtors credit file by a credit reporting agency and may affect their capacity to obtain credit or to refinance in the future. The Judgment is valid for 12 years.
- e) After obtaining Default Judgment Council may recover the debt via a 'Writ of Execution', a garnishee against the debtor's salary or bank account, or issue an Examination Notice/Order as well as Rent for Rates Notice.
- f) Bankruptcy proceedings are optional to Council, authorised only by the General Manager, at their discretion and will commence if previous action has secured judgement.
- g) Any legal expenses incurred by Council from the recovery of outstanding rates and charges awarded by a court can be charged against the debtor under section 550 of the Local Courts Act 1970.

3.3 Proceeding with Legal Action (Local Government Act)

- a) Pursuant to Section 712 of the Local Government Act, proceedings for the recovery of a rate or charge may be commenced at any time within 20 years from the date when the rate or charge became due and payable.
- b) All rates and charges payable by the same person, whether in respect of the same or of different land, may be recovered in a single action
- c) Section 605 of the Local Government Act 1993, allows Council to add to the amount of a rate or charge any reasonable out-of-pocket expenses incurred in tracing the person liable to pay the rate or charge.
- d) The Local Government Act 1993 allows further options for Council to recover outstanding debts.

- e) Section 569 allows Council the option to garnishee rent if the rateable property is let by the debtor to a tenant. A Notice must be served on the tenant under this Section before the garnishee can be attempted.
- f) Where rates have remained unpaid for more than 5 years, Council may under Section 713(1) sell the property for unpaid rates.

4 Debt Recovery Procedures for Sundry Debtors

4.1 Recovery action may commence when accounts are outstanding 60 days and over.

- a) All debtor accounts are strictly 30 days from the date of invoice.
- b) Payment arrangements may be made for the payment of sundry debtor accounts if requested. These debts will be paid under a suitable arrangement for a maximum period of 6 months
- c) Monthly statements are to be forwarded to debtors. Outstanding amounts of more than 30 days are to be regarded as overdue.
- d) Where amounts are outstanding for more than 60 days, credit will cease.
- e) If Council does not receive payment within 14 days after the issue of the monthly statement and the account is more than the threshold amount set within the Debt Management Procedure, Council will send a 'Letter of Demand' to the debtor.
- f) If Council does not receive payment within the 14 day period as stated on the 'Letter of Demand' legal action will be commenced. Legal action against Sundry Debtors will follow the same procedures as stated in this document under "3.2 Proceeding with Legal Action for rates".
- g) This policy will not apply to amounts due from Government Departments and such amounts shall be recovered by prompt action with the Government Department direct.

4.2 The Writing Off of Sundry Debtors

Section 610E provides for circumstances where a Council may waive payment of, or reduce an approved fee other than rates and charges. A record is to be kept of all bad debts write offs.

4.3 Special Circumstances

Where special circumstances exist, the matter is to be referred to the General Manager for determination.

5 Debt Recovery Process for Water Supply and Sewerage Charges

5.1 Water and sewerage accounts are issued on completion of the triannual water meter readings and are due 30 days after the date of issue.

5.2 A Final Reminder notice will be issued 14 days after the due date of the water usage account.

- a) If Council receives no response from the ratepayer after the due date of the Final Reminder Notice or as a result of a defaulted payment arrangement notification, Council may commence legal action. Legal action against Water Supply and Sewerage Charges will follow the same procedures as stated in this document under “3.2 Proceeding with Legal Action for rates”.
- b) Any legal expenses incurred by Council from the recovery of outstanding rates and charges can be charged against the debtor under the Local Courts Act 1970.
- c) All rates and charges (including water usage charges) payable by the same person, whether in respect of the same or of different land, may be recovered in a single action.
- d) The General Manager is delegated with the authority to approve the restriction and/ or disconnection of the water supply to premises that have ignored the notice of intent, or have not entered into and adhered to a suitable arrangement.

6 Hardship Consideration

Applications for Hardship Rate Relief must be submitted to the General Manager on the appropriate form under the provisions of Council’s Financial Hardship and Assistance Policy. Each application will be considered on its merits.

Documentation

List the name and document reference number of any other document referred to in this document, including any related policies and procedures

Financial Hardship and Assistance Policy

Debt Management Procedure

Reminder Notice

Application for Payment Arrangement

Variation

Council reserves the right to review, vary or revoke this policy and should be reviewed periodically to ensure it is relevant and appropriate.