



Debt Collection Policy

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Endorsement	General Manager Corporate Services Executive Policy Review Panel - 13 October 2021 Audit & Risk Committee – 8 September 2021
Authorisation	Council – 25 October 2021
Expiry date:	31 December 2024
Responsible officer:	Revenue Coordinator
Policy owner	Manager Finance

1. Purpose

To provide a framework for the efficient and effective collection of all outstanding debts and compliance with statutory requirements in relation to collection of rates, charges, fees and other debts.

2. Scope

This policy applies to all rates and charges levied by council in accordance with the Local Government Act 1989, and other receivables that are owed to council for performing works and services.

This policy is not applicable to Infringements which are subject to different collection process.

3. Definitions

Compassionate Grounds:

Short term circumstances of a compassionate nature that if deferment of payment was not granted, it would lead to a situation of financial hardship and other difficulties.

Financial Hardship:

The debtor is unable to pay the outstanding monies owing due to any adverse financial situation.

Necessitous Circumstances:

Circumstances beyond the control of the ratepayer /debtor that makes payment of outstanding money owed to council impracticable on a short term basis only e.g. serious illness, death in the family, those affected by family violence.

Special Circumstances:

Circumstances where the ratepayer/ debtor has a demonstrable need outside their control.

4. Policy

Council has a responsibility to ensure monies owed to it are collected in a timely, effective and efficient manner to finance its operations and ensure effective cash flow management. Whilst carrying out this responsibility, Council will:

- Ensure that the process is transparent to everyone;
- Treat all people fairly and consistently under this policy;
- Treat all matters under this policy confidentially; and
- Treat people with respect and sensitivity in considering their circumstances.

The management and recovery of outstanding debt is an important aspect of the Council's Financial Management function. The powers available to Council in pursuing outstanding debts is set out in the Local Government Act 1989.

4.1 Debt Groupings

Amounts owed to Council can be categorised into several broad base groups including

- Rates and Charges
- Special Rates and Charges
- Loans and Lease agreements
- Sundry Debtors

Each grouping, by its particular nature, requires distinct methods of debt collection procedures and will be considered accordingly. The detailed collection procedures applying to these groups of debtors are attached to this policy. Collection processes to be followed for each debtor groupings are:

4.1.1 Rates and Charges debts

Standard collection process

4.1.1.1 Failure to pay Instalments due

Council currently offers payment by instalment on 30 September, 30 November, 28 February and 31 May each year. Statutory interest charges will be charged, in accordance of section 172 of the Local Government Act 1989, for payments not made on the due dates mentioned above.

4.1.1.2 Reminder Notices

Reminder notices are forwarded to all unpaid rates accounts within 10 days of the instalment due dates, requiring payments within 10 days or to negotiate and enter a "Payment Arrangement". Any such payment arrangements should clear the debt within a 6-12 month period. Extended payment arrangements of more than 12 months duration will be considered under Council's Financial Assistance (Rates & Charges) Policy.

4.1.1.3 Outbound collection activity

Council via SMS, phone call, email, field calls will make reasonable attempts to contact ratepayers in arrears and those who may have difficulty contacting Council due to circumstances beyond their control. Taking legal action against a ratepayer is a last resort.

4.1.1.4 Magistrate Court Actions

Rate payers who do not respond to "Reminder Notice" will be subject to the following formal collection processes.

- SMS, phone call, email
- Debt Collection Agency Final Notice
- Solicitors Demand letter
- Field call
- Issue of Complaint
- Issue of Judgement Order
- Summons for Oral Examination of debt at the Magistrates Court
- Warrant of Apprehension served for failure to attend Courts for Oral Examination
- Contact by Debt Collection Contractor to follow up the repayment arrangement
- Issue of Warrant to Seize Property, Attachment of Earnings Application, Garnishee of Wages
- Reporting to mortgage financier of ratepayer's indebtedness to Council
- Bankruptcy proceeding
- Winding up of companies.

The above actions incur the Magistrates Courts Civil Procedures-Scale of Costs, all of which are recoverable from the ratepayer.

Discretion of the Manager Finance is exercised in proceeding with any of the above actions, dependent upon size of the debt, length of debt accrual and past history of ratepayer.

If Council officers have been alerted of necessitous circumstances impacting a ratepayer such as family violence, Revenue Coordinator and Manager Finance are to be informed of the matter. Any proposed collection activity will require approval by Revenue Coordinator and Manager Finance.

Councils collections agency must at all times abide by the ACCC Debt collection guidelines for collectors and creditors.

4.1.1.4 Sale of Property to recover outstanding rates-Section 181 of the Local Government Act 1989

The Manager Finance will prepare a report to Council of properties proposed for sale to recover unpaid rates and charges on a yearly basis to Executive, and then to Council if action is required as per Local Government Act.

The report is to reflect those properties where all measures to collect the debt has been unsuccessful and officers believe proceeding to sell the property is justified and worthwhile. The report will be supported by a confidential listing of all required details for council to make an informed determination on each individual debtor, including the debtor's financial circumstances if known, debt history, costs involved and any other relevant matters.

4.1.2 Special Rates and Charges:

Standard Collection Process:

Initial accounts, for any special rates and charges, are forwarded once the special rate or charges has been formally declared. The payment terms will be as agreed in the declaration of special charges and rates for each scheme.

4.1.2.1 Reminder notices:

Reminder notices are forwarded when payments are not received on due date.

4.1.2.2 Follow up action:

As per rates and charges procedures.

4.1.3 Loans and Lease Agreements

Standard Collection Process

Council has several loans and lease agreements with community organisations and businesses. Repayments are identified in the agreement and a repayment schedule is provided. Notices for these are forwarded one month prior to the due dates.

4.1.3.1 Reminder notices

Monthly statements are sent to unpaid accounts.

4.1.3.2 Over 90 days overdue

Accounts not settled for more than 90 days are referred to the responsible Council Officer for follow up.

4.1.3.3 Final Notices:

In the absence of any suitable payment arrangement / non-compliance of payment arrangements, final notices are initiated as a step before legal recovery processes commence.

Future use of Council facilities may be restricted if no satisfactory payment plan is entered into.

4.1.4 Sundry Debtors

Standard Collection Process

Statement of accounts / invoices are forwarded on a monthly basis

4.1.4.1 Reminder Accounts

Statement of accounts incorporating arrears outstanding to be sent in following month.

4.1.4.2 Overdue accounts

Respective Council Officers are provided with a list of overdue accounts. Responsible Officers advise Finance of further actions.

4.1.4.3 Credit notes

A “Request for Credit Note” must be completed using Council’s Customer Action Request (CAR) system.

4.1.4.4 Write Off of Bad Debts

Debts may be written off where there is no expectation of recovering the amount owing.

Any write offs must be authorised by the Manager Finance.

4.2 Financial Assistance (Rates & Charges) Policy

Provision of Council’s Financial Assistance (Rates & Charges) Policy will be used to assist Council’s debtors here applicable before other debt collection procedures are enforced.

5. Responsibility

5.1 Debt Recovery Officer

Responsible for day to day enforcement of the policy with necessary guidance from Revenue Coordinator.

5.2 Revenue Coordinator

Responsible to ensure that the policy is implemented in a consistent manner across all areas of Council, with necessary approval from the senior management of the Council.

5.3 Staff

This policy seeks to maintain and enhance Council’s integrity and standing in its dealings with its debtors. It is expected that when Council staff have dealings with Council’s debtors, that:

- All debtors are shown utmost respect, courtesy, and diligence in all dealings.
- High levels of ethics are adhered to, particularly when dealing with those debtors regarded as being in necessitous or disadvantaged circumstances.
- All debt collection arrangements are treated as strictly confidential.
- Maximum possible collection targets are sought by Council.
- Any negotiated arrangements are as per the documented guidelines stipulated in subsequent sections of this policy.

6. References and links to other documents

6.1 Legislation

- Local Government Act 1989 with references to the following Sections
 - Section 170 Deferred payment of rates and charges
 - Section 171 Waiver of rate or charge or interest
 - Section 172 Council may charge interest on unpaid rates and charges
 - Section 177 Council may require occupier to pay rent
 - Section 180 Council may take legal action to recover unpaid rates and charges
 - Section 181 Council may sell land to recover unpaid rates and charges
- The Privacy and Data Protection Act (2014) Penalty Interest Rate Act 1983

6.2 Guidelines

- ACCC - Debt collection guideline: for collectors and creditors

6.3 Council documents

- Debt Recovery Procedures
- Delegation conferred on the Manager Finance
- Financial Assistance (Rates & Charges) Policy