

Debtor Management Policy

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Adopted by	Council
Review due	31 December 2028
Responsible officer	Manager Finance
Records reference	11636549

1. Purpose

This policy outlines the principles and framework that Council's officers must consider when:

- applying sections 170 and 171 of the Act;
- collecting monies owed to Council.

And

- Sets out the support options Council will offer to ratepayers experiencing financial hardship;
- Provides information to ratepayers so they can understand their options on the grounds of financial hardship, compassion, special or necessitous circumstances; and
- Recognises that legal action is the last resort taken.

2. Application And Scope

Council commonly provides goods and services or issues infringement notices in advance of payment being received. This results in credit being provided until the amount is paid. The amount is recognised as a debt owed to Council, known as an accounts receivable.

Credit is issued by way of rate notices, infringement notices or invoices. A rate notice, infringement or invoice can only be issued when Council is legally entitled to collect the debt. Providing credit comes with the risk of the amount being paid late or non-payment. Council providing credit is unavoidable, so the risk needs to be recognised and managed.

3. Debt Collection

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.

3.1. 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:

3.1.1. Rates and Charges debts

Standard collection process

3.1.1.1 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.

3.1.1.2 Reminder Notices

Reminder notices are forwarded to all unpaid rates accounts within 21 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 24 months. Approved payment arrangements will not accrue interest as per the Ministerial Guidelines Relating to Payment of Rates and Charges and the waiver of interest on unpaid rates or charges under sections 171, 171A and 172. Extended payment arrangements of more than 24 months duration will be considered under Financial Assistance (Rates & Charges) in section 4 of this Policy.

3.1.1.3 Outbound collection activity

Council or an appointed Debt Collection contractor via SMS, phone call, email, letter, 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.

3.1.1.4 Magistrate Court Actions

Ratepayers who do not respond to "Reminder Notice" may be subject to the following formal collection processes.

- SMS, phone call, email
- Debt Collection Agency Final Notice
- Field call

- Statutory Demands & Winding up of companies
- Caveat against the property title

Ratepayers may be subject to the following formal collection processes if they fail to setup an approved payment plan, or it has been at least 24 months since the payment plan was cancelled.

- 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
- Statutory Demands & Winding up of companies
- Caveat against the property title

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 Debt Collection contractor must at all times abide by the ACCC Debt collection guidelines for collectors and creditors.

3.1.1.5 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.

3.1.2. 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.

3.1.2.1 Reminder notices:

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

3.1.2.2 Follow up action:

As per rates and charges procedures.

3.1.3. 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.

3.1.3.1 Monthly Statement

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

3.1.3.2 Over 90 days overdue

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

3.1.3.3 Final Notices:

In the absence of any suitable payment arrangement / non-compliance of payment arrangements, Revenue Collection team will make contact by phone or email, if no response, 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.

3.1.4. Sundry Debtors

Standard Collection Process

Statement of accounts / invoices are forwarded on a monthly basis.

3.1.4.1 Monthly Statement

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

3.1.4.2 Overdue accounts

Revenue Collection team will advise Responsible Officers from relevant business unit once a debt has become 90 days overdue and will act on instructions from relevant business units that requested the invoice. Responsible Officers are expected to review the account and discuss the debt with their debtor and advise Revenue Collection Team of further actions.

Further action may include:

- Revenue Collection Team contacting the debtor via letter, email or phone to discuss their arrears and a payment plan
- Monitor payment plan
- If unable to resolve the debt, the Revenue Collection team may request that the relevant business unit allow the account to be sent to Council's Debt Collection contractor, to recover the debt
- Commence legal recovery action.

3.1.4.3 Credit notes

A "Request for Credit Note" must be completed using EDMS system with approval from Team Leader/Coordinator.

3.1.4.4 Write Off of Bad Debts

Debts may be written off where there is no expectation of recovering the amount owing, refer to Bad & Doubtful Debts Policy.

4. Financial Assistance (Rates & Charges)

4.1. Deferring of Rates and Charges – Section 170 of the Act

Ratepayers may have rates and charges, or part thereof, deferred although rates and charges will continue to be levied subject to compliance with the following conditions and approval by the Chief Executive, Chief Financial Officer or Manager Finance:

- Available only to individuals experiencing hardship with regard to the rates on their primary residence.
- The ratepayer must be experiencing undue and unavoidable hardship, including but not limited to those affected by family violence and mental health.
- The applicant to provide additional information such as Concession Card issued under State Concession Act, evidence of low income, Centrelink Healthcare Card etc. Where there are mitigating circumstances and documented evidence can't be provided, Council will look to make assessment of hardship via other means.
- Council is satisfied on the application of the ratepayer that the payment of rates and charges will cause undue hardship to the ratepayer.
- Council may defer payment or part payment for such period as Council thinks fit.
 - Up to 4 weeks without a financial hardship application approval (interest may be charged)
 - Up to a maximum of 6 months with a financial hardship application approval (Interest will not be charged) or;
 - Other term as approved by Council

4.2. Waiving of Rates /and Charges – Section 171 of the Act

Ratepayers may have rates and charges, or part thereof, waived subject to following conditions and approval by Council or by delegated authority:

- Available only to individuals experiencing hardship with regard to the rates on their primary residence
- Ratepayer is an eligible recipient within the meaning of State Concessions Act 2004
- The applicant is under financial hardship and be able to provide additional information to prove hardship on a needs basis. Where there are mitigating circumstances and documented evidence can't be provided, Council will look to make assessment of hardship via other means
- Maximum of 30% of the current years rates and charges, with a minimum waiver of \$100 per property per year due to financial hardship
- Waiver must be recommended by an independent financial counsellor, unless Council determines (in its sole discretion) that there are exceptional mitigating circumstances justifying why an independent financial counsellor recommendation should not be obtained.

Noting that Council rates and Charges are a property tax, the waiver of rates and charges will only be considered in extreme hardship situations.

4.3. Waiving of Interest – Section 171A of the Act

Ratepayers may have interest or part thereof, waived where they have demonstrated compassionate grounds for a payment being late and/ or financial hardship subject to compliance of the following conditions and approved by Chief Financial Officer or Manager Finance:

- Ratepayer experiencing undue financial hardship (in necessitous circumstances) with financial hardship application approval up to 24 months.
- Ratepayer adhering to an approved payment plan to catch up the outstanding rates and charges

4.4. Waiver for an Additional Bin

Ratepayers may receive a waiver of 100% of the normal cost of one garbage bin for a maximum of 2 rating years, where a medical condition increases amount of waste, subject to the following conditions and approved by Manager Finance:

- Completion of Request for Additional Bin discount form
- Attach a letter from the hospital or doctor confirming medical condition that would require a larger amount of waste

4.5. Pensioner Rebate

Ratepayers with an eligible concession card may be entitled to a pensioner rebate towards their rates. The pensioner rebate is provided by the Department of Families, Fairness and Housing and can be applied for by completing a Municipal Rates Concession form. Where a ratepayer is experiencing financial hardship, Council staff will enquire if they are entitled to the rebate and assist the ratepayer to apply if they haven't already.

4.6. Payment Plans

Ratepayers/Debtors can request a payment plan and agree to make smaller more frequent payments. A customer can request a payment plan over the phone or in writing. A payment plan without a financial hardship application approval must result in the debt being paid within a 24 month period. Penalty interest will not be charged if the agreed payment plan is adhered to. Council staff will monitor payment plans and will continue to follow the normal debt collection process if the payment plan is not maintained.

4.7. Financial Counselling

Council will strongly encourage Ratepayers to seek financial counselling support so that they have independent advice relating to their entire financial situation and not just the Council rates. Counselling services have access to a greater range of support options that can assist applications.

4.8. Debt Recovery and Legal Action

Council will not take legal action unless there have been reasonable efforts to contact the property owner about the debt, including via a debt collection agency, and ensuring that the property owner has been informed of their options.

5. Responsibility

5.1. Revenue Collection Team leader, Debt Recovery Officer & Debt Collection 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. Definitions

Term	Definition
The Act	Means the <i>Local Government Act 1989 & 2020</i>
Debt	Debt is the amount (of money) owed by a debtor as a result of a transaction with Council.
Debtor	Debtor refers to the individual, organisation or other party that owes a debt as a result of a transaction with Council.
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.
Primary residence	The property which is considered to be the main living location.
Independent Financial Counsellor	A free service provided to ratepayers in financial difficulty that is independent of the Council.
Rates & Charges	General Rates, Municipal Charge, Waste Charges, Fire Services Property Levy are the applicable charges with respect to this policy.

7. Related Documents

Name	Location
<i>Local Government Act 2020 (Vic)</i>	Available via www.legislation.vic.gov.au
<i>Local Government Act 1989 (Vic)</i>	Available via www.legislation.vic.gov.au
<i>Privacy and Data Protection Act 2014 (Vic)</i>	Available via www.legislation.vic.gov.au

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