

Debt Recovery Policy – Rates and Charges

Date policy was adopted:	27 June 2018
Resolution number:	190/18
Next Policy review date:	September 2021
Reference number:	SF150398/03-08

Name of policy

1. OUTCOMES:

To ensure the efficient and effective recovery of Rates and Charges and other Sundry Accounts 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.

2. POLICY:

Council acknowledges that ratepayers may experience genuine financial hardship from time to time and as a result, may need assistance to meet their rates and charges payment responsibilities. This policy establishes the circumstances in which financial assistance will be provided and the various types of voluntary financial assistance Council will provide to ratepayers, pursuant to provisions within the LGA.

3. 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.

4. LEGISLATIVE OBLIGATIONS AND/OR RELEVANT STANDARDS

Local Government Act 1993

Local Government (General) Regulations 2005 (NSW)

Civil Procedures Act 2005

5. Debt Recovery Processes for Rates and Charges

5.1. The Rates Reminder Notice

A Rates Final Reminder Notice shall be issued for amounts over \$100.00 within 10 days after the due date of an instalment to those ratepayers who have not made previous satisfactory payment arrangements.

- (a) Mutually suitable arrangements may be entered into with ratepayers requesting extensions to pay outstanding amounts under section 564 of the LGA. It is Council's intention to have a maximum period of 24 months for which debts may be paid under a suitable arrangement, including current levies during the period of arrangement.
- (b) Interest will continue to accrue on any arrears during the period of arrangement.
- (c) 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.

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- (d) If the arrangement is in arrears for a period greater than 14 days, without prior notification, contact the debtor in writing advising that legal action may commence as a result of the default arrangement.

5.2 Proceeding with Legal Action

- (a) If Council receives no response from the debtor after the due date of the Final Reminder Notice or as a result of a defaulted payment arrangement notification Council may commence legal action.
- (b) Legal Action will commence for amounts greater than \$500.00. A 'Letter of Demand' will be issued to the ratepayer from Council's external debt recovery agent giving the ratepayer 14 days to respond.
- (c) If payment in full or an arrangement for payment has not been received by the due date stated on 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 respond to the Statement of Claim within 28 days, Council's external debt recovery agent may apply for 'Default Judgment'. The Default Judgment will 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 months.
- (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 Summons.
- (f) 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.

5.3. 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.

5.4 Hardship Considerations

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

6. Debt Recovery Procedures for Sundry Debtors

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

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- (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 \$500.00 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 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.

6.2. 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 written record is to be kept of all bad debts write offs.

6.3. Special Circumstances

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

7. Debt Recovery Processes for Water Usage Charges

7.1 Water usage accounts are issued on completion of the quarterly water meter readings and are due 30 days after the date of issue.

7.2 A Final Reminder notice will be issued 10 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.
- (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

7.3 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.

8. PERFORMANCE INDICATOR

This policy may be reviewed and updated as necessary if:


- a) Legislation requires it;
- b) Council's functions, structure or activities change

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POLICY:-	
Policy No:	
Policy Title:	Debt Recovery Policy
Date Policy was adopted by Council:	27 June 2018
Resolution Number:	190/18
Previous Policy Review Date:	
Next Policy Review Date:	September 2021
PROCEDURES/GUIDELINES:-	
Date Procedure/Guideline (if any) was developed:	
RECORDS:-	
Container Reference in TRIM: Policy	SF150398/03-08
Container Reference in TRIM: Procedure	
Other locations of Policy:	Intranet (linked to TRIM Container)
Other locations of Procedures/Guidelines:	Intranet (linked to TRIM Container)
DELEGATION (if any):-	
RESPONSIBILITY:-	
Draft Policy developed by:	Jane Steiger
Committees (if any) consulted in the development of the Draft Policy:	
Responsibility for Implementation:	
Responsibility for Review of Policy:	

INTEGRATED PLANNING FRAMEWORK:	
Community Strategic Plan:	Theme No.
Delivery Program Title:	
Operational Plan:	

Senior Authorising Officer Peter Tegart	Position CEO/General Manager	Signature/Date  27/06/2018
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ACTION	COUNCIL MEETING DATE	RESOLUTION NUMBER	REPORT ITEM NUMBER
NEW/RECONFIRMED/ AMENDED	27 June 2018	190/18	12.1

DATE REVIEWED	REVIEWER POSITION	REVIEWER NAME