

POLICY:-	
Policy Title:	Debt Recovery Policy
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Next Policy Review Date:	2024

PROCEDURES/GUIDELINES:-	
Date procedure/guideline was developed:	
Procedure/guideline reference number:	

RESPONSIBILITY:-	
Draft Policy developed by:	Director of Finance and Administration
Committee/s (if any) consulted in the development of this Policy:	N/A
Responsibility for implementation:	Director of Finance and Administration
Responsibility for review of Policy:	Director of Finance and Administration

OBJECTIVES

1. Ensure effective control over debts owed to Council;
2. Council staff to be sympathetic and helpful to those ratepayers and other debtors suffering genuine financial hardship;
3. Fulfil the statutory requirements of the *Local Government Act 1993* and associated Local Government Regulations with respect to the recovery of rates and charges, user-pay charges and other debts;
4. To maximise collections of outstanding debts and to optimise Council's cash flow; and
5. Provide clear and concise debt recovery processes and procedures for Council staff to adhere to and implement.

POLICY STATEMENT

In managing Council's significant cash inflow, it is essential that an effective, equitable and fair debt recovery management policy exist to recover Rates and Charges, Water Usage accounts, user charges and fees revenue and all other private works and accounts receivable.

1. Debt Recovery in respect to Rates and Annual Charges and user fees and charges

- 1.1 Recovery action shall be instigated if current rates and charges are not paid by the due date unless arrangements have been made for payment by instalments either pursuant to Section 562, of the *Local Government Act 1993* or by mutual agreement with Council's Revenue Section.
- 1.2 If a quarterly rates and charges instalment remains unpaid 14 days after the due date for payment, Council will issue an Overdue Instalment Reminder Notice requesting payment within 14 days or to contact Council to make suitable arrangements to pay the overdue rates and charges. The Overdue Instalment Reminder Notice will include the total outstanding rates and charges debt, notification that interest may accrue at the adopted rate, and Council contact details for further information.
- 1.3 Recovery action shall commence where there is no suitable response and/or payment agreement entered into with Council in relation to the outstanding rates and charges within 14 days from the issue of the Overdue Instalment Reminder Notice. Recovery action by Council and/or the debt recovery agent may include but will not be limited to:-
 - Email contact
 - Telephone calls
 - Letters of demand
 - Statement of Liquidated Claim
 - Default Judgement
 - Writ of Execution

- Garnishee Orders
- Section 569 Notices
- Warrant of Apprehension
- Notices to wind up a company

Where appropriate, letters of demand and other correspondence will include a statement advising the ratepayer that legal costs will be added to the outstanding account.

- 1.4 Legal action shall only commence for amounts greater than \$400. Council will pursue all other avenues of recovery of outstanding accounts i.e. payment agreements and Centrepay agreements, before proceeding to formal legal action through the courts.
- 1.5 Due to the high cost of court charges imposed by the NSW Department of Justice and to limit the burden of additional debt recovery costs on ratepayers the outstanding rates and charges must exceed \$750 before proceeding to a Statement of Liquidated Claim.
- 1.6 Ratepayers who are having difficulty in paying rates and charges by the due date may voluntarily enter into a mutual payment agreement with Council and/or Council's debt recovery agent to pay off the rates and charges account. Preferably the agreement should be in writing on the *Arrangement for the regular payment of Rates and Charges* form included in Council's Rates and Charges Hardship Assistance Policy. Where this is not practical, arrangements may also be made by letter, email or by phone but will only be considered valid if recorded on Council's rating system by an authorised Council Revenue Officer.
- 1.7 Ratepayers who are experiencing genuine hardship in paying rates and charges may apply for assistance under Council's Rates and Charges Hardship Assistance Policy by completing and signing the *Application for Hardship Rate Relief* form.
- 1.8 Where Council is aware the ratepayer is receiving Commonwealth benefit payments the ratepayer should be advised to consider a Centrepay payment plan. Any Centrepay plan must meet the standard debt recovery agreement conditions and timeframes.
- 1.9 Any payment agreement entered into with a ratepayer for the outstanding rates and charges other than pursuant to Section 562, of the *Local Government Act 1993*, shall endeavour to ensure that all rates and charges outstanding are fully paid by 30 June of the rating year in which the agreement is entered into. An agreement for payment of outstanding rates shall not extend beyond two years, unless in exceptional circumstances, which will be assessed and may be authorised by the General Manager.
- 1.10 Where a ratepayer who has made arrangements to pay rates and charges by mutual agreement fails to meet their full obligations under the agreement, the agreement will be terminated and legal action shall be

immediately instituted for the recovery of any outstanding rates and charges without further correspondence from Council to the ratepayer.

- 1.11 Where a supplementary rates and charges notice is issued that involves more than the current year's levy, then the ratepayer shall be asked to make payments on a quarterly basis, providing all payments of amounts due is made by 30 June of that financial year.
- 1.12 An arrears of rates and charges report is to be provided to Council in a Closed Committee Meeting, annually at end of the financial year, for accounts greater than \$2,000. The report is also to contain details of the action which has been taken by Council to recover those debts.
- 1.13 Any property with rates and charges outstanding which are proposed to be sold for recovery of the outstanding debt will be reported to Council, in accordance with Section 713, of the *Local Government Act 1993*.
- 1.14 The General Manager is authorised to write-off unrecoverable and/or uneconomical to recover rates and charges, and property debts; i.e. legal expenses, up to and including \$1,000. Requests for waiver of amounts greater than \$1,000 is to be submitted for Council's consideration.
- 1.15 Interest will be charged in accordance with Section 566, of the *Local Government Act 1993*, calculated daily by applying the maximum rate specified by the Minister for Local Government, on a yearly basis.
- 1.16 Interest charges on a property which have been incorrectly charged by Council will be written-off by the authorisation of the General Manager under delegated authority.
- 1.17 Debt recovery processes not relating to rates and charges or water usage billing; i.e. private works, kerb and guttering, and other sundry debtors, will also be in accordance with this policy. Debt recovery will be implemented on accounts greater than 30 days overdue for payment.

2. Definitions

- **Letters of Demand:** Demand letter from Council's debt recovery agent.
- **Statement of Liquidated Claim:** Is a legal document which outlines to the ratepayer:
 - That a claim has been made to the Court for the recovery of monies;
 - Who has initiated the claim and whom the claim is against;
 - The monetary value of the claim; and
 - Time period available to relinquish the debt.
- **Judgement:** In cases where the debtor does not respond to a Statement of Liquidated Claim issued to them, the Court may make a default

Judgment whereby it will award a decision without having the matter heard.

- **Writ of Execution:** Documentation served by a Court Sheriff on a ratepayer. This document allows a court to seize goods and sell the goods. The proceeds are then distributed to the ratepayer less part or full payment of the debt to Council.
- **Sale of Land:** In accordance with Section 713, of the *Local Government Act 1993*, Council has the authority to sell land for unpaid rates and charges.
- **Rent for Rates / Garnishee Order:** Section 569, of the *Local Government Act 1993*, allows Councils to order tenants of properties with overdue rates and charges to pay rent to Council in lieu of unpaid rates, under specific circumstances. A Garnishee Order may be made on a property owner on their salary, wages, bank account, mortgage or money held under contract.

3. Debt Recovery in respect to Water Usage accounts

- 3.1 Water Usage accounts are issued bi-annually to enable revenue to be raised in order to fund the operation of the water supply network.
- 3.2 If a water usage account remains unpaid 14 days after the due date for payment, Council will issue an Overdue Reminder Notice requesting payment within 14 days or to contact Council to make suitable arrangements to pay the water usage account. The Overdue Reminder Notice will include the total outstanding water usage debt, notification that interest may accrue at the adopted rate, and Council contact details for further information.
- 3.3 Where the account remains unpaid or a suitable arrangement to pay the account is not made, a Final Notice shall be sent advising that failure to pay the account within a further 14 days will result in Council installing a water flow restriction device on the property's water meter and the fee for the restriction device to be removed, will be published annually in Council Fees and Charges, in addition to the outstanding water debt.
- 3.4 Where the account remains unpaid or a suitable arrangement to pay the account is not made, a Notice of Intention to Restrict Water Supply letter is to be sent. The letter advises that Council will install a water flow restriction device after 7 days if payment is not made and/or suitable payment arrangements entered into and advise the fee for the restriction device to be removed will be in addition to the outstanding water debt.
- 3.5 The water flow-restricting device shall only be inserted for overdue amounts greater than \$500 where all other recovery avenues have been exhausted, excluding court action. Council will continue to pursue all other avenues of recovery of outstanding water usage accounts.

- 3.6 A notice of Council's intention to install a water flow restricting device will be served on the occupant of the property and letter of advice will be sent to the property owner.
- 3.7 Water flow restricting device to be inserted following 7 days expiration of issue of such a notice.
- 3.8 Outstanding water usage accounts will be recovered in any abovementioned legal process instigated for the recovery of the rates and charges and any other property related debts. Due to the court charges imposed, the outstanding water usage accounts must exceed \$750 before a Statement of Liquidated Claim is taken out.
- 3.9 The General Manager is authorised to write-off unrecoverable and/or uneconomical to recover water usage user pays accounts under delegated authority.

RELEVANT LEGISLATION AND COUNCIL POLICIES

Reference should be made to the following legislation, guidelines and policy documents when reading this policy:-

- Local Government Act 1993 (as amended);
- Local Government (General) Regulation 2005;
- Independent Commission against Corruption Act (ICAC) 1988;
- Anti Discrimination Act 1977;
- State Records Act 1998;
- Government Information (Public Access) Act 2009;
- Privacy and Personal Information Protection Act 1998;
- Office of Local Government Rating and Revenue Raising Manual;
- Council's Integrated Plans; including Community Strategic Plan, Resourcing Strategy, Delivery Program and Operational Plan;
- Council's Code of Meeting Practice;
- Council's Code of Conduct;
- Council's Rates and Charges Hardship Assistance Policy;
- Council's Pensioner Concession Policy;
- Council's Fraud and Corruption Prevention Policy;
- Council's Complaints Management Policy;
- Council's Rebate for Undetected Water Leaks Policy;
- Council's Delegation of Authority Policy; and
- Council's instrument of delegations from the General Manager to Council staff.

VARIATION

Council reserves the right to vary the terms and conditions in this policy.