



Debt Recovery Policy

Resolution Number	Created By	Adopted by Council	Last Modified	Review Period
2015/20	Chief Financial Officer	11/02/2015		10/02/2016
2017/320	Manager Revenue & Customer Relations	08/11/2017	8/11/2017	01/11/2021

POLICY OBJECTIVES

The objective of this policy is to ensure money owed to Council is recovered in a timely, efficient and effective, manner in order to finance Council's operations and ensure effective cash flow management.

POLICY STATEMENT

This policy applies to any person or organization owing rates, charges or other debts to Council.

GENERAL

1. Ratepayer's rates accounts are deemed to be in arrears when one instalment is not paid by the due date as displayed on the rates notice.
2. Water accounts are deemed to be in arrears when the account payment date is not paid by the due date shown on the water and sewer charges account.
3. Accounts receivable invoices are deemed to be in arrears when the monthly account is not paid within thirty days of the date of the invoice.

Debt recovery processes are to commence as soon as practicable for all accounts deemed to be in arrears within the above timeframes with Council taking into consideration the following:

- Ensure effective control over debts owed to Council.
- Be sympathetic and helpful to ratepayers and other debtors suffering genuine financial hardship.
- Fulfill the statutory requirements of the *Local Government Act 1993* and other relevant legislation.
- Ensure consistency, fairness, integrity, sensitively and confidentially of all proceedings for both Council and the debtor.
- Clear and concise debt recovery process and procedures.

RELEVANT LEGISLATION & GUIDELINES

This document has been drafted with due consideration to the following:

- *Local Government Act, 1993*
- *Valuation of Land Act 1916*
- *Local Government (General) Regulation 2005*
- *Local Courts (Civil Claims Act 1970*
- Council Rating & Revenue Raising Manual, 2007
- Council's Hardship Policy
- Council's Fees & Charges
- Council's Pensioner Rates & Charges Reduction Policy , 2017
- Council's Water & Sewer Policy, 2011
- Council's Trade Waste Policy, 2016

1. RATES AND ANNUAL CHARGES

Rates and Charges include all amounts charged by way of a Rates Notice in accordance with section 546 of the *Local Government Act, 1993*. ('Act')

- Rate Notices must be issued in accordance with Section 546 of the Act.
- Instalment notices must be issued one month prior to the instalment due dates (31 August, 30 November, 28 February and 31 May each year) in accordance with section 562 of the Act.
- It is Council's practice to extend the payment date to the first working day after the due date if the instalment falls due on a weekend or public holiday.

DEBT RECOVERY PROCEDURES

Recovery proceedings will commence within fourteen days after the due date of the rate instalment has passed and where an instalment remains partly or fully unpaid.

Reminder Notice

- A Reminder Notice will be issued to each ratepayer who has an outstanding instalment and who has not entered into a payment arrangement with Council.
- If the "Reminder Notice" does not result in payment in full or suitable arrangements are not made within fourteen (14) days from the date of the reminder notice the following "Final Notice" procedure is to be followed.

Final Notice

- Amounts over \$500.00 will be referred to Council's Debt Recovery Agency for the issue of a fourteen (14) day Final Notice.
- If payment is not received within fourteen days or a suitable arrangement has not been entered into Council's Debt Recovery Agency is to issue a Pre-summons warning letter. Council's Debt Recovery Agency will telephone the debtor, if a telephone number is provided, prior to the issue of Summons.

Legal Action

- If payment in full is not received or suitable arrangements are not made within 14 days after the 'Pre-summons Warning' letter has been issued any amount outstanding over \$1,000.00 will result in a Summons being issued to the owner/s of the property.

Legal fees

- Legal fees excluding GST will be payable by the debtor.

Arrangements

- Ratepayers who wish to enter into a mutual payment agreement with Council to pay outstanding rates and charges must submit a written request or complete and sign Council's Application for an Instalment-Agreement form. (Attachment A)
- 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 commence immediately for the recovery of any outstanding rates and charges.
- Any agreement entered into with a ratepayer shall endeavour to ensure all rates and charges outstanding are cleared within twelve (12) months from when the agreement is entered into. An agreement shall not under normal circumstances extend beyond two (2) years. Arrangements outside the two (2) year period may be granted under special consideration as outlined in Council's Hardship Policy.
- Where a ratepayer fails to comply with the terms of an arrangement, Council will issue a pay arrangement letter to the ratepayer advising that full payment is required within fourteen (14) days from the date of the letter. Upon this the ratepayer may make a further payment arrangement. If no arrangement is made the debt is to be referred to Council's Debt Recovery Agency.

Direct Debits

- Council will accept an arrangement whereby the debtor agrees to pay their outstanding rates and charges by direct debit providing Council's Direct Debit Request form (Attachment B) has been completed in full. If the direct debit fails at any time Council will be subject to a returned direct deposit charge as shown in Council's Fees and Charges. If the direct debit request fails three (3) times the arrangement will be cancelled and the matter will be referred to Council's Debt Recovery Agency for further action.

Tenanted Properties

- In the case of a tenanted property, in the first instance councils should only pursue the debt directly with the landowner and, where necessary take legal action against the landowner.

Rent for Rates – Section 569

- Council may under Section 569 of the *Local Government Act 1993* serve on the occupier of the property a notice for the amount of rates and charges unpaid or for the amount of the Judgement.

Pensioners

- Pensioners with outstanding rates and charges should be encouraged to enter into an arrangement to pay their outstanding rates and charges by fortnightly instalments using Centrelink's Centrepay option. Minimum amount accepted by Council is \$20.00.

Sale of Land

In accordance with section 713 of the *Local Government Act 1993*, Council will act to sell the property to recover outstanding rates where the debt has been outstanding for more than five (5) years from the date on which it became due and payable and other attempts to collect the debt have failed.

Interest

- Interest accrues on a daily basis in accordance with Section 566 of the *Local Government Act, 1993* on rates and charges that remain unpaid after they become due and payable. The current interest rate is shown in Council's Fees and Charges.

Interest (Cont'd)

- Ratepayers who are unable to pay accrued interest on rates and charges for reasons beyond their control, or because payment of the accrued interest would cause them hardship, may apply to have the accrued interest written off under Section 567 of the *Local Government Act, 1993*. All applications must be lodged in accordance with Council's Hardship Policy.

2. WATER, SEWER, TRADE WASTE ACCESS AND USAGE CHARGES

Recovery proceedings will commence within fourteen days after the due date of the water, sewer and trade waste account has passed and where an account remains partly or fully unpaid.

Reminder Notice

- A Reminder Notice will be issued to each ratepayer who has an outstanding account and who has not entered into a payment arrangement with Council.
- If the "Reminder Notice" does not result in payment in full or suitable arrangements are not made within fourteen (14) days from the date of the reminder notice the following "Final Notice" procedure is to be followed.

Final Notice

- Amounts over \$500.00 will be referred to Council's Debt Recovery Agency for the issue of a fourteen (14) day Final Notice.
- If payment is not received within fourteen days or a suitable arrangement has not been entered into Council's Debt Recovery Agency are to issue a Pre-summons warning letter. Council's Debt Recovery Agency may telephone the debtor, if a telephone number is provided, prior to the issue of Summons.

Legal Action

- If payment in full is not received or suitable arrangements are not made within fourteen (14) days after the 'Pre-summons Warning' letter has been issued any amount outstanding over \$1,000.00 will result in a Summons being issued to the owner/s of the property.

Legal fees

- Legal fees excluding GST will be payable by the debtor.

Arrangements

- Ratepayers who wish to enter into a mutual payment agreement with Council to pay outstanding rates and charges must submit a written request or complete and sign Council's Application for an Instalment Agreement form. (Attachment C)
- 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 commence immediately for the recovery of any outstanding rates and charges.
- Any agreement entered into with a ratepayer shall endeavour to ensure all rates and charges outstanding are cleared within twelve (12) months from when the agreement is entered into. An agreement shall not under normal circumstances extend beyond two (2) years. Arrangements outside the two (2) year period may be granted under special consideration as outlined in Council's Hardship Policy.
- Where a ratepayer fails to comply with the terms of an arrangement, Council will issue a pay arrangement letter to the ratepayer advising that full payment is required within fourteen (14) days from the date of the letter. Upon this the ratepayer may make a further payment arrangement. If no arrangement is made the debt is to be referred to Council's Debt Recovery Agency.

Direct Debits

- Council will accept an arrangement whereby the debtor agrees to pay their outstanding water, sewer and trade waste charges by direct debit providing Council's Direct Debit Request form (Attachment B) has been completed in full. If the direct debit fails at any time the ratepayer will be subject to a returned direct deposit charge as shown in Council's Fees and Charges. If the direct debit request fails three (3) times the arrangement will be cancelled and the matter will be referred to Council's Debt Recovery Agency for further action.

Interest

- Interest accrues on a daily basis in accordance with Section 566 of the Local Government Act, 1993 on rates and charges that remain unpaid after they become due and payable. The current interest rate is shown in Council's Fees and Charges.
- Ratepayers who are unable to pay accrued interest on rates and charges for reasons beyond their control, or because payment of the accrued interest would cause them hardship, may apply to have the accrued interest written off under Section 567 of the *Local Government Act, 1993*. All applications must be lodged in accordance with Council's Hardship Policy.

Restricting Water Supply

Council may restrict the supply of water to premises if any charges in respect of the water supplied to the premises are unpaid. Council should only restrict or disconnect water as an option of last resort, after it has issued a notice to the tenant under Section 569 of the *Local Government Act, 1993* and a reasonable opportunity is given to the tenant to comply with the notice. A fee for the placement and removal of restrictors are outlined in Council's Fees and Charges.

3. SUNDRY DEBTORS

- All debtor accounts are strictly 30 days from the date of invoice unless prior arrangements have been made.
- Monthly statements are to be forwarded to sundry debtor. Amounts outstanding for more than thirty (30) days are to be regarded as overdue and will be advised accordingly.
- Where accounts are outstanding for more than thirty (30) days the debtor will be contacted by phone to request payment.
- Where amounts are outstanding for more than sixty (60) days a "Letter of Demand" will be issued.
- If payment is not received within ninety (90) days the matter will be referred to Council's Debt Recovery Agency for legal action.

Arrangements

- Any request for an arrangement must be made prior to the work commencing or in the case of supply, before the supply has been made.

Direct Debits

- Council will accept an arrangement whereby the debtor agrees to pay their debtor account by direct debit providing Council's Direct Debit Request form (Attachment B) has been completed in full and prior approval has been obtained. If the direct debit fails at any time the debtor will be subject to a returned direct deposit charge as shown in Council's Fees and Charges. If the direct debit request fails three (3) times the arrangement will be cancelled and the matter will be referred to Council's Debt Recovery Agency for further action.

Further considerations for the collection of Rates & Charges, Water and Sundry Debtors

Council may include outstanding debtor, water, sewer and trade waste accounts in any legal action taken to recover outstanding rates and charges.

HARDSHIP CONSIDERATIONS

- All applications for “Hardship Relief” are to be made in accordance with Council’s Hardship Policy.

APPLICATION TO MAKE REGULAR PAYMENTS

Council appreciates the fact that circumstances can prevent people paying rates and charges, water and sewerage usage charges by the due date and for this reason is prepared to accept regular payments provided the account is settled within twelve months.

Other arrangements may be accepted, but only by submitting a Hardship Relief Application Form to Council outlining reasons why the account cannot be settled within this timeframe.

COMMENCEMENT DATE: _____ COMPLETION DATE: _____

ASSESSMENT NO: _____ CONTACT NO: _____

PROPERTY ADDRESS: _____

I, _____
(Insert Name)

Of, _____ (insert
postal address) Should this address be recorded for Rate & Water accounts (tick if yes)

Hereby agree to make regular WEEKLY/FORTNIGHTLY/MONTHLY payments of:
(cross out whichever does not apply)

(Please Note: Both sides are to be completed below)

<input type="checkbox"/> \$ _____ Rates	<input type="checkbox"/> Arrears only (current accounts must be paid as they fall due)
<input type="checkbox"/> \$ _____ Water/Sewer usage charges	<input type="checkbox"/> Arrears + Current Account
(Please tick appropriate box and enter amount)	(Please select one of the above options)

With my first payment beginning on _____ (insert date) I undertake to settle all rates, water and sewerage usage charge amounts due by me, by the above stated completion date.

I agree to notify Council in writing immediately if there is any substantial change to my financial situation.

I understand, that interest charges, in accordance with the Local Government Act 1993, will continue to apply on overdue rate, water and sewerage charges until paid.

By submitting this request I declare that I am authorised to make this payment arrangement as the owner of the property or authorised person of the owner of the property.

I acknowledge that if these payments are not strictly adhered to, my agreement will be cancelled and legal proceedings will commence to recover the total balance outstanding, including extra charges, owed to Council.

Signature: _____

Date: _____

Personal information collected as a result of this application will only be used for the purpose of assessing your application and will not be used for any other purpose, or disclosed to any person, unless required by law to do so, or authorised to do so by the person to whom that personal information relates. Privacy will be maintained in accordance with the NSW Privacy and Personal Information Protection Act 1998.

Should you have any further enquiries please contact Council's Revenue Section on (02) 6889 9999.