

Debt Recovery Policy

Date Adopted: 24 January 2023

Version: 3.1

Policy Objectives

The objective of this policy is to ensure monies owed to Council are recovered in a timely, efficient and effective manner in order to finance Council's operations and ensure effective cash flow management. Whilst carrying out this responsibility, Council will:

- 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.

Policy Scope

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

Policy Statement

This policy provides a framework for the efficient and effective collection of outstanding debts and fulfils statutory requirements in relation to the recovery of rates, charges, fees and other debts.

1. Recovery of Rates and Charges

1.1 Rates and Charges Notice

Rates and charges notices are issued in July each year and are payable in four instalments on 31 August, 30 November, 28 February and 31 May each financial year, per section 562 of the Local Government Act 1993 (the Act). A rate instalment notice is issued 30 days before each instalment is due.

1.2 Reminder Notice

If the whole or part of an instalment, exceeding \$10.00, is not paid within 10 days of the instalment due date, then a reminder notice will be issued. Reminder notices will be issued to all ratepayers and will request payment within no less than 10 days of the mailing date on the reminder notice. The reminder notice will advise that the recovery of the rates and charges may be referred to Council's debt collection agency if the overdue amount is not paid in full within the period specified on the reminder notice. The notice will also advise that arrangements may be made with Council to pay the overdue amount.

1.3 Recovery Action – Referral to Debt Collection Agency

Following the expiration of the period specified on the reminder notice Council will refer all assessments where the amount overdue is greater than \$750.00 and more than 1 instalment in the current rating year, and no arrangement has been made to pay the overdue amount, to its debt collection agency.

1.4 Recovery Action – Debt Collection Agency Procedures

a) The debt collection agency will as soon as practicable after receipt of a referral from Council issue a letter to the ratepayer in relation to each overdue amount advising that Council has referred the debt to the agency for collection and that payment is required within 14 days of the date of the letter, otherwise legal action will commence. The letter is to specify the minimum amount in legal costs that may be added to the ratepayer's rate assessment if legal action is commenced.

b) Following the expiration of the 14 days as requested in the letter the debt collection agency is then to issue a statement of liquidated claim following approval from Council to proceed with legal action.

c) Following the statutory period after service of the statement of liquidated claim and with Council's approval the debt collection agency is to issue a pre-judgement letter. The letter advises the ratepayer that Council intends to proceed to Default Judgement against them unless payment is received within 14 days of the date of the letter. The letter is to specify the minimum amount in legal costs that may be added to the ratepayer's rate assessment if judgement is entered against the ratepayer and information explaining to the ratepayer that a default judgement will be listed on their credit file for a period of 5 years even if the amount is subsequently paid/finalised and that this listing may affect any future applications for credit.

d) Following the expiration of the 14 days as requested in the pre-judgement letter the debt collection agency is then to obtain judgment against the ratepayer following approval from Council to proceed with the legal action.

e) Once judgement is obtained against the ratepayer, the debt collection agency with Council's approval is to take the necessary proceedings to recover the debt including but not limited to:

- A garnishee of income;
- Writ of execution on goods and chattels;
- Examination summons;
- Service of a rent order where the property is tenanted;
- Bankruptcy proceedings (subject to resolution of Council);
- Sale of land for unpaid rates (subject to resolution of Council).

1.5 Arrangements to Repay Rates and Charges

Council recognises that some ratepayers may experience financial difficulties in meeting their rate commitments. Council will seek to assist ratepayers to make arrangements that are consistent with the ratepayers' capacity to make regular payments.

A ratepayer may at any time make arrangements to pay off their outstanding rates and annual charges by regular payments, subject to the following guidelines (refer also to Council's Hardship Policy):

- Arrangements can be made on a weekly, fortnightly or monthly basis.
- Any arrangement must be made so that all amounts owing are paid in full by 30 June of that financial year.
- Extenuating circumstances can be taken into consideration if either of the above two conditions cannot be met but must be referred to the Coordinator Revenue or Debt Management Officer for approval.

All ratepayers who enter into an arrangement will continue to have interest charged on the outstanding amount in accordance with Section 566 of the Local Government Act 1993, subject to Council's Hardship Policy.

Where a ratepayer has not honoured a previous arrangement the Revenue Coordinator has the discretion as to whether to accept a new arrangement or continue with further recovery action. Any new arrangement cannot be accepted until a payment is received to show good faith.

In the event that a ratepayer fails to make a payment in full under an arrangement and does not notify Council of any financial difficulties, the total amount outstanding becomes payable and is subject to Council's normal recovery procedures without further notice to the ratepayer.

Once a writ of execution on goods and chattels has been issued on an outstanding amount any payment arrangement must be made by an Instalment Order through the Local Court.

In accordance with section 568 of the Act, payments will be applied towards the payment of rates and charges in the order in which they become due.

Extensions of time beyond three months without any payment will not be accepted.

2. Recovery of Sundry Debtor Accounts

2.1 Sundry Debtor Invoices and Statements

Invoices are raised as debtor information comes to hand eg. Construction of kerbing and guttering, footpaths, waste, private works, etc. The due date for payment of all invoices is 30 days after the invoice date. Within 7 days of the close of a month a statement of the sundry debtor account will be issued.

2.2 Overdue Sundry Debts

If an account is not paid by the due date a second and then a third monthly statement will be forwarded as a reminder. Once an account has amounts that are 90 days in arrears, Council may refer the account to its debt collection agency.

2.3 Recovery Action – Suspension of Credit Facilities

If the account is an ongoing account, e.g. waste tipping fees, further credit to that debtor will be withdrawn until the account is paid at the discretion of the Coordinator Revenue or Finance Officer (Receivables & Rates).

2.4 Recovery Action – Debt Collection Agency Procedures

a) The debt collection agency will as soon as practicable after receipt of a referral from Council issue a letter to the account holder in relation to each overdue account advising that Council has referred the debt to the agency for collection and that payment is required within 14 days of the date of the letter, otherwise legal action may commence. The letter is to specify the minimum amount in legal costs that may be added to the account if legal action is commenced.

b) Following the expiration of the 14 days as requested in the letter the debt collection agency is then to issue a statement of liquidated claim following approval from Council to proceed with legal action.

c) Following the statutory period after service of the statement of liquidated claim and with Council's approval the debt collection agency issue a pre-judgement letter. The letter advises the account holder that Council intends to proceed to Default Judgement against them unless payment is received within 14 days of the date of the letter. The letter is to specify the minimum amount in legal costs that will be

added to the account if judgement is entered against the ratepayer and information explaining to the account holder that a default judgement will be listed on their credit file for a period of 5 years even if the amount is subsequently paid/finalised and that this listing may affect any future applications for credit.

d) Following the expiration of the 14 days as requested in the letter the debt collection agency is then to obtain judgment against the account holder following approval from Council to proceed with legal action.

e) Once judgement is obtained against the account holder, the debt collection agency with Council's approval is to take the necessary proceedings to recover the debt including but not limited to:

- A garnishee of income
- Writ of execution on goods and chattels;
- Examination summons;
- Bankruptcy proceedings (subject to resolution of Council).

1. 2.5 Arrangements to Repay Sundry Debtor Accounts

A debtor may at any time make arrangements to pay off their outstanding account by regular payments, subject to the following guidelines (refer also to Council's Hardship Policy):

- Arrangements can be made on a weekly, fortnightly or monthly basis.
- Any arrangement made so that all amounts owing are paid in full by 30 June of that financial year.
- Extenuating circumstances can be taken into consideration if either of the above two conditions cannot be met but must be referred to the Revenue Coordinator or Finance Officer (Receivables & Rates) for approval.

Where a debtor has not honoured a previous arrangement the Revenue Coordinator has the discretion as to whether to accept a new arrangement or continue with further recovery action. Any new arrangement cannot be accepted until a payment is received to show good faith.

In the event that a debtor fails to make a payment in full under an arrangement and does not notify Council of any financial difficulties, the total amount outstanding becomes payable and is subject to Council's normal recovery procedures without further notice to the ratepayer.

Once a writ of execution on goods and chattels has been issued on an outstanding amount any payment arrangement must be made by an Instalment Order through the Local Court.

Extensions of time beyond three months without any payment will not be accepted.

4. Legal Costs

All debt recovery costs and fees associated with any course of action are to be borne by the owner of the debt and will subsequently remain a charge on the property until paid.

Any ratepayer or sundry debtor that wishes to appeal against the legal costs that have been added to their assessment or account must state their appeal and the reasons for the appeal in writing to Council.

All requests for a review of legal costs will be assessed and the facts of the case collated with the final decision as to whether the costs will be written off to be made by the Group Manager Strategy Performance and Business Systems.

5. Third Party Reporting

Council will not supply private credit agencies with information regarding legal action it has taken in the recovery of overdue rates. However, Council recognises that judgement details are supplied to credit agencies by NSW Courts.

If a ratepayer requests proof that the debt owed to Council has been paid a letter will be issued by Council confirming payment has been made. Such letter will only be issued if all overdue debts have been paid.

Further, if a ratepayer requests a Notice of Discontinuance to finalise the judgement at the Court, Council will require all overdue debts to be paid in full. If this requirement is met, Council's Debt Collection Agency will carry out the process for a Notice of Discontinuance. If the overdue debts are not paid in full and the ratepayer requires a Notice of Discontinuance urgently, they can apply for the Notice of Discontinuance themselves through the Court. Council will not commence the process if rates and charges are still outstanding.

Policy Definitions

"Ratepayer": the person liable for payment of the rates and charges due and payable on any given property.

Policy Administration

Business Group:	Finance
Responsible officer:	Annette Peel
Council reference:	Ordinary Council Meeting – 24 January 2023 – Item 14.1
Policy review date:	Three (3) years from date of adoption
File number:	35/1
Relevant legislation	• Local Government Act 1993 • Local Government (General) Regulation 2021 (NSW)
Related documents	• Hardship Policy

Policy History

VERSION	DATE APPROVED	DESCRIPTION OF CHANGES
1.0	22/04/2014	New policy adopted
2.0	28/05/2019	Revised policy adopted
3.0	24/01/2023	Revised policy adopted

3.1	-	Updated to new branding and alignment to organisation structure. No change to content.
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