

Draft Debt Recovery Policy

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Strategic Pillar	Organisation Capability <u>Corporate</u> <u>Services</u>
Responsible Branch	Finance

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1 OUTCOMES

- 1.1 To ensure consistency, fairness, integrity and confidentiality of all proceedings for both ~~the~~ Council and ~~the~~ Account Holders.
- 1.2 To fulfil the statutory requirements of the Local Government Act, 1993 with respect to the recovery of rates and annual charges, water and sewer charges and other debts.
- 1.3 To maximise collections of outstanding debts and to optimise Council's cash-flow.
- 1.4 To be sympathetic and helpful to those account holders suffering genuine financial hardship and to establish the circumstances in which financial relief may be provided pursuant to provisions within the Local Government Act.

2 POLICY

- 2.1 Council will carry out debt recovery in a fair and consistent manner and in accordance with the provisions of the Local Government Act.
- 2.2 Council acknowledges that ratepayers and debtors may experience genuine financial hardship from time to time and as a result may need assistance to meet their financial responsibilities.
- 2.3 This policy establishes the circumstances and assessment process for entering into suitable payment arrangements or instigating debt recovery action for the collection of outstanding rates, annual charges, water usage charges, fees, and sundry debtors.

3 SCOPE OF THE POLICY

- 3.1 This policy applies to all ratepayers, sundry debtors and other account holders.
- 3.2 This policy applies to Council staff with delegated responsibility for carrying out debt recovery procedures, and debt recovery agents who act on behalf of Council.

4 DEFINITIONS

- 4.1 ~~Debt Recovery~~ Agent - Council engages ~~an~~ external debt recovery agents to act on its behalf to recover overdue funds via early intervention or legal debt recovery.
- 4.2 Default Judgement - The Court can make a default judgement where the defendant has not responded to the Statement of Claim. Default judgement may be granted without the need for a hearing or further attendance in court.
- 4.3 Letter of Demand (also called a ~~Notice of Intent~~) - A formal letter clearly setting out the basis for the debt, the amount of the debt and a demand for payment within a set period of time.
- 4.4 Payment Arrangement - a negotiated agreement to pay regular amounts of money as a course of action.
- 4.5 Statement of Claim - A court document that sets out how much the account holder owes Council and why Council is making the claim. The statement of claim starts a court case.

5 LEGISLATIVE OBLIGATIONS AND/OR RELEVANT STANDARDS

- 5.1 The Local Government Act 1993 sections 564, 566, 567, 605, 607, 610 and 713 to 726.
- 5.2 The Local Government (General) Regulation 2021 sections 130, 131 and 133.
- 5.3 Privacy and Personal Information Protection Act 1998 (NSW) (PPIP Act)
- 5.4 Privacy and Personal Information Protection Regulation 2019

5.5 OLG Circular 15-40 Recovery of Outstanding Water Charges, December 2015, A430931

5.6 OLG Debt Management and Hardship Guidelines November 2018

5.7 Debt Collection Guideline for collectors and creditors ACCC/ASIC

~~5.8 QPRC Hardship Assistance Policy~~

~~5.8.9 QPRC Statement of Revenue Policy~~

~~5.9 QPRC Water Flow Restriction Procedure~~

~~5.10 QPRC Sale of Land for Unpaid Rates Procedure~~

6 CONTENT

6.1 Rates and Annual Charges Instalments

6.1.1 Rates and annual charges are levied by 31 July each year and may be paid in a single instalment or four equal instalments by the following dates:

- 31 August
- 30 November
- 28 February
- 31 May

6.1.2 Instalment notices are issued 30 days before the due date.

6.2 Water Usage Charges

6.2.1 Water meters are read in accordance with Council's rolling reading program and accounts over \$5.00 are sent to ~~the~~ users in quarterly 90 day cycles.

6.2.2 Accounts are issued 30 days before the due date.

6.3 Interest

6.3.1 Any rates instalment or water usage account not paid by the due date falls into arrears and attracts interest.

6.3.2 The rate of interest to be charged is the maximum allowed as announced by the Minister for Local Government each year however Council will reaffirm the rate of interest each year with the adoption of the annual Revenue Policy.

6.3.3 Interest is applied to all outstanding rates, whether a suitable arrangement is in place or not. Interest commences to accrue on unpaid rates after the due date.

6.4 Hardship

6.4.1 Council recognises there are cases of genuine financial hardship requiring respect and compassion in special circumstances. Hardship applications are assessed in accordance with the Hardship Assistance Policy.

6.5 Reminder Notices

6.5.1 A final reminder notice will be issued for amounts outstanding over \$100 after 7 days of the due date.

6.5.2 Council may commence debt recovery action within 1 month of the charges becoming overdue unless the ratepayer requests a short extension of time or enters into a suitable payment arrangement with Council.

6.6 Suitable Payment Arrangements

- 6.6.1 Council is empowered under Section 564 of the Local Government Act to enter into an agreement with a person to accept variable payments of rates and charges due, including weekly, fortnightly or monthly payments.
- 6.6.2 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.
- 6.6.3 Where council staff deem it to be appropriate in the circumstances, prior to the commencement of legal action, Council shall accommodate an agreement for the period payment of the debt that extinguishes it within a reasonable timeframe.
- 6.6.4 Council staff consider the following factors when making the determination about whether a payment arrangement is acceptable:
 - a) Arrangements should be made on the basis that current rates and charges are to be paid in full by the end of the financial year. This will prevent arrears being carried forward into the next rate year.
 - b) A minimum of one payment per month should be made, or
 - c) if this cannot be achieved, then the arrangement should be reasonable so that the debt is reduced as soon as possible.
- 6.6.5 Payment arrangements can be requested in writing, or telephone or in person, and if agreement is reached, the payment arrangement is recorded in Council's billing system. If the arrangement is adhered to no further action is required.
- 6.6.6 If an arrangement is made and later dishonoured Council may write to the rate debtor requesting that payment be made within 7 days or written application be made for approval to pay by direct debit to avoid further debt recovery action.
- 6.6.7 Debtors who do not respond to the 7 day follow-up letter are issued with a further letter advising that if payment is not received within 14 days or an arrangement to pay is not made by that date, legal action will commence. The letter will also advise that such action will incur estimated legal costs and that those costs incurred will be added to the debt.
- 6.6.8 Where a debtor defaults on approved arrangements and there has been no contact from the debtor to discuss the missed payments, Council may recommence recovery action from the stage which had been reached prior to the last arrangement being negotiated.

6.7 Debt Recovery Action for Rates and Annual Charges

- 6.7.1 All rates, annual charges, water usage charges and any other sundry debtors payable by the same person, whether in respect of the same or different property, may be recovered in a single action.

6.7.2 If insufficient payments have been made to cover overdue amounts greater than \$500 and less than \$1,500 and there is no current arrangement, then early intervention debt recovery action will commence. Council or its Debt Recovery Agent will contact the ratepayer by text, letter, email and / or house-visit, issue the following:

6.7.26.7.3 If insufficient payments have been made to cover overdue amounts greater than \$1,500 and there is no current arrangement, then debt recovery action will commence. Council or its agent will issue the following:

- a) A Letter of Demand ~~and/or a Notice of Intent~~ after 14 days of the reminder notice.
- b) If the ratepayer does not contact Council or its debt recovery agent to pay the arrears in full or to enter into a suitable arrangement, legal proceedings may

be instigated against the ratepayer. A Statement of Claim is issued against the owner/s of the property after 14 days of the letter of demand ~~and notice of intent.~~

- c) If the ratepayer fails to pay the arrears or enter into a payment arrangement within 28 days, Council will apply for Default Judgement and arrange to recover the Judgement Debt through the appropriate recovery actions.

~~6.7.3~~6.7.4 All early intervention costs, legal costs and other expenses incurred in debt recovery proceedings will be charged against the property (including the expenses of tracing a person in accordance with Section 605 of the Act) and will become payable by the ratepayer. These costs will remain a charge on the land until paid in full.

6.8 Water Flow Restrictors

6.8.1 For unpaid water accounts, an "Intent to Restrict Water Supply Notice" will be issued by Council. The service of the Notice will be by hand delivery to the property.

6.8.2 A Water flow restrictor will only ~~normally~~ be fitted when ~~all avenues of the~~other debt recovery process have ~~been exhausted~~failed.

6.8.3 Tenanted properties cannot have their water supply restricted as the debt is the responsibility of the landowner. In these instances, legal action will be pursued against the landowner.

6.8.4 The ~~CEO~~General Manager is delegated with the authority to approve the restriction and/or disconnection of the water supply to premises that have not responded to the Final Notice and Intention to Restrict Flow, or have not entered into and adhered to a suitable payment arrangement.

6.8.5 Costs incurred for legal action and fees for the installation and removal of water restrictors are added to the debt, as well as interest.

6.9 Sale of Land

6.9.1 Where Debt Recovery Actions have not been successful to recover outstanding rates and charges, and where property has 5 years rates and charges in arrears, Council will commence action for the sale of land for unpaid rates, in accordance with Part 2, Division 5 of the Act (Sale of land for unpaid rates and charges, Sections 713 – 726).

~~6.9.16~~6.9.2 Council intends to consider commencing a sale of land process every 2 years.

6.10 Sundry Debtors

6.10.1 Council issues debtor accounts for numerous services in accordance with Council's adopted Fees and Charges and Operational Plan.

6.10.2 Council reserves the right to refuse credit for any service or expenditure where an account holder has other overdue amounts owing to Council or has a poor payment or debt history with Council.

6.10.3 Property based charges including landowner contributions to footpaths, kerb and gutter and any other charge on the land under any Act will be immediately attached to the property and rating database to enable the amount outstanding to be shown on a section 603 certificate.

6.11 Debt Recovery Action for Sundry Debtors

6.11.1 If an account is not paid by the due date, the monthly account statement is sent to the debtor as a reminder notice with advice that the account is overdue.

- 6.11.2 If payment is not received after 7 days of the issue of the monthly statement, a letter will be forwarded warning of legal action and requesting immediate payment.
- 6.11.3 If, by the second monthly statement there has been no satisfactory response, Council will commence normal debt recovery action.
- 6.11.4 If the account is an ongoing account further credit to that debtor may be withdrawn until the account is paid in full.

7 REVIEW

- 7.1 This policy will be reviewed every four years or earlier as necessary if:
 - a) legislation requires it, or
 - b) Council's functions, structure or activities change