



Council Policy

Debt Recovery Policy

Version 6 - 22 November 2021

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Policy - external Debt Recovery Policy

Introduction

Scope

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

Policy statement

Chapter 15, part 7 of the *Local Government Act 1993* (the Act) sets out the requirements for payment of rates and charges.

Section 562 of the Act allows for annual rates and charges to be paid in a single instalment or by quarterly instalments. If a payment is made in a single instalment, the instalment is payable by 31 August. If payment is made by quarterly instalments, the instalments are payable by 31 August, 30 November, 28 February and 31 May.

Council is to issue a quarterly notice for the payment of an instalment at least 30 days before the due date of the instalment.

Under section 566 of the Act, interest will accrue on overdue rates and charges at the maximum allowable rate set by the Minister by notice published in the Gazette each year.

If rates and charges and other fees become overdue, a series of reminders and legal notices are issued to the customer.

Should it be deemed necessary for Council to take legal action to recover rates and charges, any costs awarded to Council by a court in these proceedings are a charge on the land, in accordance with section 550 of the Act and are payable by the customer.

Whilst Council encourages customers to enter into repayment arrangements, and endeavours to contact ratepayers via phone and email wherever possible, it may be necessary to take legal action to recover debts in some circumstances. Customers experiencing genuine financial hardship are encouraged to complete an application for relief under Council's Financial Hardship Assistance Policy.

A process is in place to ensure the recovery of all debts at the earliest possible date consistent with the ability of the customer to pay (refer to Debt Recovery Procedure). The process includes the following steps:

- Reminder notice
- Final notice
- Notice of Legal action.

Legal action can include the following options:

- Statement of liquidated claim
- Judgement
- Writ of execution
- Garnishee issued
- Examination notice and order
- Bankruptcy proceedings
- Sale of land.

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Objectives

The objectives of the Debt Recovery Policy are to:

- provide a framework for the efficient and effective collection of outstanding debts and to fulfil statutory requirements in relation to the recovery of rates, charges, fees and other debts
- recover monies owing to Council in a timely and effective manner, and ensure effective cash flow management
- provide a process that is ethical, transparent, compliant with legal obligation and legislation, whilst being open and accountable
- treat all customers fairly and consistently whilst carrying out this responsibility, with respect and sensitivity in considering their circumstances. All matters will be treated confidentially under this policy.

Interest charges

Council increases overdue rates by the maximum allowable in accordance with section 566 of the Act.

Council may write off interest charges on overdue rates, in accordance with section 567 of the Act, by Council resolution or by delegation of authority to the General Manager.

Outstanding sundry debtors

Sundry debtor accounts are overdue if not paid within fourteen days of the issuing of the account. Council may stop the provision of credit facilities to debtors when an account is overdue for more than 30 days. This matter will be determined in consultation with the manager of the Council department that initiated the sundry debtor request.

If an account is not paid by the due date, a second monthly statement and then a third monthly statement are forwarded as a reminder. Once an account has amounts that are 90 days in arrears, recovery action may commence if all other avenues to collect the debt are exhausted.

Debt recovery action can include:

- Follow up phone calls
- Letters
- Reminder notices
- Notices of legal action.

Writing off of debts

Council will generally not write off debts legally owed to Council. However, the *Local Government (General) Regulation 2005* allows debts to be written off only:

- a. if the debt is not lawfully recoverable, or
- b. as a result of a decision of court, or
- c. if Council or the CEO believes on reasonable grounds that an attempt to recover the debt would not be cost effective.

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The fact that a debt is written off under this section does not prevent Council from taking legal proceedings to recover the debt.

Amounts up to \$5000 can be written off by the CEO. Amounts above \$5000 can only be written off by resolution of Council.

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Controlled Document Information

Authorisation Details

Folder No:	F2005/02172	TRIM Record No:	D10403372
Audience:	External - Financial Services Team, Customer Experience Team		
Department:	Financial Services	Officer:	Coordinator Revenue and Debt - Jane Steiger
Key focus area(s):	Debt recovery		
Review Timeframe: Max < 4 years	4 years	Next Scheduled Review Date:	22 November 2025
Authorisation:	Adopted by Council - 22 November 2021		
Authorisation - Council Adoption Date:	22 November 2021		

Related Document Information, Standards & References

Related Legislation:	Local Government Act, 1993 Sections 550, 562, 564, 566 and 567 Office of Local Government Debt Management and Hardship Guidelines - November 2018	(Relationship/Context)
Related Policies:	Financial Hardship Assistance Policy	(Relationship/Context)
Related Procedures, Guidelines, Forms, WHS Modules/PCD's, Risk Assessments, Work Method Statements:	Debt Recovery Procedures	(Relationship/Context)
Standards, COP's & Other References	(Standard, COP or Other References)	(Relationship/Context)

Definitions

Term / Abbreviation	Definition
the 'Act'	Local Government Act 1993

Consultation (update for each version created)

Key Departments, Teams, Positions, Meetings:	Senior Debt Management Officer
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Version History

Version No	Date Changed	Modified By	Details and Comments
2	07/02/2008	L McGuiness	Policy reviewed and new document created in new template format – no changes to policy
3	15/03/2011	L McGuiness	Minor amendment to incorporate costs awarded by Court.
4	02/03/2015	L McGuiness	Policy reviewed and new version created in current template – no changes to wording of the policy

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5	11/2019	J Steiger	Policy reviewed and new version created in accordance with Office Local Government Debt Management guidelines and new Financial Hardship Policy.
6	22/11/2021	J Steiger	Policy amended to include the amount above which debts to Council may be written off only by resolution of Council at \$5000.