

CORPORATE  
SERVICES

## DEBT RECOVERY POLICY

Date of Adoption: 16 June 2009

Effective Date: 16 June 2009

## **In managing Council's most significant cash inflow, it is essential that an effective and equitable debt management policy exists to recover all Rating and Domestic Waste Management Charges revenue.**

The policy outlines the principles and guidelines to managing the recovery of outstanding rates, incorporating the following major elements:

- Collect all Rates and Charges by the end of each Rating year;
- Apply a fair and reasonable approach to recovering overdue Rates and Charges;
- Maintain Council's Rates Outstanding Ratio at or below the industry standard;
- Individually assess each hardship application;
- Consider a scheme for arrangement of payments outside the due dates;
- Efficient and effective service management;
- Utilise the services of Mercantile Agents where operatively required;
- Apply the provisions of the Act relating to the Sale of Land as and when required;

### **1. Compliance**

- Local Government Act 1993
- Local Government (Rates and Charges) Regulations 1993
- Council's Instrument of Sub delegations from the General Manager to Staff, Bodies and Other Individuals
- Council's relevant Rating Policies

### **2 Objectives**

- Outline the principles and guidelines that apply to the recovery and management of overdue Rates and Domestic Waste Charges;
- To ensure compliance with the relevant parts of the Local Government Act, Regulations and other applicable legislation;
- Ensure a fair and equitable approach to recovering overdue Rates and Domestic Waste Charges.
- Maintain the Rates Outstanding Ratio at better than 3%.

### **4 Commencement of Recovery Action - Section 712**

If an account is overdue and an arrangement to pay has not been made, Council may issue a Reminder Notice requesting payment of the overdue amount at a suitable time within the current year. In most cases, the Reminder Notices will be issued after each missed instalment.

The Notice will request the full amount outstanding or offer the opportunity to make a satisfactory arrangement to pay the outstanding amount if the ratepayer is unable to pay in full.

A Reminder Notice may also be issued to pensioners requesting payment or an arrangement to pay, however NO legal action is to be taken against ratepayers who are pensioners eligible for rebates.

### **5 Stopping and/or Suspending Action/ Arrangements - Section 564**

Actions/Arrangements may be stopped and/or suspended when:

- The debt is paid in full; or
- The Court rules that the action is not lawful; or
- A mutually agreeable arrangement is made between Council/Agent and relevant Ratepayer; or
- At the discretion of the General Manager, Director Corporate Services, or Rates or Finance Management.

## 6 Scheme of Arrangements Guidelines - Section 564

Council acknowledges that in certain cases, some Ratepayers may genuinely be experiencing a period of financial hardship and as a result may have difficulty in meeting the cost of each Rates instalment as and when it falls due. In such cases, Council encourages Ratepayers to enter into an arrangement for periodical payment of Rates and Charges applicable to their property in accordance with the conditions set out by Council.

Similarly, Council is considerate to accepting a mutually agreeable arrangement for the payment of overdue Rates and Charges. The arrangement may be entered into at any time during the recovery process, except where Council has resolved to sell a property under the Sale of Land provisions outlined in the Local Government Act.

### 6.1 The following guidelines should be met before any arrangement is accepted:

- The arrangement should be accepted on the basis that the outstanding amounts be finalised as soon as possible;
- Arrangements can be made on a weekly, fortnightly or monthly basis;
- Any arrangement made before the due date of the 3rd instalment, should be made such that all amounts are paid in full by the 30th June of that financial year;
- Arrangements made after the 3rd instalment due date may extend into the following year however, must be reviewed once the subsequent year's levy also becomes payable;
- Extenuating circumstances can be taken into consideration if any of the above 3 conditions cannot be met, but must be referred to the Rates Coordinator for approval. Details of income/outgoings of Ratepayer may be required.
- Unless the imposition of costs and/or interest are deemed to be in error, the waiving of costs and/or interest will not be considered until all overdue Rates and Domestic Waste Charges are paid.

## 7 Mercantile Agent Delegation Process

The process of recovering overdue rates and charges requires a certain level of expertise, which may, in most cases, be best managed by a professional Mercantile Agent.

Where utilised, any Mercantile Agent instructed to assist Council with its debt recovery process would need to comply with all the parameters outlined above to ensure that Council's objectives are being applied consistently.

In carrying out any function, the Mercantile Agent will be limited to the guidelines as indicated in the above-mentioned sections:

- Commencement of Recovery Action
- Stopping and/or Suspending Action/Arrangements
- Arrangement Guidelines
- Adhere to the guidelines by the Australian Competition and Consumer Communication Guidelines

### 7.1 As part of their role, the Agent would also be delegated to:

- Accept, control and follow up on arrangements in accordance with the above mentioned guidelines
- Issue of Summons, Judgement and Writ action in accordance with the bulk process flow
- Other legal processes as instructed and/or discussed with Council's Rates Management Team
- Commence Company Wind-up Action (Sec 459E Notice) as approved by Rates Management

## 8 Dispute Resolution

In cases where Ratepayers object to the decision made, they will have the opportunity to escalate their matter(s) for further consideration.

In managing disputes, Ratepayers may escalate their matter(s) for further consideration to the following officers:

- 1) Rates Coordinator
- 2) Manager Finance
- 3) Director Corporate Services
- 4) General Manager

5) Mayor/Council

## 9 Customer Service contact

Given the nature of the Debt recovery process, instances arise from time to time where certain Ratepayers may become verbally and/or physically abusive. Threats and abuse, either verbal or physical, against Council staff are to be referred to Council's Corporate Services Department, at which stage the appropriate action will be decided. For more information please refer to Council's Complaints Handling Policy.

## 10 Interest Charges

Council charges interest on Rates and charges which become overdue. The rate of interest is determined annually and there may be differential rates of interest in some circumstances, for example, deferred rates owing by pensioners.

Council may waive (write off) interest charges in mitigating circumstances affecting the Ratepayer, e.g. Hospitalisation, death in the family, illness, and good payment history. In giving consideration to the write off, Council will have regard to the previous payment record of the Ratepayer. Write offs are initiated at the discretion of the rating staff and the Manager Finance depending on the circumstances.

Interest charges, which have been incorrectly raised by Council, will be written off.

Interest is not charged on legal costs.

## 11 Glossary of terms

- Bulk Actions/Process: Recovery action taken on multiple accounts.
- Summons: The Summons, identified as a " Statement of Liquidated Claim ", is a legal document, which outlines to the debtor:
  - that a claim has been made to the Court for the recovery of monies;
  - who has initiated the claim
  - who 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 Summons issued to them, the Court may make a default judgement whereby it will award a decision without having the matter heard.
- Writ: A document served by a Court Sheriff on a debtor. This document allows a court to seize goods owned by a debtor and be sold. The proceeds are then distributed to the debtor as part or full payment of the debt.
- Costs: Amounts incurred by Council in recovering overdue debts (e.g. Court, Professional Costs), which can be legally recovered from the debtor.
- Sale of Land: In accordance with section 713 of the Local Government Act, Council has the authority to sell land, which has any unpaid Rates or charges for more than 5 years.
- Rent for Rates: Section 569 of the Local Government Act allows Council to order tenants of properties with overdue Rates to pay rent to Council in lieu of unpaid Rates, under specific circumstances.