

## POLICY DOCUMENT

**7.63.13**

<b>Policy Name</b>	Management & Recovery of Rates & Sundry Debtors
<b>Policy No.</b>	7.63.13
<b>Version:</b>	1.2
<b>Strategic Reference:</b>	3.2 A strategically driven, community aware and accountable Council
<b>Responsible Department:</b>	Corporate & Community Services
<b>Policy Adopted:</b>	17 August 2020
<b>Last revised date:</b>	15 July 2019
<b>Minute reference:</b>	CO 20/116
<b>Next review date:</b>	Council will endeavour to review this policy 4 years after adopted date or following significant change to legislation or aspects included within this policy.
<b>Applicable Legislation:</b>	Local Government Act 1999 s143, 144, 181, 182 & 184
<b>Related Policies:</b>	
<b>Related Documents:</b>	

### 1. GENERAL PRINCIPLES

The management and recovery of outstanding revenue is an important aspect of Council's financial management function. The principles that will apply in the management and recovery of debt are as follows:

- a) Council has a responsibility to recover monies owing to it in a timely and efficient manner to finance its operations and ensure effective cash flow management;
- b) Council will operate effective and consistent billing and debt collection processes;
- c) Council aims to minimise the amount of outstanding monies that it is owed;
- d) Debtors are expected to take responsibility for their Council debt obligations and to organise their affairs in such a way as to be able to discharge these obligations when required;
- e) If a debtor cannot meet their obligations on the due dates, it is in the interest of the debtor to contact Council at the earliest opportunity to make appropriate arrangements to address the debt;
- f) In a case of financial hardship, upon application by the debtor, Council will consider postponement of payment and/or a suitable repayment plan, on a case by case basis;
- g) Staff will maintain procedures to support the administration of this policy, including the monitoring of compliance with associated internal controls.

## **2. INTRODUCTION**

An explicit set of policies and procedures is a necessary tool for sound financial management, provides clear guidance to staff and provides the following benefits:

- a) Public accountability and transparency – Policies publicly document Council’s position on which it will base its decisions. They demonstrate Council’s commitment to sound financial management and establish transparency for audit purposes;
- b) Ensuring a considered approach – The formal adoption of carefully documented policies helps ensure that Council’s position on each issue has been properly considered, having regard to alternative approaches and the wider policy and statutory context;
- c) Consistency of decision making – By adopting clear Council policies a consistent basis for decision-making over time is established. While Council can make a decision contrary to its adopted policy, it needs a deliberate decision to do so which helps to ensure that proper consideration has been applied;

When the policies and procedures are followed, staff are protected from allegations of financial mismanagement.

## **3. LOCAL GOVERNMENT ACT 1999**

- 3.1. Council may write off bad debts pursuant to Section 143 of the Local Government Act 1999.
- 3.2. Council may write off any debts owed to the Council if the Council has no reasonable prospect of recovering the debts or if the costs of recovery are likely to equal or exceed the amount to be recovered. (S143(1)).
- 3.3. Council must not write off a debt unless the Chief Executive Officer has certified that reasonable attempts have been made to recover the debt or the costs of the recovery are likely to equal or exceed the amount to be recovered. (S143(2)).
- 3.4. If Council delegates the power to write off debts, the Council must set an amount above which the delegation will not apply. (S143(3)).
- 3.5. Fees, charges, expenses or other amounts may be recovered by Council as a debt by action in a court of competent jurisdiction. (S144(1)).
- 3.6. Where the fee, charge or expense is in respect of a rateable or other property, the Council may, after giving at least fourteen (14) days-notice, recover the debt as if it were a rate declared on the property at the time of the notice requiring payment (S144(2)).
- 3.7. Late payment penalties and interest apply if instalment of rates not paid by due date (S181(8)).
- 3.8. Council may sell land if rates in respect of land has been in arrears for three (3) years or more (S184(1)).
- 3.9. Council may remit and postpone payment of rates (S182).

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**4. PURPOSE**

- 4.1. To provide a clear and concise policy framework in which to pursue all outstanding debts owed to the Council.
- 4.2. To ensure a fair, consistent and accountable approach to Council's debtor management and collection decisions and practices and have regard to a person's financial circumstances.
- 4.3. Assist in the efficient management of Council assets through the timely collection of outstanding monies.

**5. POLICY DETAIL****5.1. *Debtor Management Process*****Rate Debtors –**

The usual practice of Council is that the debtor/s are referred to the debt collection agency if;

- The debtor/s have two or more quarters owing to Council; and
- There is no current payment plan to pay the outstanding rates, or the payment plan has not been adhered to.

If there is a current payment plan in place, Council will refer the debtor/s to the debt collection agency if:-

- The debtor/s have not fully complied with the terms of the agreed payment plan; and
- The debtor/s have two or more quarters owing to Council.

The debt collection agency acts under the instruction of Council as per Council's procedure – Management and Recovery of Outstanding Rates – refer PROC255.

Legal action may be temporarily suspended if the debtor/s enter into a payment plan satisfactory to Council, which includes the provision for the payment of legal costs.

Any debtor/s who are having difficulty paying rates are encouraged to make a personal payment arrangement to pay off the debt in a reasonable and manageable timeframe. Details of the payment arrangement must be recorded and payments monitored.

Fines and interest will continue to be applied in accordance with the Local Government Act 1999.

In accordance with Section 184 of the Local Government Act 1999, Council may sell land for the non-payment of rates when the rates are in arrears for 3 years or more. A report will be prepared for Council detailing any rate debtors that have remained unpaid following the implementation of recovery action, and are in arrears for 3 years or more. Council will provide direction on further action pursuant to Section 184 of the Local Government Act 1999 on presentation of such report.

All costs incurred with respect to formal recovery action will be passed on to the debtor/s. Once formal recovery action has commenced it will not be discontinued until the amount of the claim has been paid in full.

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**Sundry Debtors –**

Once a sundry debt has been outstanding for at least 30 days, a statement is issued with an overdue notification requesting payment within 7 days.

At 60 days overdue a letter of demand is sent informing that legal action will be pursued without further notice if no satisfactory response is provided from the debtor.

After 90 days, Council's debt collection agent will be instructed to instigate legal proceedings for recovery of the debt.

In consultation with the Department initiating the debt, negotiated exemptions may be provided depending on the level/nature of the debt and the debtor (eg; community groups or welfare groups).

**6. RELEVANT DELEGATED POWERS AND DUTIES**

Any actions or decisions made regarding this policy will be enacted upon as per Council's current Delegations Register.