

Debt Recovery Policy

Policy Approval and Distribution

Approved by	Council resolution
Responsible Officer	Rates Officer
Council Service Unit	Finance
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Version Control

Ref	Date	Description	Council Resolution
1.0	24-04-2018	Adopted	80/2018

Purpose

To ensure consistency, fairness, integrity and confidentiality of all proceedings for both the Council and the Account Holder.

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.

To maximise collections of outstanding debts and to optimise Council's cash flow.

To be sympathetic and helpful to those account holders suffering genuine financial hardship.

Scope

This policy applies to all ratepayers, sundry debtors and account holders within the Cootamundra-Gundagai Regional Council.

This policy applies to Council staff with delegated responsibility for carrying out the procedures, and debt recovery agents who act on behalf of Council.

Legislative Framework

Local Government Act 1993

Local Government (General) Regulation 2005

Privacy and Personal Information Protection Act 1998 (NSW) (PPIP Act)

Privacy and Personal Information Protection Regulation 2014

OLG Circular 15-40, December 2015, A430931

Debt Collection Guideline for collectors and creditors ACCC/ASIC

Review Period

This document is to be reviewed every four years (or when necessary) to ensure that it remains relevant and meets legislative requirements.

Definitions

‘Debtor’ The person liable for payment of the debt.

Related Council Documents

- Application for Payment Arrangement Form
- Rates and Financial Hardship Policy
- Revenue Policy, contained within the Operational Plan
- Delegations Register

Policy Statement

Council will carry out debt recovery in a fair and consistent manner and in accordance with the provisions of the Local Government Act and the procedures outlined below.

Procedures

Rates and Annual Charges

Annual rates and charges notices are issued in July each year. They may be paid in a single instalment or by quarterly instalments. If a payment is made in a single instalment, the instalment is payable by 31st August. If a payment is made by quarterly instalments, the instalments are payable by 31st August, 30th November, 28th February and 31st May.

Annual rates and charges notices and Quarterly instalment reminder notices are issued 30 days before the due date.

Water and Sewerage Charges

Council's water and sewer charges are billed in quarterly or bi-annual cycles, in arrears. Accounts are issued 30 days before the due dates.

Sundry Debtors

Council issues debtor accounts for numerous services, including private works, in accordance with Council's Operational Plan and adopted Fees and Charges.

Council reserves the right to refuse credit for private work accounts where a property owner has other overdue amounts owing to Council, or has a poor payment of debt history with Council.

Trading terms are 30 days from the date of the invoice, available to credit approved applicants only.

A Reminder Letter is issued for all sundry debtor accounts unpaid 30 days after the invoice due date. If a reminder letter does not result in payment in full or suitable payment arrangements being made, recovery action shall be commenced.

Interest

For Rates and Annual Charges and Water and Sewer Charges, interest accrues on a daily basis in accordance with Section 566 of the Local Government Act 1993 on all amounts that remain unpaid after they become due and payable. The rate of interest to be charged is the maximum allowed as announced by the Independent Pricing and Regulatory Tribunal (IPART) each year.

Payment Arrangements

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 and payable.

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.

Failure to adhere to a payment arrangement that has been put in place will result in legal action for recovery, in accordance with this policy.

Where a debtor defaults on approved arrangements for payment 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.

Overdue Notice

Overdue notices are issued for Rates and Annual Charges and Water and Sewerage Charges.

After fourteen days of the expiration of the account due date, an "Overdue Notice" is to be issued to all ratepayers with unpaid accounts with a value of \$10.00 or more. This Notice must include information to the account holder on options available to them should they be having difficulty in meeting their payment requirements.

Financial Hardship

Council recognises there are cases of genuine financial hardship requiring respect and compassion in special circumstances. In cases of genuine hardship, a written application should be made to Council to request consideration for a concession under Council's Rates and Charges Financial Hardship Policy.

Making Contact with the Account Holder

In making contact and corresponding with the debtor, Council and Council's agent will follow the ACCC / ASIC Debt Collection Guidelines. Council has obligations to protect the privacy of the debtor, and when making direct contact will always ensure it is dealing directly with the debtor or their legal representative. Communications with the debtor will only occur to the extent necessary and reasonable.

Recovery Action

Prior to the commencement of legal action, further additional communication attempts will be made, and may include the following.

- 1) If the Overdue Notices and Reminder Letters do not result in payment, a Demand Letter or Account Statement will be issued reminding the debtor of the outstanding debt and requesting payment in full or negotiation of suitable payment arrangements to avoid the commencement of legal action.
- 2) If payment is not received and no arrangements have been entered in to within 14 days of the Demand Letter, staff will attempt to make contact with the debtor by telephone to arrange a meeting to discuss settlement of the outstanding debt.

If a contact is unable to be made or satisfactory payment arrangements are not commenced, Council will commence debt recovery proceedings. Costs incurred for legal action and fees for the installation of water restrictors are added to the debt, as well as interest.

Intention to Restrict Water Supply Notice

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. The time, date and place or manner of service of hand delivered notices will be recorded. The Notice will include:

- The total overdue amount now payable, including interest,

- Notice that if the amount is not paid, or an arrangement for payment made within 7 days, the water will be restricted without further notice,
- The cost of the water restrictor fee,
- Advice that nominal supply to the property will be reduced,

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.

After expiration of 7 days for payment on an “Intent to Restrict Water Supply Notice”, written instruction will be given to the Water and Sewer staff to restrict supply and the water restrictor fee will be added to the account. Restriction will be made by fitting a restriction device so as to make available a nominal supply. At the time of restriction a “Water Supply Restricted Notice” will be issued and served by hand delivery at the property. That Notice will include the following advice:

- The total overdue amount now payable, including the water restrictor fee,
- That the water has now been restricted,
- The supply will not be restored until the total amount outstanding is paid, or evidence of continued ongoing payments as per any agreed arrangement is seen,
- If full payment is being made, payment must be made directly to Council and before 1.00pm if same day restoration of supply is required,
- Caution needs to be exercised in the use of hot water systems,
- It is an offence to tamper with a meter or any device attached to a meter.

Legal Action

When legal action commences, a Statement of Liquidated Claim (summons) will be issued and served. Where judgement is entered in Council’s favour, Council will seek to recover the judgement debt through appropriate recovery actions. Action to recover outstanding debts that will be considered, may include, but is not limited to:

- A garnishee of income,
- writ of execution on goods and chattels,
- examination notice,
- examination summons,
- service of a rent for rates notice where the property is tenanted,
- sale of land for unpaid rates.

Arrangements for payments may be accepted after legal action has commenced, subject to the continuation of legal action should the ratepayer or debtor not adhere to the approved arrangement.

All legal costs and expenses incurred in recovering outstanding rates and charges shall be charged against the property in accordance with the Local Government Act.

All legal costs and expenses incurred in recovering outstanding sundry debts shall be added to the debt outstanding.

If Council are to sell off goods via a Writ of Execution, Council staff are to advise the account holder that financial counselling is available from agencies such as Centrelink, Mission Australia and the Salvation Army.