

Council Policy – Debt Recovery

Responsible Directorate	Corporate Services
Responsible Business Unit/s	Finance
Responsible Officer	Manager Finance
Affected Business Unit/s	Finance

Objective

The objective of this policy is to:

- provide guidelines to employees on appropriate debt recovery and write off procedures to ensure effective control over rates and charges that become due and payable,
- ensure the monies owed to the Shire of Ashburton (the Shire) are received in a timely, efficient and effective manner in order to finance the Shire's operations and ensure effective cash flow management,
- fulfil statutory requirements of the *Local Government Act 1995* and other relevant legislation in relation to the recovery of rates and charges, and
- ensure that during the debt recovery process the Shire will treat people fairly, consistently, and in a confidential and professional manner.

Scope

This policy applies to debtors to provide them with clear guidelines relating to outstanding monies.

Policy Statement

General principles

The Chief Executive Officer (CEO) shall ensure:

- appropriate credit limits and controls are established and maintained to ensure the risk of financial loss is correctly managed,
- credit terms are clearly outlined in the Application for Credit and stated on the issued tax invoice, and
- debt collection processes established are to be fair, flexible, and realistic and should accord with the ACC-ASIC Debt Collection Guidelines for Collectors and Creditors.

Rates and Service Charges

Rates and service charges will be issued each financial year as soon as the Annual Budget is adopted. Rates are payable in full by the due date or by two or four instalment options. A rate instalment notice is to be issued 35 days before the next instalment is due pursuant to section 6.50 of the *Local Government Act 1995*.

Excluding pensioners, if payment has not been made by the due date, either in full or an amount equivalent to the first payment of one of the instalment options, a Final Notice will be issued requesting full payment within 7 days.

Special payment arrangements

Council may, at the request of a ratepayer, approve special payment arrangements other than instalment options offered on the rate notice subject to the following:

- Special arrangements must be finalised in full prior to 30 June of the current financial year unless under extenuating circumstances, and as approved by the Director Corporate Services or CEO.
- Interest will continue to accrue on any arrears during the period of arrangement.
- All requests for payment arrangements are to be made in writing. Payments can be made either weekly, fortnightly, monthly or by other arrangements approved by the Director Corporate Services or CEO.
- Extension of time beyond three months without payment is not acceptable.
- Where the ratepayer defaults on two consecutive payments, the arrangement will immediately be withdrawn and may be subject to further action.

Sundry Debtor Accounts

The recovery of outstanding debtor accounts will be collected in a timely manner as follows:

- Payment not received within 30 days from invoice due date – Final Demand issued allowing seven days to pay or services may be limited and/or credit suspended.
- Payment not received at 60 days from invoice due date – debt may be referred to a collection agency.

Timing of pursuing debtor accounts is at the discretion of the Director Corporate Services.

Oceanview Caravan Park and Sun Chalets

Oceanview Caravan Park and Sun Chalets managers will follow the procedures under the *Caravan Parks and Camping Grounds Act 1995*, to recover debts and will forward onto Finance for recovery once these have been exhausted.

Infringements

Infringements are recorded in the Shire's approved records management system and recovery is managed by Ranger Services. When infringements remain unpaid, they may be referred to Fines Enforcement Registry and recovered under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

Debt Recovery/Legal Proceedings – Rates and Sundry Debtors

Following the expiry date on the Final Notice/Demand, the Shire may, on a case-by-case basis, refer the debt to its collection agency to commence legal proceedings which may include:

- General Procedure Claim,
- Default/summary Judgment,
- Means Inquiry hearing, and
- Property Seizure and Sale Order.

Further legal proceedings may continue until the debt is paid in full.

All legal costs associated with the debt collection action are to be borne by the owner of the debt and will subsequently remain a charge on the land/property (where applicable).

Alternative recovery options – rates and service charges only

Where rates and service charges remain unpaid and an alternative special arrangement is not in place, with the prior approval of Council, the Shire may take the following courses of action:

- Where the property is not occupied by the ratepayer and is leased, section 6.60 of the *Local Government Act 1995* shall be imposed. The lessee or tenant will be required to pay to the Shire, the rent payable under the lease/tenancy agreement as it becomes due, until the outstanding amount has been paid in full.
- Impose section 6.64 of the *Local Government Act 1995*, to lodge a caveat on the title of the land.
- Impose section 6.64 of the *Local Government Act 1995*, to take possession of the land (only where rates and service charges are unpaid for at least three years).

- For the purpose of determining if it is a condition of the loan for the rates and taxes to be kept current, query with the Mortgager details of the loan where applicable, with a view to having the debt paid by the financial institution.

Late payment penalty

Interest is to be calculated daily on overdue monies at a rate set in the Annual Budget in accordance with the *Local Government Act 1995*.

Where an instalment option is taken, the account of the ratepayer is to be levied with an additional instalment charge as prescribed in Council's Fees and Charges schedule.

A late penalty fee is to be charged on special payment arrangements as prescribed in Council's Fees and Charges schedule.

Bad debts/write-off

Council may at its discretion, remit penalties and related expenses for late payment of rates, including where genuine hardship can be substantiated.

Writing off unpaid debts will only be considered when all reasonable attempts have been made to recover the outstanding amount.

Unrecoverable debts may be written off under Council delegation.

An annual review of provisions for doubtful debts will occur and appropriate adjustments made in the budget.

Exemptions

Sporting/community groups and other Not-for-Profit organisations may be excluded from debt recovery action and penalty interest. However, the Shire may refuse booking requests for facilities if monies owing exceeds the Shire's trading terms.

Funding bodies and government organisations are exempt from debt recovery action and penalty interest.

Definitions

Debtor means a person/company who owes money to the Shire, including a ratepayer who has overdue rates and/or service charges.

Relevant policies/documents

Nil

Relevant legislation/local laws

Local Government Act 1995

- Section 6.12 Power to defer, grant discounts, waive or write off debts
- Section 6.13 Interest on money owing to local governments
- Section 6.45 Options for payment of rates or service charges
- Section 6.49 Agreement as to payment of rates and service charges
- Section 6.50 Rates or service charges due and payable
- Section 6.51 Accrual of interest on overdue rates or service charges
- Section 6.56 Rates or service charges recoverable in court
- Section 6.60 Local government may require lessee to pay rent
- Section 6.64 Actions to be taken
- Section 6.65 Power to lease: procedure

Office use only

Relevant delegations	01.01.17 Defer, Grant Discounts, Waive or Write Off Debts 01.01.21 Agreement as to Payment of Rates and Service Charges 01.01.23 Recovery of Rates or Service Charges 01.01.24 Recovery of Rates Debts – Require Lessee to Pay Rent 01.01.25 Recovery of Rates – Actions to Take Possession of the Land		
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