



FIN15 RATES DEBT RECOVERY POLICY

Aim	To provide guidelines to the staff on appropriate debt recovery and write off procedures to ensure effective control over Rates and Charges that become due and payable
Application	All Staff
Statutory Environment	<i>Local Government Act 1995 s6</i>
Principles	Strategic Community Plan 2017 – 2027 (Desktop Review 2019) Goal 05 Inspiring Governance Objective 4 Exemplary team and work environment
Approval Date	OMC 20 November 2018

1. Policy Objectives

- To ensure the monies owed to Council are received in a timely, efficient and effective manner in order to finance Council's operations and ensure effective cash flow management.
- To fulfil statutory requirements of the *Local Government Act 1995* and other relevant legislation in relation to the recovery of rates and charges.
- During the debt recovery process Council will treat people fairly, consistently, and in a confidential and professional manner.

2. Recovery of Rates Outstanding

Any rate payment due to the Council that has not been received by the due date is to be recovered in accordance with this Policy.

2.1 Rates and Charges Notice

Rates and service charges are issued every year as soon as the Council's annual budget is adopted in conjunction with rates in the dollar approved by the Council. Rates are payable in full by due date or by two (2) or four (4) 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*.

2.2 Special Arrangement

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.



- (ii) Interest will continue to accrue on any arrears during the period of arrangement.
- (iii) 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 the CEO.
- (iv) Extension of time beyond three (3) months without payment is not acceptable.
- (v) Where the ratepayer defaults on two consecutive payments, the arrangement will immediately be withdrawn and will be subject to further action, depending upon prevailing circumstances as outlined in the debt collection process.

2.3 Final Notice

A final notice is to be issued within 7 days after the due date of any assessment where Rates and Charges remain outstanding and an alternative special arrangement has not been made. The final notice will advise the following:

- (a) The amount of outstanding levies and interest accrued up until the date of the notice, allowing 7 working days for payment in full.
- (b) If the amount due is not received by the due date specified in the notice, legal proceedings can be initiated to recover the debt.
- (c) Advise ratepayers to contact the Shire within the 7 days specified in the notice to make alternative arrangements for the payment of the overdue amount.
- (d) All debt recovery costs and fees as per the *Local Government Act 1995* associated with any course of action are to be borne by the owner of the debt and will subsequently remain a charge on the land/property.

2.4 Recovery Action – Referral to Debt Collection Agency

Following the expiry date on the final notice, Council shall, depending upon the prevailing circumstances and an assessment the cost versus benefit to the Shire, refer the debt to its collection agency to commence with the issuing of court proceedings in accordance with section 6.56 of the *Local Government Act 1995*.

Procedures for Debt Recovery by Agency:

- (i) A 'letter of final demand' is issued to the rate payer to make payments within 7 days of receiving the letter.
- (ii) Seven (7) days after the Final Demand Letter and where payment still remains outstanding, a General Procedure Claim (Legal Claim) will be issued for the recovery of the debt.



- (iii) The General Procedure Claim (GPC) will automatically affect the ratepayer's credit rating.
- (iv) If the Bailiff is successful in serving the GPC, the ratepayer should contact the Council to make a payment arrangement or the ratepayer can complete a form which is part of the GPC to be forwarded to Court.
- (v) When the GPC is served, the ratepayer will have 14 days to respond. Council may proceed with the next step if the ratepayer fails to respond as required after the 14 days.
- (vi) Where the owner has not responded to the GPC, a Property Seizure and Sale Order (PSSO) is to be issued and the Bailiff will go out to the affected property and seize goods to the value of the debt outstanding.
- (vii) If the rate payer does not own any goods to be seized to the value of the debt, Council may proceed with a PSSO over land. Council may auction the land to recover the debt owed.

Further legal proceedings are to continue until payment of rates imposed is secured.

2.5 Other Recovery options that may be undertaken by the Council

- a) Where Rates and Charges remain unpaid, are not subject to an approved alternative special arrangement and the property is not occupied by the ratepayer and is leased, section 6.60 of the *Local Government Act 1995* shall be imposed, requiring the leasee or tenant to pay to the Shire, the rent due payable under the lease/tenancy agreement as it becomes due, until the outstanding amount has been paid in full. The approval of Council is to be obtained before this course of action is undertaken.
- b) Where Rates and Charges remain unpaid and are not subject to an approved alternative special arrangement, impose section 6.64 of the *Local Government Act*, to lodge a caveat on the title of the land. The approval of Council is to be obtained before this course of action is undertaken.
- c) Where Rates and Charges remain unpaid for at least 3 years and are not subject to an approved alternative special arrangement, impose section 6.64 of the *Local Government Act 1995*, to take possession of the land. The approval of Council is to be obtained before this course of action is undertaken.
- d) Where Rates and Charges remain unpaid and are not subject to an approved alternative special arrangement, the Shire may, 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.

3. Late Payment Penalty



- Interest is to be calculated daily on overdue rates and charges at a rate set in the Council's Annual Budget in accordance with the *Local Government Act 1995*. The rate of interest set by the Council must not exceed the rate specified by the Minister for Local Government.
- 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 & Charges schedule.
- A late penalty fee is to be charged on special payment arrangement as prescribed in Council's Fees & Charges schedule.

4. **Bad Debts/ Write-off**

- (i) Council may at its discretion, remit penalties and related expenses for late payment of rates, including where genuine hardship can be substantiated.
- (ii) Writing off unpaid debts will only be considered when all reasonable attempts have been made to recover the outstanding amount.
- (iii) Bad debts of an amount greater than the Chief Executive Officer's authority limit can only be written off by Council resolution.

5. **Roles and Responsibilities**

- The Chief Executive Officer shall be responsible for the application of delegations of authority in regards to the Policy
- The Director Corporate Services shall be responsible for referring matters to Council in regards to this Policy and the collection of outstanding debts.
- Finance Manager shall be responsible for ensuring Policy and procedures are implemented and monitored.
- Finance officers shall be responsible for reviewing and ensuring that all balances are recovered without the need for legal action wherever possible and that all relevant Council policies are adhered to.