



# **Debt Recovery Policy**

## POLICY OBJECTIVE

The objective of this policy is to ensure that money owed to Council is collected as soon as possible through efficient and effective debt recovery procedures.

## LEGISLATIVE PROVISIONS

*Local Government Act 1993*

*Local Government (General) Regulation 2005*

*Division of Local Government Rating and Revenue Raising Manual*

*Residential Tenancies Act 2010*

*Bankruptcy Act 1966*

*NSW Uniform Civil Procedures Rules 2005*

*Commercial Agents and Private Inquiry Agents Act 2004*

*Corporations Act 2001*

## POLICY STATEMENT

Council may combine arrears of Rates, Water and Sewer / or Debtor accounts to take the accumulated debt to \$950 for legal action to commence.

### Rates and Charges

1. Any request for an arrangement from a ratepayer to pay rates and charges arrears must be made in writing, for consideration

The period for re-payment of any arrangement is to be within 12 months. Any arrangement exceeding 12 months will need to be reviewed under Council's *Hardship Policy*.

#### **Interest will continue to accrue on all outstanding balances.**

2. Where a ratepayer having made an arrangement to pay the outstanding debt has further difficulty meeting the repayment and requests Council to be more lenient, a further extension should be sought by lodging a Hardship Application.
3. In the event of a ratepayer defaulting on any arrangement Council may make attempts to contact the ratepayer. If the ratepayer does not make provisions to bring the arrangement up to date within the agreeable timeframe, legal action may be initiated without any further correspondence from Council. Where a ratepayer defaults on their arrangement and does not contact Council no further arrangement will be entered into and legal action may commence and continue until the debt is paid in full.
4. In line with Council's Time Table of Debt Recovery Processes (attached) legal action that will incur legal and court costs will commence when the amount outstanding is \$950 or three (3) instalments in arrears and will continue as required until the debt has been paid in full. Council's Debt Recovery Provider/s will be engaged to conduct the necessary steps to ensure the prompt collection of these arrears. Letters of demand will be sent out where the amount outstanding is \$500 or two (2) instalments in arrears.
5. A report providing outstanding rates and charges is presented to Council at the end of each quarter with outstanding arrears over \$500. The report will also contain details of the action which has been taken by Council to recover those debts.

6. All requests by a ratepayer to write off rates and charges including legal fees and interest must be submitted in writing for the consideration of Council at a closed meeting.
7. Interest will be charged in accordance with *s566 Local Government Act 1993*. Interest will be calculated daily on a simple basis applying the per annum rate specified by the Minister and approved by Council. Interest will apply to all overdue rates and charges.
8. In the case of winding up a company or bankruptcy proceedings for unpaid rates and charges a report shall be submitted to Council for consideration at a closed meeting.
9. Any property becoming eligible to be sold for recovery of rates and charges in accordance with *s713 Local Government Act 1993* shall be submitted to Council for consideration.
10. Any information collected by Council Officers regarding the financial circumstances of a ratepayer shall be maintained in the strictest confidence and shall not be made public under any circumstance.

### **Water and Sewer Charges**

1. A water flow limiting device (restrictor) shall be installed on meters where the account has not been paid or a suitable arrangement been entered into. Such a device shall restrict the flow of water to the property in accordance with Clause 144 *Local Government (General) Regulation 2005*.
2. The installation of the water flow limiting device (restrictor) will incur a fee. This fee will be charged as per Council's current year's Operational Plan. This fee will be added to the water account at the time of installation of the water flow limiting device (restrictor).
3. A water flow limiting device (restrictor) will only be removed once the outstanding balance on the water account has been paid in full.
4. In the event that the device is removed or tampered with (not by Council), Council will disconnect the property from Council's water system in accordance with Clause 144 *Local Government (General) Regulation 2005*, if the water account is not paid in full within a 3 week timeframe. The property owner will be advised in writing of the date the payment is due and the current cost to reconnect to Council's water system if disconnection occurs. This fee will need to be paid to Council prior to the service being reconnected.
5. In the instance where a property is unmetered or the property is vacant land with a meter Council will initiate legal action in line with Rates and Charges point 4 of this policy.
6. Arrangements can be entered into by an owner or authorised agent that is having difficulty in paying their water account by the due date. All arrangements will be considered based on the history of the account.

The preferred time frame for repayment is 3 to 6 months. However, 12 months may be considered on an individual basis. Any arrangement exceeding 12 months will need to be reviewed under Council's Hardship Policy.

### **Interest will continue to accrue on all outstanding balances.**

7. In the event that an owner or authorised agent defaults on an arrangement, Council will issue a 'cancellation of arrangement' letter stating that if the account is not paid in full within 3 weeks, a water flow limiting device (restrictor) will be installed without further notice.

8. Where an owner or authorised agent, after having made an arrangement, has difficulty meeting the repayments and requests Council to be more lenient, a request for a further extension should be submitted in writing and forwarded to Council for consideration. This will not apply if the above point (4) has already been issued.
9. If the water account has not been paid after the installation of the water flow limiting device (restrictor), legal action is to commence with Council's Debt Recovery Provider.
10. A report providing outstanding balances over \$500 is presented to Council at the end of each quarter. The report will also contain details of the action which has been taken to recover those debts.
11. Any requests to write off charges including legal fees and interest must be submitted in writing for the consideration of Council at a closed meeting.
12. Interest will be charged in accordance with s566 *Local Government Act 1993*. Interest will be calculated daily on a simple basis applying the per annum rate specified by the Minister and approved by Council. Interest will apply to all overdue water and sewer charges.
13. Any information collected by Council Officers regarding the financial circumstances of a ratepayer shall be maintained in the strictest confidence and shall not be made public under any circumstance.

### **Debtors**

1. Any request from a debtor to pay the arrears must be made in writing or over the telephone. This will be considered by nominated Council staff. Arrangements exceeding a 3 month period must be made in writing to Council for consideration.

The preferred period for re-payment of all debtor accounts in arrears is to be within 6 months. Any arrangement exceeding 6 months will need to be submitted in writing for Council's consideration at a closed Council meeting.

2. In the event of a debtor defaulting on any arrangement Council may contact the debtor. If the debtor does not make provisions to bring the arrangement up to date within the agreed timeframe, legal action may be initiated without any further correspondence from Council. All amounts exceeding 90 days may also have Council services cancelled until the debt is paid in full. In the event of a second default future credit and or service may be refused permanently.
3. A report providing outstanding debtors over 90 days is presented to Council at the end of each quarter. The report will also contain details of actions taken by Council to recover the debt.
4. All requests to write off debts must be submitted in writing to the General Manager. The General Manager is authorised to write off debts (other than property related charges which remain a charge upon the property) up to and including \$1,000. All requests by a debtor to write off debts over \$1,000 must be submitted to Council for consideration at a closed Council meeting.
5. Any information collected by Council Officers regarding the financial circumstances of a debtor shall be maintained in the strictest confidence and shall not be made public under any circumstances.

Version	Council Meeting Date	Resolution	Adoption Date	Effective From
1	19 June 2007	07/297	19 June 2007	19 June 2007
2	21 May 2013	13/179	21 May 2013	5 July 2013
3	15 July 2014	14/287	15 July 2014	22 August 2014
4	1 September 2015	15/402	7 October 2015	7 October 2015
5	16 May 2017	17/159	16 May 2017	16 June 2017
6	21 June 2022	2022/230	21 June 2022	19 July 2022
<b>All policies can be reviewed or revoked by resolution of Council at anytime</b>				

**DIRECTORATE:** Corporate & Community Services

**BUSINESS UNIT:** Finance

**Time table of Debt Recovery processes following initial account**

**Water**

Account Raised	Day 1
Due Date	4 weeks from account being raised
Overdue Notices	2 weeks from original due date
14 day letter	2 weeks from overdue notices being sent
Final Letter – gives 2 weeks to pay Tenant Letter - where properties have different mailing address to property	2 weeks from 14 day letter being sent
Letter of Intent– gives 1 week to pay	After date listed in Final Letter
Water Flow Restrictors	After date listed in Letter of Intent

**Rates**

Rates / Instalment Notice	Day 1
Due Date	4 to 5 weeks from date of file extraction
Overdue Notice	3 – 7 days after due date
Letter of Demand (LOD)	15-20 days after due date
Statement of Liquidated Claims (SLC)	14- 18 days after letter of demand is mailed
Subsequent legal action will follow 28 days after the service of the Statement of Liquidated Claims.	