

# Debt Recovery Policy

Policy | Corporate & Community Services

To provide a corporate approach to debt collection to ensure Council meets its financial commitments.

<b>Policy No:</b>	POL/6002	<b>Version:</b>	5
<b>Service Unit:</b>	Finance		
<b>Responsible Officer:</b>	Financial Controller		
<b>Responsible Director:</b>	Business & Community Services Director		
<b>Authorisation Date:</b>	15 June 2020	<b>Review Date:</b>	15 June 2022
<b>Minute No:</b>	78/20		

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## Table of Contents

<b>1</b>	<b>Background.....</b>	<b>3</b>
1.1	Title of the Policy and Commencement Date.....	3
1.2	Purpose of the Policy .....	3
<b>2</b>	<b>Objective .....</b>	<b>3</b>
2.1	Objectives and Coverage of the Policy .....	3
<b>3</b>	<b>Application .....</b>	<b>3</b>
3.1	Application of this Policy .....	3
<b>4</b>	<b>Principles/Body .....</b>	<b>3</b>
4.1	Rates and Charges .....	3
4.2	Water Billing .....	4
4.3	Sundry Debtors .....	4
4.4	Recovery Action – Debt Collection Agency Procedures .....	4
4.5	Legal Costs .....	5
<b>5</b>	<b>Relevant Legislation.....</b>	<b>5</b>
<b>6</b>	<b>Document Information .....</b>	<b>5</b>
6.1	Related Documents.....	5
<b>7</b>	<b>Responsible Officer / Policy Owner .....</b>	<b>6</b>
<b>8</b>	<b>Responsibilities .....</b>	<b>6</b>
<b>9</b>	<b>Approval .....</b>	<b>6</b>
<b>10</b>	<b>Monitoring .....</b>	<b>6</b>
<b>11</b>	<b>Review Date .....</b>	<b>6</b>
<b>12</b>	<b>Last Review Date .....</b>	<b>6</b>
<b>13</b>	<b>Record Keeping, Confidentiality and Privacy .....</b>	<b>6</b>
<b>14</b>	<b>Breaches and Sanctions .....</b>	<b>6</b>



# 1 Background

## 1.1 Title of the Policy and Commencement Date

The Debt Recovery Policy takes effect from the date of adoption by Council.

## 1.2 Purpose of the Policy

This Policy has been developed to establish a framework for Council staff to undertake the recovery of overdue rates and charges and Sundry Debtor accounts.

# 2 Objective

## 2.1 Objectives and Coverage of the Policy

The objectives of this policy are:

- To ensure a corporate approach to debt collection within Council that contributes to the overall long-term financial objective to effectively manage revenues to ensure the organisation is able to meet its financial commitments
- To fulfil statutory requirements of the *Local Government Act, 1993* and other relevant legislation in relation to the recovery of rates, charges, fees and other debts.

# 3 Application

## 3.1 Application of this Policy

This policy has been formulated under the following principles:

- Council recognises it has a responsibility to recover monies owing to it in a timely, efficient and effective manner to finance its operations and ensure effective cash flow management
- Council will treat all debtors fairly and consistently under this policy
- Council will consider all matters under this policy confidentially
- Council will recognise genuine financial hardship and treat people with respect and compassion in considering their circumstances.

# 4 Principles/Body

## 4.1 Rates and Charges

Council rates and charges are overdue when not paid in accordance with Section 562 of the Local Government Act, 1993.

Council will take recovery action within 10 days of the rates becoming overdue, unless the ratepayer enters into a payment arrangement.

Ratepayers must pay the overdue rates in full by 31 May of the rating year in which they enter the payments arrangement. Council may extend the 31 May deadline if they believe exceptional circumstances exist.



## 4.2 Water Billing

Council water usage and non-residential sewer are overdue when not paid by the due dates.

Council will take recovery action within 10 days of the accounts becoming overdue, unless the ratepayer enters into a payment arrangement.

Ratepayers must pay the overdue accounts in full by 30 June of the rating year in which they enter the payments arrangement. Council may extend the 30 June deadline if they believe exceptional circumstances exist.

## 4.3 Sundry Debtors

Sundry debtor accounts are overdue if not paid within 30 days from the date of the invoice.

Council may stop the provision of credit facilities to debtors when an account is overdue for more than 60 days.

Council will take recovery action of overdue sundry debtor accounts within 60 days of the account becoming overdue unless the debtor enters and complies with a payment arrangement.

Council's payment arrangement with sundry debtors will not exceed six months. Council may extend the six-month limit if they believe exceptional circumstances exist, which are recognised under Councils Hardship Policy.

Once an account has amounts that are 90 days in arrears, Council may refer the account to its debt collection agency.

## 4.4 Recovery Action – Debt Collection Agency Procedures

The debt collection agency will as soon as practicable after receipt of a referral from Council, issue a letter to the ratepayer or account holder in relation to each overdue account advising that Council has referred the debt to the agency for collection and that payment is required within 14 days of the date of the letter, otherwise legal action may commence. The letter is to specify the minimum amount in legal costs that may be added to the account if legal action is commenced.

Following the expiration of the 14 days as requested in the letter the debt collection agency is then to issue a letter of demand that will include a statement of liquidated claim following approval from Council to proceed with legal action.

Following the statutory period after service of the statement of liquidated claim and with Council's approval the debt collection agency issue a pre-judgement letter. The letter advises the ratepayer or account holder that Council intends to proceed to Default judgement against them unless payment is received within 14 days of the date of the letter. The letter is to specify the minimum amount in legal costs that will be added to the account if judgement is entered against the ratepayer or account holder, and information explaining to the ratepayer or account holder that a default judgement will be listed on their credit file for a period of 5 years even if the amount is subsequently paid/finalised and that this listing may affect any future applications for credit.

Following the expiration of the 14 days as requested in the letter the debt collection agency is then to obtain judgement against the ratepayer or account holder following approval from Council to proceed with legal action.



Once judgement is obtained against the account holder, the debt collection agency with Council's approval is to take the necessary proceedings to recover the debt including but not limited to:

- A garnishee of income;
- Writ of execution on goods and chattels;
- Examination summons;
- Service of a rent order where the property is tenanted;
- Bankruptcy proceedings (subject to resolution of Council);
- Sale of land for unpaid rates (subject to resolution of Council).

#### 4.5 Legal Costs

All debt recovery costs and fees associated with any course of action are to be borne by the owner of the debt and will subsequently remain a charge on the property until paid.

Any ratepayer or sundry debtor that wishes to appeal against the legal costs that have been added to their assessment or account must state their appeal and the reasons for the appeal in writing to Council.

## 5 Relevant Legislation

*Local Government Act, 1993*

*Local Government (General) Regulation, 2005*

*Water Management Act, 2000*

*Bankruptcy Act, 1966*

*Privacy Act, 1988*

*Competition and Consumer Act, 2010*

## 6 Document Information

Related documents and reference information in this section provides a single reference point to develop and maintain site compliance information.

### 6.1 Related Documents

Related documents, listed in **Table 6-1** below, are internal documents directly related to or referenced from this document.

Number	Title
14/41181	Singleton Council Delegation Register
18/6164	Debt Recovery Operation Procedure

Table 6-1 – Related documents



## 7 Responsible Officer / Policy Owner

Ownership of this policy rests with the Financial Controller.

## 8 Responsibilities

Parties or Persons	Responsibilities
Finance Staff	<ul style="list-style-type: none"> <li>Enacting this policy along with the associated operational procedure</li> </ul>

## 9 Approval

As per cover sheet.

## 10 Monitoring

This policy will be monitored by the Manager Corporate & Community Services to ensure compliance.

## 11 Review Date

This policy, once adopted, is to remain in force until it is reviewed by Council. This policy is to be reviewed approximately every two (2) years to ensure that it meets legislative requirements.

## 12 Last Review Date

This policy was last reviewed on 19 February 2018.

## 13 Record Keeping, Confidentiality and Privacy

This policy is to be made available for public viewing as required under the *Government Information (Public Access) 2009, NSW*.

## 14 Breaches and Sanctions

Any breaches of this Policy will be referred to the General Manager for appropriate action.

