

FM 11 – Debt Collection Policy

1 Objectives

The objectives of the Debt Collection Policy are to:

- 1.1 Exercise local government debt recovery powers, as outlined in Part 6 of the *Local Government Act 1995* (the Act) to reduce the overall debt burden on ratepayers.
- 1.2 Ensure that debt collection procedures are carried out in a fair and equitable manner.
- 1.3 Make the processes used to recover outstanding debt clear, simple to administer and cost effective.
- 1.4 Clarify the processes used by council to ensure compliance with financial obligations.
- 1.5 Provide the same treatment for ratepayers and sundry debtors with similar circumstances.
- 1.6 Respond where necessary to changes in the local economy.
- 1.7 Ensure the Shire is compliant with all regulatory obligations.
- 1.8 Promote a culture of transparency and probity.

2 Scope

This policy applies to all persons or businesses in debt to the Shire, all councillors and all employees.

3 Definitions

3.1 Councillors

means members of an elected body that make decisions on behalf of a local government through a formal meeting process. Generally, local government councillors, who include the Mayor or President and councillors, do not have any authority to act or make decisions as individuals.

3.2 Employee

means a person that's hired to provide a service to a company either on a full-time, part-time or casual basis in exchange for payment. Also referred to as staff.

3.3 Worker

means a councillor, an employee (part-time, full-time and casual), a contractor, a subcontractor, a self-employed person, an outworker, an apprentice or trainee, a work experience student, an employee of a labour hire company placed with a 'host employer' and volunteers.

4 Policy

4.1 Recovery of sundry debtor accounts

The recovery of outstanding sundry debts will be collected in a fair and timely manner. Sundry debts are due for payments 30 days from date of issue.

The process for sundry debt collection is as follows:

- a. Sundry debtors will be issued an invoice as soon as possible after the amount is known, providing 30 day payment terms.
- b. A statement will be issued at the end of the subsequent month following the initial 30day

payment term, requesting payment, with a reminder sticker/stamp to be affixed to the Statement (soft or hard copy) requesting payment within 14 days.

- c. At the end of 14 days, a final notice letter will be issued advising that legal action may be taken without further warning should the debt remain outstanding beyond seven days.
- d. Where the customer fails to pay in full by the expiry of the period defined above, credit may be suspended or services limited and legal action may be commenced.
- e. Debts will be assessed to ascertain the ability to recover. If the cost of legal action exceeds the amount of the debt, the amount may be considered for write off, subject to council delegation, once all non-legal recovery actions have been exhausted.

4.2 Recovery of rate and service charges

The recovery of outstanding rates will be collected in a fair and timely manner. Rate notices are due for payment 35 days from date of issue in accordance with the *Local Government Act 1995*.

4.3 Amounts that remain outstanding past the prescribed due date may have interest applied

Amounts that remain outstanding past the prescribed due date may have interest applied, as set annually by council as part of the annual budget. Interest is calculated on the number of days from the due date of payment until the day the payment is received by the Shire. This includes overdue amounts where the rate payer has elected to pay by an instalment option.

4.4 Accounts unpaid by the due date shown on the rate notice

Where accounts remain outstanding after the prescribed due date, a final notice will be issued requesting full payment within 14 days. Final notices are not to be issued to eligible persons registered to receive a pensioner or senior rebate under the *Rates and Charges (Rebates and Deferrals) Act 1992*, as these people have until 30 June of the current financial year to make payment without incurring any penalty interest. Final notices will, however, be issued to registered pensioners or seniors where there are unpaid charges which are not subject to a rebate or deferment (e.g. rubbish collection charges).

4.5 Accounts unpaid after the expiry date shown on the final notice

Where amounts remain outstanding after the expiry date shown on the final notice, recovery action will commence based upon a risk management approach as determined by the value and type of debt and may include such action as referral to the Shire's debt collection agency. As a minimum, a letter of demand will be sent to all overdue rate accounts where a final notice has not been paid, and the rates outstanding is more than \$500.

4.6 Seizure of rent for non-payment of rates

Where the property owner of a leased or rented property on which rates and service charges are outstanding cannot be located or refuses to settle rates and service charges owed, a notice may be served on the lessee or tenant under the provisions of Section 6.60 of the *Local Government Act 1995* requiring the lessee or tenant to pay to the Shire the rent due that they would otherwise pay under the lease/tenancy agreement as it becomes due, until the amount in arrears has been paid.

4.7 Options to recover rates debt where rates are in arrears for more than three years

Under the guidance of the Shire's debt collection service provider, legal action may be undertaken to recover outstanding rates and charges. This action may include General Procedure Claims and Property Seizure and Sale Orders (Goods). Any costs incurred in undertaking legal action in a court of competent jurisdiction are recoverable from ratepayers under section 6.56 of the *Local Government Act 1995*.

a. Lodging a Caveat on the Title for Land

If rates and service charges which are due to council in respect of any rateable land have been unpaid for at least three years a caveat may be registered on the title for the land, under the provisions of Section 6.64 (3) of the *Local Government Act 1995*. The approval of council is required before this course of action is undertaken.

b. Sale of Property

If rates and service charges which are due to council in respect of any rateable land have been unpaid for at least three years, council may take possession of the land under the provisions of Section 6.64 of the *Local Government Act 1995*. The approval of council is required to be obtained before this course of action is undertaken.

4.8 Write off Debts

The Chief Executive Officer and the Executive Manager, Corporate Services have the authority to write-off individual debts up to \$500.00, excluding late payment interest and Service Charges applicable to the Emergency Services Levy.

4.9 Financial Hardship

Please refer to FM 9 – Financial Hardship Policy

4.10 Payment Arrangements

Payment arrangements are facilitated in accordance with Section 6.49 of the *Local Government Act 1995* and will be offered to rate payers in circumstances evident of financial hardship. A special payment arrangement must be negotiated to reflect a ratepayer's capacity to repay outstanding rates and contain the details of the agreed repayment schedule.

These special payment arrangements will include the following:

- a. It is the responsibility of the ratepayer to ensure that the agreed payment amounts are paid on or before the agreed due date.
- b. The Shire requires full payment of the outstanding rates by the end of the financial year.
- c. If a ratepayer requires an extension on this timeframe an end date must be negotiated and approved by the Executive Manager, Corporate Services.
- d. The ratepayer will be responsible for informing the Shire of any change in circumstance that jeopardises the agreed repayment schedule.

Where a ratepayer meets the financial hardship criteria (refer to FM 9 – Financial Hardship Policy) and on the provision that all rates' arrears are paid in full, payment arrangements will incur a \$0 administration fee and the Shire reserves the right to waive late penalty interest, excluding the late payment interest and Service Charges applicable to the Emergency Services Levy.

To recover rates and service charges, where a rate payer has not made payment arrangements for overdue rates and service charges or maintained an agreed repayment schedule, they may be subject to the Shire's debt recovery procedures outlined in this policy.

5 Accountabilities & Responsibilities

5.1 The council is accountable for:

- Ensuring the organisation has in place a lawful, transparent, and accountable policy framework, supported by a suite of compliant and appropriate policies and procedures.

- Endorsing (or not) each organisational policy document in a timely and effective manner.
 - Delegating implementation of each policy document to the CEO.
- 5.2 The CEO is accountable for ensuring the development, implementation, monitoring and review of this policy document, in accordance with governing legislation and the council directives.
- 5.3 The Executive Management Team and Managers is responsible for:
- Ensuring that all employees under their direction comply with this policy document.
 - Enacting process to redress non-compliance with this policy document.
- 5.4 All employees are individually responsible for complying with this policy document.

6 Risk Management

If a Debt Collection Policy is not in place the risks include (but are not limited to):

- 6.1 Non-compliance with Part 6 of the Act results in the overall debt burden on ratepayers increasing.
- 6.2 Debt collection procedures are not carried out in a fair and equitable manner.
- 6.3 The processes used to recover outstanding debt are complicated, difficult to administer and costly.
- 6.4 The processes used by council to ensure compliance with financial obligations are not clear to rate payers.
- 6.5 Ratepayers and sundry debtors with similar circumstances are not treated equally.
- 6.6 The Shire does not respond to changes in the local economy.
- 6.7 A culture that lacks transparency and probity.

7 Reference Documents

Act	<p><i>Local Government Act 1995: Part 6, Division 4, Clause 6.13 - Interest on money owing to local governments</i></p> <p><i>Local Government Act 1995: Part 6, Division 6, Subdivision 4, Clause 6.45 – Options for payment of rates and service charges</i></p> <p><i>Local Government Act 1995: Part 6, Division 6, Subdivision 4, Clause 6.51 - Accrual of interest on overdue rates or service charges</i></p> <p><i>Local Government Act 1995: Part 6, Division 6, Subdivision 5, Clause 6.56 - Rates or service charges recoverable in court</i></p> <p><i>Local Government Act 1995: Part 6, Division 6, Subdivision 5, Clause 6.60 - Local government may require lessee to pay rent</i></p> <p><i>Local Government Act 1995: Part 6, Division 6, Subdivision 6, Clause 6.64 - Actions to be taken</i></p> <p><i>Rates and Charges (Rebates and Deferments) Act 1992</i></p>
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Regulation	<i>Local Government (Financial Management) Regulations 1996 Part 5 Rates and Charges (Rebates and Deferments) Regulations 1992 – Rates and service charges</i>
Local Law	n/a
Policy	n/a
Procedure	n/a
Other Documents	n/a

8 Version Control

Version	Date	Author	Amendments
V1	June 2005	T Clynch	Original Document
V2	June 2022	T Clynch	Three year review
V3	April 2023	T Clynch	One year review
V4	August 2024	N Gibbs	One year review
Scheduled Reviewed Date	August 2027		