



Central Darling Shire Council

Title of Policy	Debt Recovery		
This applies to	Council staff and all Residents and Ratepayers		
Author	Darryl Telfer	Date approved:	27 April 2022
Position of Author	Acting Rates Officer	Authorised by:	Greg Hill
Legislation, Australian Standards, Code of Practice	Local Government Act 1993 Local Government (General) Regulation 2005		
Related Policies/Procedures	Hardship Policy		

OBJECTIVE

The objective of this policy is to provide a framework for the efficient and effective collection of outstanding debts and to fulfil statutory requirements in relation to the recovery of rates, charges, fees and other debts.

Council has a responsibility to ensure monies owed to it are recovered in a timely, effective and efficient manner to finance its operations and ensure effective cash flow management. While carrying out this responsibility, Council will:

- Treat all people fairly and consistently under this policy;
- Treat all matters under this policy confidentially; and
- Treat people with respect and sensitivity in considering their circumstances.

RATES AND CHARGES

Due Dates

The Local Government Act 1993 (the Act) sets out in Chapter 15, Part 7, the requirements for payment of rates and charges.

Annual rates and charges may be paid in a single instalment or by quarterly instalments. If a payment is made in a single instalment, the instalment is payable by 31 August. If payment is made by quarterly instalments, the instalments are payable by 31 August, 30 November, 28 February and 31 May.

Council is to issue a quarterly reminder notice for the payment of an instalment at least 30 days before the due date of the instalment.

Overdue Amounts

Overdue accounts, where the ratepayer has not made a suitable arrangement for the payment of the debt or has defaulted on an initial arrangement, may be forwarded to Council's nominated Debt Recovery Provider (DRP) for the recovery process in the following circumstances:

- (i) Rate accounts that show the first rate instalment as unpaid be forwarded to the DRP in September;
- (ii) Rate accounts that show the second rate instalment as unpaid be forwarded to the DRP in December;
- (iii) Rate accounts that show the third rate instalment as unpaid be forwarded to the DRP in March;
- (iv) Rate accounts that show the fourth instalment as unpaid be forwarded to the DRP in June;

with the exception of those outstanding debts generated by the Farmland Category during exceptional circumstances such as drought or flood. The ratepayer is to contact Council in the first instance, with a view to putting in place a suitable arrangement for payment. The General Manager is to determine the special circumstances.

Suitable Arrangements

A ratepayer may make a suitable arrangement for the payment of rates and charges, including those accounts already with the DRP.

A suitable arrangement for payment will clear the total outstanding debt:

- a) Before the subsequent rate instalment is due; and where this cannot be achieved;
- b) By the end of the current financial year provided that all subsequent rate instalments that may become due in that time frame are paid or are incorporated into the total repayment amount; and where this cannot be achieved;
- c) In up to one (1) year provided that subsequent rate instalments that may become due in that time frame are paid or are incorporated into the total repayment amount.

Such arrangements may be approved by the DRP and/or Council Staff. In the majority of cases, a ratepayer will be required to negotiate a suitable arrangement directly with the DRP. The DRP will record and monitor arrangements for compliance.

The General Manager is to approve arrangements for payment where the proposed payment arrangement will not clear the debt as at "c)" above, including proposed arrangements for Farmland Category during periods of declared exceptional circumstances.

In accordance with Section 568 of the Act, money paid in respect of rates or charges levied on land is to be applied towards payment of those rates or charges in the order in which they became due.

Debt Collection

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. The debt recovery costs and fees are to be charged in accordance with Council's Annual Schedule of Fees and Charges.

The following procedure is to be employed by Council Staff or Council's DRP:

Supplementary Contact Procedures

To supplement the procedures employed before Steps 1 to 6 below, Council may use other multiple communication channels to remind, contact and negotiate payment arrangements with ratepayers and customers. Options include, but are not limited to telephone calls, email, SMS, Face-book and on-line chat.

Step 1 – First letter or demand sent to ratepayer by DRP

Recovery proceedings shall not be commenced until after the expiration of 14 days after the debt becomes due. A first letter of demand is to be forwarded to the debtor notifying that unless the account is paid, in full, within 14 days of the date of the letter or a suitable arrangement made, legal action may commence for the outstanding amount.

Step 2 – Second letter of demand (Pre-Legal) sent to the ratepayer by DRP

Where the debt value is more than \$250, a second demand letter (Pre-legal) will be sent to the debtor where a response or payment has not been received as a result of the first letter of demand.

OR

Step 2 – Notice to the Occupier is issued

Where a response to Step 1 is not received, a notice under Section 569 of the Act may be issued.

Step 3 – Statement of Liquidated Claim issued

Where a response to Step 2 is not received and the debt is over \$1,000, a Statement of Liquidated Claim is to be issued through the Local Court by the DRP.

Step 4 – Judgment

Where a response to the Statement of Liquidated Claim is not received, default judgment is to be entered by the DRP.

Step 5 – Warrant issued

On the entry of judgment and the failing of the debtor to enter into a payment arrangement, a warrant is to be issued by the Court against the debtor to recover personal property.

OR

Step 5 – Garnishee issued

Where subsequent details are known and an arrangement is not maintained, a garnishee is to be attached to the debtors wage in recovery of the debt. A summons process is initiated with the Court.

OR

Step 5 – Oral Examinations summons issued

Oral examination summons action is taken when there is sufficient knowledge to effectively use a garnishee or warrant. This summons requires the debtor to attend Court and be questioned as to the debtor's current financial situation and ability to meet Council's claim.

Council Staff will determine whether a notice to occupier , warrant, garnishee or oral examination summons will be issued or commenced, based on the individual circumstances of the debtor.

OR

Step 5 – Bankruptcy and Winding Up Proceedings

Bankruptcy and winding-up proceedings, authorised only by the General Manager, will commence if the debt is in excess of \$5,000 and previous action has secured judgment.

Step 6 – Sale of Land for Unpaid Rates and Charges

Where Steps 1 to 5 have been unsuccessful, the General Manager is to commence a sale of land for unpaid rates and charges, in accordance with Chapter 17, Part 2, Division 5, Section 713 of the Act.

WATER USAGE CHARGES

Due Dates

Water meters are read four times a year and accounts are sent to the property owners after each meter reading. The due date for payment is 30 days from the date of the Water Usage Charge notice.

Overdue Amounts

Water Usage accounts are considered overdue immediately following the due date.

Suitable Arrangements

A ratepayer may make a suitable arrangement for the payment of their water usage charges, including those accounts already with the DRP.

A suitable arrangement for payment will clear the total outstanding debt:

- a) Before the subsequent water usage account is due; and where this cannot be achieved;
- b) By the end of the current financial year provided that all subsequent water usage accounts that may become due in that time frame are paid or are incorporated into the total repayment amount; and where this cannot be achieved;
- c) In up to one (1) year provided that subsequent water usage accounts that may become due in that time frame are paid or are incorporated into the total repayment amount.

Such arrangements may be approved by the DRP and/or Council Staff. In the majority of cases, a ratepayer will be required to negotiate a suitable arrangement directly with the DRP. The DRP will record and monitor arrangements for compliance.

The General Manager is to approve arrangements for payment where the proposed payment arrangement will not clear the debt as at "c)" above.

In accordance with Section 568 of the Act, money paid in respect of rates or charges levied on land is to be applied towards payment of those rates or charges in the order in which they became due.

Debt Collection

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. The debt recovery

costs and fees are to be charged in accordance with Council's Annual Schedule of Fees and Charges.

The following procedure is to be employed by Council and Council's DRP:

Supplementary Contact Procedures

To supplement the procedures employed before Steps 1 to 6 below, Council's DRP may be instructed by Council Staff to use other multiple communication channels to remind, contact and negotiate payment arrangements with ratepayers and customers. Options include, but are not limited to telephone calls, email, SMS, Face-book and on-line chat.

Step 1 – Overdue water reminder notice issued

At the expiration of 7 days after the due date of the Water Usage Charge notice, if an account remains unpaid and no satisfactory payment arrangement has been made, an overdue water reminder notice is issued by Council Staff or the DRP.

Step 2 – Water restriction notice issued

At the expiration of 7 days after the due date of the overdue water reminder notice, if an account in excess of \$100 remains unpaid or no satisfactory payment arrangement has been made, a water restriction notice is issued by Council Staff or the DRP. The due date for payment is 14 days from the date of the water restriction notice.

Step 3 – Notice of intention to restrict

At the expiration of the due date of the water restriction notice, if not payment or satisfactory payment arrangement has been made, a notice of intention to restrict water supply is issued. The due date for payment is 14 days from the date of the water restriction notice.

Step 4 – Water restriction

On, or as soon as practicable after the nominated date appearing on the notice of intention to restrict, if no payment or a satisfactory arrangement has been made, the restriction device is to be fitted to the water meter connected to the property.

Step 5 – Referral to the DRP

If, after water restrictions have been put in place and the debt remains outstanding, the recovery of the debt may be forwarded back to Council's DRP for legal proceedings. In such instances, the debt collection procedures in Steps 2 to 5 as listed in the Rates and Charges section of this policy are to apply.

Step 6 – Sale of Land for Unpaid Rates and Charges

Where Steps 1 to 6 have been unsuccessful, the General Manager is to commence a sale of land for unpaid rates and charges, in accordance with Chapter 17, Part 2, Division 5, Section 713 of the Act.

SUNDRY DEBTORS

This encompasses all amounts owing to Council excluding rates and charges, water usage accounts and government grants.

Due Dates

Council issues debtor accounts for numerous services. These services include, but are not limited to, trade waste services, private works, staff uniforms, airport usage and property rentals.

Accounts are generally issued on a weekly, fortnightly or monthly basis.

Overdue Amounts

Sundry debtor accounts are considered overdue immediately following the due date.

Council reserves the right to deny access to Council facilities or suspend services to customers with overdue amounts.

Suitable Arrangements

A debtor may make a suitable arrangement for the payment of their sundry debtor account, including those accounts already with the DRP.

A suitable arrangement for payment will clear the total debt within 60 days of making the arrangement.

The General Manager is to approve arrangements for payment where the proposed payment arrangement will not clear the debt in the time frame above.

In accordance with Section 568 of the Act, money paid in respect of sundry debtor amounts is to be applied towards payment of those amounts in the order in which they became due.

Debt Collection

The procedure for the collection of debts due to Council will follow those procedures outlined in Steps 1 to 5 of the Rates and Charges section of this Policy.

Supplementary Contact Procedures

To supplement the procedures employed before and at Steps 1 to 5 of the Rates and Charges section of this Policy, Council's DRP may be instructed by Council Staff to use other multiple communication channels to remind, contact and negotiate payment arrangements with ratepayers and customers. Options include, but are not limited to, telephone calls, email, SMS, Face-book and on-line chat.

FURTHER CONSIDERATIONS FOR THE COLLECTION OR RATES & CHARGES, WATER USAGE AND SUNDRY DEBTOR DEBTS

Where a matter proceeds to a pre-trial consultation or hearing, Council's Solicitor is to be instructed to act on Council's behalf.

Interest is applied to all outstanding rates and water usage charges and sundry debtor fees and charges, where deemed, whether a suitable agreement is in place or not. The interest rate is determined by Council as part of adopting the Delivery Program and Operational Plan. Interest commences to accrue on unpaid rates and charges and water usage charges and sundry debtor fees and charges, where deemed, as soon as practicable after the due date.

Interest is applied to sundry debtors, where deemed, in accordance with the legislation under which the fee or charge is raised.

The General Manager has delegated authority to write-off rates and charges, fees, charges and other debts in accordance with Section 131 of the Local Government (General) Regulation 2005, up to and

including an amount resolved by Council. This amount is currently set at \$2,500.

The Manager Revenue has delegated authority to write-off interest that has accrued on rates and charges, charges, fees, and other debts up to \$10 where the ratepayer was unable to pay the rates and charges when they became due and payable for reasons beyond their control; refer Sections 567(a)&(b) of the Act.

The General Manager is to be advised of any staff member or Councillor whose overdue account has been referred to Council's DRP.

Council's Staff may be required to act as authorised officers in relation to the recovery of rates and charges where that nominated person is required to represent Council at Court.

VARIATION

Council reserves the right to vary the terms and conditions of this policy, subject to a report to Council.