



Council Policy Manual

DEBT RECOVERY AND PROVISION OF CREDIT

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Related Documents	Local Government Act 1993 – Section 596, 605, 712-726 Local Government (General) Regulation 2005 – Reg. 133
Relevant delegations	Finance and Administration Manager / Rates Officer
Responsible Directorate	Finance and Administration
Responsible officer	Finance and Administration Manager



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Objective

To provide direction to staff to ensure the efficient and effective recovery of all types of Council debt.

Background/Legislative Requirements

Sections 569, 605 and 712-726 of the Local Government Act 1993 deals with debt recovery of outstanding rates and charges, expenses with tracing persons, liability of the occupier and sale of land. Regulation 133 of the Local Government (General) Regulation 2005 details procedures for the sale of land to recover overdue rates and charges.

Policy, Protocol or Procedural Statement

Recovery Action

- (a) Instalment notices will be issued as per Section 562 of the NSW Local Government Act 1993.
- (b) A pre-legal letter of demand will be sent to property owners with outstanding rates and / or charges. This letter will be sent by Councils debt recovery agent advising that legal proceedings and costs will be incurred if full payment or a suitable payment arrangement is not actioned within 28 days from issue.
- (c) If full payment is not received or suitable payment arrangements entered into, a Statement of Claim will be issued and served. Following the expiration of the statutory period, to protect Council's interest in the matter and all available actions to recover the amount outstanding, if the debt is not cleared, a Notice of Motion Default Judgement for liquidated claim will be lodged.
- (g) Recovery actions by Council's external debt recovery company to recover the outstanding debts that will be considered may include, but not limited to:
 - (i) Writ of Execution on goods and chattels
 - (ii) Examinations summons
 - (iii) Service of a rent order where the property is tenanted
 - (iv) A garnishee of income
 - (v) Sale of land for unpaid rates in accordance with Section 713 of the Local Government Act 1993.

All legal costs and expenses incurred in recovering outstanding rates and charges will be charges against the property in accordance with Section 605 of the Local Government Act, 1993. Legal costs incurred in outstanding sundry debtor accounts will be billed against the applicable sundry debtor account of which the debt is owed.

Payment Arrangements

Ratepayers or sundry debtors who are unable to pay a debt amount owing to Council by the due date, may apply to enter into an arrangement with Council to make periodical payments by completing a Council issued payment arrangement form.



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Arrangements are to be negotiated with the aim of recovering all arrears and the current year's charges within the current financial year where possible. Payments can be made periodically weekly, fortnightly or monthly.

Where the ratepayer fails to adhere to a payment arrangement and has not contacted Council to amend the current arrangement, recovery action will commence. If legal action has been suspended due to the ratepayer entering into a payment arrangement and the agreement has not been met by the ratepayer, the legal action will be reactivated at the level when the suspension took place.

In accordance with Section 556 of the Local Government Act, 1993 Council charges interest on overdue rates and charges. Entering into a payment arrangement does not negate the charging of interest.

If a ratepayer is experiencing financial hardship due to rates and charges they can apply for relief in accordance with Council's policy titled "Financial Hardship Policy."

Sale of Land for Unpaid Rates

Where any rate or charge is overdue and has remained unpaid for more than 5 years from the date on which it became payable, Council may proceed to sell the land in accordance with Division 5, Part 2, Chapter 17 of the Local Government Act, 1993.

Where any rate or charge is overdue in respect of vacant land and the amount exceeds the Valuer General's current valuation of the property, Council may proceed to sell the land in accordance with Division 5, Part 2, Chapter 17 of the Local Government Act, 1993.

On an annual basis, a report shall be referred to Council for consideration listing all ratepayers who fall into the above category. The report will provide a detailed history of the circumstances of each case together with a recommendation in relation to the possible sale of the land to recover the overdue rates and charges.

Sundry Debtors and the Provision of Credit

Sundry debtors are overdue if not paid within 30 days of the issuing of an invoice.

Council may cease the provision of credit facilities to debtors when an account is overdue by more than 30 days.

Debtors are subject to the same recovery procedures as rates and charges outlined in this policy.

No credit is to be provided to any person(s) or organisation(s) except for Government Departments or other Councils without prior approval of the General Manager or delegated nominee.

Approval will only be considered upon completion of an approved application form.

Credit approval for all amounts less than or equal to \$300.00 will be denied unless otherwise approved by the General Manager or delegated nominee. Any approvals in this instance also require a Council issued credit application to be completed.



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Variation

Council reserves the right to amend this Policy from time to time.