



## POLICY REGISTER

**Subject: Debt Recovery – (including write offs and credit adjustments)**

	<i>Current</i>	<i>Previous</i>	<i>Prior</i>	<i>Prior</i>
<b>Minute No:</b>	173	72	1001	142
<b>Meeting Date:</b>	14/08/2006	11/10/2004	14/04/2003	14/5/2001
<b>Review Date:</b>				

### Objective:

To collect all rates and charges and collect all fees and charges due by sundry debtors in an efficient and effective manner. Also, to write off and adjust amounts owing, which are considered as uneconomical to recover, in accordance with legislation.

### Part 1 - Rates and Charges

#### 1a) Rate payment timetable

Rates and charges are levied by 31 July each year and are payable by four equal instalments by the following dates; -

- 31 August
- 30 November
- 28 February
- 31 May.

Any instalment not paid by the due date falls into arrears and attracts interest charges.

#### 1b) Debt collection procedure

When an account is overdue the following steps may be taken:

- A) A reminder letter is to be forwarded within 14 days of the due date to the debtor pointing out the arrears position and requesting that immediate payment be made within 14 days.
- B) A letter of intended legal action that includes advice regarding instalment arrangements if the ratepayer cannot pay the account in full and that legal costs will be added to the ratepayers account if no arrangement is undertaken.

- C) Council's debt recovery officer contact the ratepayer to assist in establishing an instalment arrangement plan and confirm that legal action will commence if arrangements are not followed.
- D) Legal action to secure payment of the outstanding amount.

The legal process allows Council to issue one or more of the following:  
Statement of Liquidated Claim; Garnishee; Writ of Execution;  
Examination Summons.

The following legal action will commence when amounts of over \$300.00 are in arrears:

- 1) Issue a Statement of Liquidated Claim (summons).
- 2) If after 28 days of the summons being served full payment has not been received and no agreement to pay by instalments has been signed by the debtor and filed with the Court, Council will instruct its solicitors to obtain judgement and to proceed with further recovery action which may include:

Warrant issued:

A warrant is to be issued against the debtor to recover personal property;  
or

Garnishee issued:

Where subsequent details are known, a garnishee is to be attached to the debtors bank account, or wages or rent; or

An Oral Examination Summons Issued:

Oral examination summons action is taken when there is insufficient 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's revenue staff will determine whether a warrant or garnishee or oral examination summons will be issued based on the individual circumstances of the ratepayer.

Costs of Debt Recovery Action

Scale charges apply for debt recovery action in the Local Court for court filing and service fees and legal costs. These costs are added to the amount owed by the debtor.

Where a garnishee is used no costs in respect of the garnishee are recoverable and the garnishee (i.e. the employer, bank etc) is entitled to keep 10% of the amount garnisheed to cover their costs in complying with the garnishee.

1c) Suitable Arrangements

- A) Arrangements should be made on the basis that current rates and charges are to be paid in full by the end of the year. This will prevent arrears being carried forward into the next rate year. Also, that at least one payment per month is made. If this cannot be achieved then the arrangement should be reasonable so that the debt is reduced as soon as possible.
- B) The debtor can make an arrangement in writing, personally or by telephone. Confirmation of the arrangement by completion of Council's arrangement form is required. If the arrangement is adhered to no further action is required.
- C) If an arrangement is made and later dishonoured Council will write to the rate debtor requesting that payment be made within 7 days or written application be made for approval to pay by direct debit rate instalment payments, to avoid further debt recovery action.
- D) Those debtors who don't respond to the 7 day follow-up letter are to be issued with another letter advising that if payment is not received within 14 days or an arrangement to pay is not made by that date, legal action will commence. The letter will also advise that such action will incur legal costs estimated to be \$(provide appropriate estimate) and that the costs incurred will be added to the debt.
- E) Legal action to commence

1d) Hardship

Council's policy H5/1 deals with cases of hardship.

1e) Other rate debt recovery procedures:

- A) Where the above policy and procedures have not been successful in relation to the recovery of outstanding rates and charges, Part 2, Division 5 of the Local Government Act 1993 (Sale of land for unpaid rates and charges, Sections 713 – 726) is to be instigated where applicable.

Letter advising that property is included on future list of properties to be sold for unpaid rates.

Commence sale of land for unpaid rates process when property has 5 years rates and charges in arrears.

- B) Interest at the rate determined annually in the Council's Rates and Charges Policy is applied to all outstanding rates, whether a suitable arrangement is in place or not. Interest commences to accrue on unpaid rates after the due date.

## **Part 2 -Water Usage Charges**

2a) Water usage charges payment timetable:

Water meters are read in accordance with Council's reading program and accounts over \$5.00 are sent to the users after each meter reading.

2b) When water usage accounts are considered overdue:

Water usage accounts are considered overdue thirty (30) days after account issue date.

2c) Credit adjustment of water usage charges:

Certain circumstances arise where a reduction in an account issued for water usage charges may be warranted. The following procedures apply;

Meter misread

Where it is found that a meter has been misread (and this is confirmed by Council), the current water usage account is amended to reflect the correct reading for that meter.

Meter misread – disconnected meter

Where a meter has been misread, and subsequently removed as part of Council's meter replacement program, the meter is to be located and the account which reflected the incorrect reading is to be adjusted.

Faulty meter (Local Government (General) Regulation 2005

At the request of an owner or occupier of premises and on the payment of a fee fixed by Council, the meter installed on the premises must be examined and tested. The testing carried out is to be at the expense of the person, unless the testing indicates that the meter is defective, in which case the testing fee will be refunded (Clause 158 Testing of Meters (1) and (4)).

Where the meter registers less than 3 per cent more or less than the correct quantity is taken to correctly measure the water passing through it (Clause 158 Testing of Meters (5)). Where the findings of the test results are outside this range, the water usage account is to be adjusted based on an average consumption:

- Nominally the average will be based on the consumption for the same period in the previous year
- If there is no comparative average in the previous year, then the average is based on the previous cycle reading
- If the individual responsible for the payment of the water usage account objects to the average used to calculate the adjusted water usage account (for reasons including change of ownership, change of lease, different number of occupants) the average consumption will be calculated as agreed between Council and the individual that is responsible for payment of the account.

### Leak in Private Service Lines

It is the owner's responsibility to maintain private pipeworks and other installations in good working order and repair. No credit adjustment is to be made for water leaks in the private service line from the water meter.

#### 2d) Debt collection procedure:

- A) A reminder account is sent to the property owner of the overdue account within fourteen (14) days of when the water usage account is considered overdue. The reminder account will indicate the date the reminder account is to be paid, a notation that interest on the outstanding balance applies and a water flow limiter will be fitted on a certain date unless payment in full or a satisfactory arrangement is made by the date specified

If the account is not paid by the due date specified in the reminder letter a notice that the water flow limiter will be installed on a particular date will be posted to the ratepayer. The ratepayer may still pay the account in full or make an arrangement to repay the debt by instalments up to 4pm on the day prior to the installation of the water flow limiter.

Once the water flow limiter has been installed, Council will write to the ratepayer advising that the device will not be removed until full payment of the water account and the removal fee as provided in Council's approved fees and charges policy.

If the meter is tampered with Council will commence legal action as specified in the relevant Act. Council staff will inspect the water flow limiter device fortnightly.

- B) Interest is applied to all outstanding water usage accounts, whether a suitable agreement is in place or not. The interest rate is the same as determined by Council for outstanding rates.

### **Part 3 -Sundry Debtors**

Council incurs expenses, which are recoverable from ratepayers and the general public eg. construction of kerbing and guttering, footpaths, private works, property information, etc.

Generally accounts are raised as debtor information comes to hand and invoices are issued in batches at least twice a month. Within 10 days of the close of a month a monthly statement of debt is issued. The due date for payment is 30 days of the invoice date.

The following process is to apply to debtors other than those referred to in Policy C38/4 "Lease of Council buildings or property".

- A) If an account is not paid by the due date a second monthly statement will be forwarded as a reminder with advice that the account is now overdue.

- B) If payment is not received after issue of the second statement then a letter will be forwarded warning of legal action and requesting immediate payment or the making of an arrangement within 7 days.
- C) If after 90 days of the due date there has been no satisfactory response, Council will commence normal debt recovery action to recover the debt.
- D) If the account is an ongoing account, e.g. property information etc., further credit to that debtor will be withdrawn until the account is paid.
- E) Requests for arrangements where legal action has occurred or the debtor has defaulted on a previous arrangement must be in writing. Extensions of time without any payment are generally not acceptable. Regular payments assist the debtor in their financial planning and allows for early follow-up in case of further defaults. Extensions of time to pay past twelve months will be considered where there are exceptional circumstances, such as unemployment, sickness benefits, workers compensation etc.
- F) Where accounts for kerb and guttering and footpath paving are outstanding for longer than three (3) months and no arrangements for payment have been made with Council, action be taken forthwith to recover the debt. These charges are charges against the land. Any accounts raised will immediately be attached to Council's computer database to enable the amount outstanding to be shown on a section 603 certificate.
- G) Debtor arrangements to Council staff must be strictly enforced with no debt being allowed to fall into arrears unless there are exceptional circumstances. Any such circumstances should be approved by the General Manager. (Council cannot be seen to be providing financial benefit to non-paying staff).

#### **Part 4 – Writing off of amounts owing**

The Local Government Act 1993 s564, s567, s607 and s610E provides for the writing off of rates, charges, fees and accrued interest. Applications for amounts to be written off should be in writing with an explanation of the reasons for the request. Each application will be considered on its individual merit, in conjunction with the criteria set out in the Local Government Act 1993, and the Local Government (General) Regulation 2005.

The Regulations further provide that council, must, from time to time, by resolution, fix the amount of rates and charges above which may be written off and the amount above which debts to the council may be written off only by resolution of the council.

At a meeting held on the (11<sup>th</sup> October 2004) Council resolved that the amount be fixed at \$200 per account.

An amount of rates and charges and a debt of or below \$200 per account may be written off either by resolution of the council or by order in writing of the Council's General Manager.

The General Manager's order will be in writing in the form similar to that attached to this policy.

The General Manager must advise council of rates and charges and debts written off by order of the General Manager.

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**Appendix B – General Manager’s Order Form**



**GENERAL MANAGER’S ORDER NUMBER \_\_\_\_\_**

**Writing off of rates, charges, debts and accrued interest**

In accordance with the provisions of the Local Government (General) Regulation 2005 Clause 131 and Council’s policies D5/1 and “Hardship”, I hereby order that the following amounts be written off and the appropriate entries made in Council’s records and accounts.

Name of person whose debt is being written off	
Account number	
Amount to be written off	
Type of account	
Reason why account was raised	

- Reason for writing off the account
- Error in the assessment
  - Amount is not lawfully recoverable
  - Result of court decision
  - Attempt to recover would not be cost effective
  - Small balance write off prior to rate levy
  - Hardship

Date to be reported to Policy and Planning Committee \_\_\_\_\_

**Signed** \_\_\_\_\_  
GENERAL MANAGER

**Date:** \_\_\_\_\_

**Prepared by** \_\_\_\_\_

**Council File Number** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Finance Manager:** \_\_\_\_\_

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