

CP28 Debt Management

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Policy Objective

To define Council's Policy for the management of outstanding debts.

- To ensure that the collection of debts is undertaken fairly, impartially, consistently, efficiently, effectively and in accordance with good governance;
- To encourage any person, organisation or company having difficulty in paying an outstanding debt to contact Council and make arrangements for a payment plan to pay the debt in a reasonable and manageable timeframe; and
- To ensure that the collection of debt is consistent with the Local Government Act and Regulations, Accounting Standards and recognised financial practices.

This Policy includes but is not limited to:

- Rates and charges
- Landfill fees
- Building fees
- Special charge scheme debts
- Home and Community Care (HACC) fees
- Facility hire fees
- Lease fees
- Unpaid grants
- Fire hazard clearance charges
- Release Fees
- Saleyards fees
- All miscellaneous fees and charges where a debt is created
- Interest penalties on outstanding fees and charges

This Policy is subordinate to any regulations in relation to debts and debtors.

The Local Government Act establishes the law that applies to the declaration of rates, payment of rates, interest on outstanding rates and the collection of overdue rates.

This Policy covers:

- All debts;
- Some aspects of invoicing;
- The initial establishment of a debt;
- Follow up actions to collect outstanding debts;
- Creation of a provision for doubtful debts and write off of bad debts.

The Policy does not cover:

- Fees and charges where no debt is created (for example, applications fees that should be paid at the time the application is made and for which an invoice is not raised).
- Non-monetary debts and obligations (for example, outstanding conditions on permits).
- Infringement Management Enforcement (parking fines)
- Local Law enforcement which are taken to Court

1. Procedure

The general principles described in this section are applicable to all debts and debtors, but they also need to be considered in conjunction with Section 2 which outlines specific requirements in relation to debt types.

1.1. Payment Terms

Council's payment terms are 30 days of the invoice being issued unless specific regulations apply or unless Section 1.4 of this Policy applies, this does not apply to rates and charges.

Venue hire terms will require 50% deposit (or as agreed deposit) prior to the date of the venue use. If accounts are not settled within BRCC terms, future bookings will not be available until the outstanding accounts has been settled. Future booking will also then require 50% deposit and settlement of the booking fee on or prior to booking occurring.

1.2. Invoicing

A debt is created when the service is provided or when the invoice is created whichever occurs first. (Note: Revenue is recognised in Council's accounts when the invoice has been raised).

Unless there is regulation or accepted practice to the contrary, an invoice should be produced and payment requested at the time, or in advance, of the service being provided. This practice reduces the risk of non-payment. However, it is recognised that there will be instances where invoicing and payment in advance is not practical.

The Finance Department is the Department with authority to generate and authorise the creation of Council invoice in Synergy. Accounts Receivable Invoice Request Form should be made on the "debtor invoice request form".

The Community Services Aged and Disability Department maintain debtor charges in Expedite for HACCC services. The debtor transactions are exported from Expedite on a monthly basis and uploaded into Synergy. The debtor values are recognised at that point. 30-day terms arise from the raising of the invoice.

1.3. Reminder Notices

Except as specified in Section 2, if payment of an invoice has not been received within 14 days after the payment due by date, a reminder notice will be sent out by Finance (except as specified in Section 2).

The reminder notice will request payment within 14 days and advise of any penalties that may apply to non-payment. The reminder notice will encourage the debtor to contact Council to discuss any concerns with the debt or reasons why the invoice has not been paid.

Reminder phone calls and other debt follow up procedures may be employed by the Debt Owner or Finance.

If payment has not been received within 10 days of the reminder notice due date, a final notice will be sent. The final notice will request payment within 7 days.

If payment is not received in the required timeframe after the final notice the debtor may be referred to a debt collection agency.

A final notice will not be sent in relation to community support debtors and in relation to unpaid grants. Further reminder notices will continue to be sent. A record will be kept of all attempts to contact the debtor, whether successful or unsuccessful.

Contact will be made with the BRC officer that made the funding application to contact the body in regard to the outstanding debt to investigate if there is an issue finance is unaware of or if payment will be made in the near future.

1.4. Payment Arrangements

Any person, organisation or company who is having difficulty in paying a debt is encouraged to contact Council and make a personal payment arrangement to pay off the debt in a reasonable and manageable timeframe.

Finance will consider requests for a personal payment arrangement plan and may agree upon a payment plan (for example, a fortnightly/ monthly payment of an agreed amount until the debt is paid in full).

Details of the payment plan must be recorded, and payments monitored. Any defaults (that is, payment not made by the agreed date) will be followed up by Finance (except as described in Section 2.4) and a new payment plan may be made.

If the debtor defaults on the payment plan by missing two or more consecutive payments, debt recovery under Section 1.8 of this Policy may be commenced, unless the debt is governed by regulations that prohibit debt collection.

1.5. Interest Penalties

1.5.1. Council will charge interest on unpaid rates and charges in accordance with section 172 of the Local Government Act.

The penalty interest percentage rate is fixed under section 2 of the Penalty Interest Rates Act as applied on the first day of July.

1.5.2. Council will charge penalty interest on sundry debtors that are overdue by more than 60 days unless the charging of interest is prohibited by legislation or excluded by section 2 of this Policy.

For interest not to be charged, the approval of the relevant Manager or the Manager Finance is required.

The penalty interest percentage rate for sundry debtors will be the same as the interest rate prescribed for rates debtors.

1.6. Continuation of the Provision of services where debt is overdue

In some cases, specific regulations or funding agreements (for example Home and Community Care HACC) require Council to continue to supply services regardless of outstanding debts.

In the case where the service is discretionary (for example facility hire charge or service fee) and is not governed by specific regulation the relevant Department or Unit must not continue to supply service where debts are more than 60 days old and no payment arrangement has been agreed.

In these circumstances' approval from the relevant General Manager Corporate is required to continue provision of services.

1.7. Financial Hardship

Under sections 170 and 171A of the Local Government Act, the councils have the authority to:

- defer payment of rates and charges due to hardship (s170); and
- waive rates and charges and interest due to financial hardship (s171A).

1.8. Debt Recovery

Unless there is a specific regulation or other requirements or unless a payment plan has been agreed, Council will refer a debt that is overdue by 75 days or more to a debt collection agency. Rates and Charges debts may be referred to debt collection after two unpaid instalments.

The debtor will be liable for all legal costs incurred by Council in the debt collection process, once a judgement on the debt has been processed by the Court.

Finance will advise the relevant department of the intention to refer the debt to a debt collection agency.

Generally, only debts over \$1,000 will be referred to the debt collection agency. In the case of debts under \$1,000, the debt will be written off and the debtor will be advised that they are no longer eligible to receive the service until such time as the debt is paid. The relevant service provider will also be advised that no credit is to be authorised to the debtor until payment is received.

For debt recovery action not to be taken, the approval of the relevant Manager or the Manager Finance is required. If the initial action by the debt collection agency does not result in payment of the debt, the Finance Department will determine if it is financially beneficial to pursue legal recovery.

1.9. Provision for Doubtful Debts

Section 1.9 does not apply to Rates.

A provision for doubtful debts is a liability to reflect debt that is likely never to be collected and hence is expected to be written off in future periods.

Finance will maintain a provision for doubtful debts based on expected credit losses (ECL). When a Sundry Debtor invoice is raised, Council will review the potential for loss based on past events, current conditions, and future economic conditions.

1.10. Bad Debts

Section 1.10 does not apply to Rates.

If debts are over one year old with no payment plans in place, they will be bad debts.

After all avenues to collect the debt have been exhausted approval may be sought to write off a bad debt (see 3.11).

Finance will refer all bad debts over 1 year old to the relevant General Manager Corporate for approval.

All approved write offs will be recorded in the nominated accounts under the Finance Department.

If a debt is written off and a client seeks to have further service provided at a future date, the written off debt will be reinstated and the client will be required to pay the debt before the service is reinstated.

1.11. Approval to write off bad debts and/or penalty interest

A bad debt of up to \$500 may be written off by the Manager Finance.

A bad debt greater than \$500 and less than \$5,000 may be written off by the General Manager Corporate.

A bad debt greater than \$5,000 may be written off by the Chief Executive Officer.

Penalty interest associated with Sundry Debtors and Rates Debtors may be written off or waived by the Revenue Property and Valuations Coordinator or the General Manager Corporate in accordance with the above-mentioned limits.

1.12. Correction of invoicing and rating errors and issuing of credit notes

In the event that it is discovered that an error has been made and a rate payer or debtor has been incorrectly undercharged, Council will correct the error immediately

for future billing periods and invoices and Council will not attempt to apply the correct fee or charge retrospectively.

In the event that it is discovered that an error has been made and a rate payer or debtor has been incorrectly overcharged, Council will correct the error immediately for current and future billing periods and invoices and Council will apply the correct fee or charge retrospectively to 1 July of financial year in which the error was discovered.

Upon written application from the ratepayer or debtor who has been incorrectly overcharged, the General Manager Corporate will consider the merits of the matter and may apply the correct fee or charge retrospectively (for example in the case where an error which had previously been brought to Council's attention and not corrected).

Any credit notes or other adjustments to amounts owed due to a correction of amounts invoiced or rates levied must be approved by an appropriate delegate in accordance with the Council's financial delegations (see Purchasing, Tendering and Contract Management Procedural Guidelines No. 2).

1.13. Refunds and Waiving of Debt

There may be circumstances where refunds may be required because the service was not provided, or the service was provided in an unsatisfactory manner. The refund must be documented on a Debtor Invoice Request form requesting a credit and outline circumstances. The form should be approved by the relevant Coordinator or Manager.

There may also be special circumstances where Council may waive a debt as a goodwill gesture. An example may be where a debtor has suffered severe personal hardship. In such a circumstance the debt may be written off as follows –

A debt of up to \$500 may be written off by the Manager Finance.

A debt greater than \$500 and less than \$5,000 may be written off by General Manger.

A debt greater than \$5,000 may be written off by the Chief Executive Officer.

2. Requirements in relation to Specific Types of Debtors

2.1 Rates

Section 180 and section 181 of the Local Government Act, outlines Council's powers in relation to overdue rates and charges. A Rate Notice is sent on or around 1 September each year.

Rates are payable in 4 instalments due 30 September, 30 November, 28 February and 31 May.

As provided for in the Act, penalty interest is levied on amounts not paid by the instalment due date. Interest provisions are applied to Council charges and the Fire Services Property Levy on a consistent basis.

A Reminder Notice is sent between 1-2 weeks after each instalment due date. The Reminder Notice includes unpaid amounts from previous periods and interest payable.

Each Reminder Notice states that payment must be made now.

Council may instruct the debt collection agency or the agency's solicitors or its own solicitors to take the following steps to collect the debt: -

1. Debt collection agency Final Notice letter will be issued.
2. Debt collection agency Solicitors letter will be issued.
3. Application will be made to the Magistrates Court for a Complaint to be issued.
4. Pre-Judgement warning letter will be sent to the ratepayer.
5. Application will be made to the Magistrates Court for Judgement.
6. Application for Oral Examination.
7. Other options including garnishing of wages

Debt collection is an expensive process and the full cost of any action is passed onto the Ratepayer and becomes a charge against the property.

Under the relevant Act already specified in this section of policy, in relation to rates, unpaid rates remain as a charge against the property and they must be paid first when a property is sold. Therefore, there are no doubtful debts or debt write offs in relation to Rates.

2.2 Sale of land to recover unpaid rates

Under section 181 of the Local Government Act 1989, Council has the power to sell land to recover unpaid rates and charges if the rates and charges have been unpaid for more than three years.

The benefit of selling the land is that Council will be able to recover all monies owed to it and furthermore, the property becomes a revenue producing property again. That is, the new owner is a new ratepayer.

Council will not exercise the power it has under section 181 of the Act –

- Until all other relevant requirements of this Policy (to recover the unpaid rates and charges, on the land in question) have been taken.
- There is a dwelling constructed on the land which is currently being used as a principal place of residence by the ratepayer.

Council has delegated to the Chief Executive Officer all powers and authorities in respect of Section 181 of the Act relevant to the sale of land to recover unpaid rates and charges. In turn, the Chief Executive Officer has delegated that power and authority to the General Manager Corporate Services. Prior to any action being undertaken by Council Officers in relation to Section 181, approval must be obtained from the General Manager Corporate.

2.3 Community Support Fees

When a Community Support client is not paying the required fee, then a review or reassessment of the client's ability to pay must occur. Payment arrangements or a decision to waive fees in accordance with Home and Community care guidelines would be introduced.

Clients who can pay would be notified that unless payment is made then a notice to inform a withdrawal of service would occur. If no payment occurred, then a decision to cease service provision would be made.

2.4 Leases

There may be terms in the lease agreement that vary from the principles outlined in Section 3.

2.5 Grants

Final notices, interest penalties and debt collection processes will not be invoked for unpaid grants.

3. Roles & Responsibilities

3.1 Debt Owner

The Department or Unit with responsibility for the income stream is known as the Debt Owner. The Debt Owner has overall responsibility for the management of the related debt.

The debt owner is responsible for:

- Ensuring that invoiced amounts are correct
- Aiding Finance in follow up on overdue debts (in some cases all debts are followed up by the debt owner)
- Liaising with Finance in terms of the status of debts (e.g. whether it is likely to be recovered)
- Documenting any discussions with Debtors in relation to outstanding monies and providing the documentation to Finance.
- Ensuring further credit is not given to the Debtor with overdue debts unless there is a specific regulation, e.g. HACC.
- Gaining approval from the relevant Manager (and in some cases the General Manager Corporate) for any Debt write off and advising Finance accordingly

3.2 Finance Department

In relation to debt collection, Finance is responsible for:

- Sending out invoices
- Recording debts in the financial systems
- Recording payments in the financial systems
- Sending reminder letters on overdue debt (except for fines and infringement notices).
- Follow up on overdue debt (with assistance from the Debt Owner).
- Determining the level of doubtful debts (with assistance from the Debt Owner)
- Referring debts to a debt collection agency after advice from the Debt Owner.
- Advising Departments on the status of outstanding debts and making recommendations on debt recovery/write off.
- Calculating the provision for doubtful debts

- Writing off debts in the financial systems after written approval has been received from the Debt Owner. Refer Section 1.10 and 1.11

RELATED DOCUMENTS

- a. Home and Community care guidelines
- b. Procurement, Tendering and Contract Management Procedural Guidelines No. 2