

Policy Title	Rate Recovery Procedures
Related Documentation	Sundry Debtors Recovery Policy Hardship Policy
Relevant Legislation/ Corporate Plan	<i>Local Government Act 1993</i> <i>Civil Procedure Act 2005</i> <i>Corporations Act 2001</i>
Responsible Officer	Manager Financial Services

Policy details may change prior to review date due to legislative changes, therefore this document is uncontrolled when printed.

Objectives

To ensure the efficient and prompt recovery of all outstanding rates and charges from ratepayers.

Policy Statement

1. Issue of Original Rate Notice

Under the *Local Government Act 1993* rates are due in full on 31 August or as quarterly instalments. The due dates for each quarter are 31 August, 30 November, 28 February and 31 May each year. A ratepayer may approach Council and seek an arrangement to finalise the rate account. It must be stressed that recovery action will only apply to those ratepayers who have not made arrangements to finalise their rates, or who have defaulted on an existing arrangement.

2. One Week After Instalment Due Date

- a) Issue missed instalment notices on assessments with the current quarter rates owing and/or arrears with a combined total not exceeding \$500.00.
- b) Issue of a seven day letter notifying the commencement of legal action where the arrears of rates and charges exceeds \$500.00.
- c) In respect to (b) only, instructions to Council's agents be given to issue a second seven day letter where two or more full instalments remain outstanding and the balance exceeds \$500.00.

Note: Legal action will result in the issue of a Statement of Claim.

DATA AND DOCUMENT CONTROL

Division: Business Services Section: Financial Services DocSet: 1555268	Adopted Date: 15/03/1977 Revised Date: 09/06/2015 Minute Number: 107 Review Date: 30/06/2018	Page: 1 of 3
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3. Arrangements to Pay

- a) All arrangements to pay outstanding rates are to be considered upon receipt of a request made in writing. Acceptable arrangements will be determined subject to all outstanding rates and charges being finalised within six months of the date of debt.
- b) Acknowledgment accepting the terms of arrangement be issued, confirming due dates and amounts agreed to be paid.

A default of payment arrangements shall be referred to legal recovery unless an alternative arrangement has been received prior to the date of payment as determined in point (b).

4. Further Action

- a) If ratepayers fail to respond to the letters of demand a Statement of Claim is registered and served. Defaulters have a period of 28 days to defend the Statement of Claim, if they are unsuccessful or fail to lodge a defence Judgement is obtained and actioned in the form of either a Garnishee Order, Examination Order or Writ.
- b) When rates have been outstanding on a property for a period of five years, Council may take action under Section 713 of the *Local Government Act 1993* to offer the property for sale at public auction in order to recover the outstanding rates.

5. Additional Action in Respect of Companies and Rented Premises

- a) Where companies continue to default after judgment is obtained, it is considered that action for the winding up of companies under Section 459 of the *Corporations Act 2001* should be contemplated. At this stage the matter be placed in the hands of Councils recovery agents.
- b) In appropriate circumstances, take action under Section 569 (2) of the *Local Government Act 1993* to serve notice upon a person in occupation of the land and demand that, as the rent falls due, it be paid to Council in liquidation of the amount of rate arrears. This is a valid discharge of the tenant's liability for rent.

Scope

This policy will be relevant to all ratepayers within the Local Government Area. It is anticipated to have a direct impact on less than 5,000 ratepayers

Definitions

Arrangement	An agreement accepted by Council or its agents to repay a debt within a specific period of time.
Court Instalment Order	Enforceable arrangement granted to the debtor by the court.
Examination Notice	Notice issued by recovery agent to ascertain debtor's financial affairs and negotiate a suitable payment arrangement.
Examination Order	Court issued order to have their financial affairs "examined" in the presence of a court official for the purposes of determining their capacity to make payments.
Garnishee	Court order to withhold funds from a debtors wage or bank account.

Judgment	Court issued statement acknowledging the debt recorded against the debtor.
Statement of Claim	Court issued document defining the amount due and the debt that is due to be paid. Debtors have 28 days from being served this document to lodge a defence.
Warrant	Enforceable arrest warrant issued by the court for Sheriffs' Office to arrest and present debtor to Registrar for examination.
Writ	Court issued document identifying goods to be sold in order to liquidate the judgement debt.

Legislative Context

The following Sections of the *Local Government Act 1993* are included and influenced by this policy:

Section 562, Section 564, Section 569, Section 712 and Section 713.

The following legislation is referred to during critical points of the recovery process:

Civil Procedure Act 2005, and
Corporations Act 2001

Principles

The Manager Financial Services will be responsible for administering the principles and that appropriate steps are taken to maintain a level of confidentiality with data supplied for the purposes of conducting a fair and equitable assessment.

Responsibility

The Manager Financial Services may delegate responsibility to the Revenue Accountant to ensure proper procedural documentation is maintained at a level satisfactory to Council and relevant legislation.

Effectiveness of this Policy

Key performance Indicators

- maintain or reduce unpaid rates and charges at a level considered acceptable to Council, no greater than 5%
- Monitor and report on the trends that emerge in defaulting ratepayer patterns.

END OF POLICY STATEMENT