



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	Executive Manager Corporate Services and Governance

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

By virtue of 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 \$1000.
- b) Issue of a formal demand letter notifying the possible commencement of legal action where the arrears of rates and charges exceeds \$1000.
- c) In respect to (b) only, instructions to Council's agents be given to issue an intent to commence legal proceedings letter where two or more full instalments remain outstanding and the balance exceeds \$1000. A period of 14 days to be allowed between the posting date and the last date for payment or suitable payment arrangements to be made.

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

DATA AND DOCUMENT CONTROL		
Division: City Governance Section: Financial Services Record No: CDO-23/435	Adopted Date: 15/03/1977 Revised Date: 06/06/2023 Minute Number: 134 Review Date: 30/06/2027	Page: 1 of 4

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) Contact points recorded by Council to be provided to external agent where a suitable payment arrangement has not yet been received. This step is to be taken within seven days of the notification in 2(c) being issued. Agents are to attempt contact with ratepayers using the supplied information and to include but not limited to (SMS, telephone call or send an email).
- b) 'Stop the clock' approach:
 - Where formal notification of pending legal recovery action mail has been returned to Council. Every effort to be made to locate the liable person before restarting the recovery process.
 - Where a 'Financial Hardship Relief Application' has been submitted formal recovery action to be suspended pending review by delegated officer.
- c) 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 entered and actioned in the form of either a Garnishee Order, Examination Order or Writ.
- d) 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 entered, 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.

6. Dispute resolution and review

- a) Disputes must be submitted to Council in writing and can be made at any time.

- b) Formal disputes shall be referred to the Manager Governance and Risk for investigation. Investigation findings are to be reported to the Executive Manager Corporate Services and Governance.

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 payment arrangement granted to the ratepayer by the court.
Examination Notice	Notice issued by recovery agent to ascertain ratepayer'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 ratepayer's wage or bank account.
Judgment	Court issued statement acknowledging the debt recorded against the debtor.
Liable person	The owner or occupier of rateable land.
Statement of Claim	Court issued document defining the amount due and the debt that is due to be paid. Ratepayers 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 Executive Manager Corporate Services and Governance 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 Executive Manager Corporate Services and Governance may delegate responsibility to the Senior 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