

1 Policy History

Revision No.	Council Meeting Date	Minute No.	Adoption Date
1	05/06/2001 Policy, Finance & Works Committee	P25	05/06/2001
2	14/01/2003	25	14/01/2003
3	11/05/2010	0142	11/05/2010
4	27/01/2015	15/005	27/01/2015
5	13/02/2018	18/046	16/03/2018
6	14/05/2019	19/144	21/06/2019
7	14/06/2022	22/151	15/07/2022

2 Policy Objective

- To ensure consistency, fairness, integrity and confidentiality of all proceedings for both the Council and the debtor.
- To fulfil the statutory requirements of the Local Government Act, 1993 with respect to the recovery of rates, charges and other debts.
- To maximise collections of outstanding debts and to optimise Council's cash flow.
- To be sympathetic to ratepayers and other debtors suffering genuine financial hardship.

3 Policy Statement

3.1 Rates and Charges

3.1.1 Due Dates

Chapter 15 Part 7 of the Local Government Act 1993 sets out the requirements for payment of rates and charges.

Annual rates and charges may be paid in a single instalment or by quarterly instalments. If a payment is made in a single instalment, the instalment is due and payable by 31 August. If payment is made by quarterly instalments, the instalments are payable by 31 August, 30 November, 28 February and 31 May.

Council is to issue a quarterly reminder notice for the payment of an instalment at least 30 days before the due date of the instalment.

3.1.2 Interest

Interest accrues on a daily basis in accordance with Section 566 of the Local Government Act, 1993 at the rate adopted in Council's revenue policy, on rates and charges that remain unpaid after they become due and payable.

3.1.3 Overdue Notices

A reminder notice will be issued within seven days after each instalment date to all ratepayers with unpaid instalments over an amount of \$50. Payment will be requested within 14 days of the mailing date on the reminder notice. The notice will advise that arrangements may be made with Council to pay the overdue amount.

A final notice will be issued after the expiry date of the reminder notice to ratepayers with unpaid instalments over an amount of \$500 and who have not contacted Council to make a suitable payment arrangement. The final notice will advise that the recovery of rates and charges may be referred to Council's debt collection agency if the overdue amount is not paid in full within seven days or a suitable arrangement entered into.

If a final notice does not result in payment in full or suitable payment arrangements being made, recovery action shall be commenced through Council's external debt recovery agency.

3.1.4 Arrangements

Council may enter into a Payment Arrangement with any ratepayer in accordance with Section 564 of the Act.

A suitable arrangement for the payment will clear the total outstanding debt;

- (a) Before the subsequent rate instalment is due; and where this cannot be achieved;
- (b) By the end of the current financial year provided that all subsequent rate instalments that may become due in that time frame are paid or are incorporated into the total repayment amount.

Such arrangements may be approved by Revenue Staff. Staff will record and monitor arrangements for compliance.

Council will accept over the phone payment arrangements for weekly, fortnightly or monthly payments. However, to formalise the arrangement, Council must send to the ratepayer Council's Payment Agreement form setting out the terms and conditions of the agreement made over the phone. The ratepayer must sign the agreement and return it to Council within 14 days of the posting date of the agreement; otherwise the agreement is taken to be not valid.

In accordance with Section 568 of the Act, money paid in respect to rates or charges levied on land is to be applied towards payment of those rates and charges in the order in which they became due.

Once legal proceedings have commenced against a debtor, only delegated Council officers can determine any payment agreement which must be formalised in writing. It is Council's preferred option to enter into a direct debit agreement.

Council will use various methods to contact ratepayers regarding defaulted arrangement. This includes but is not limited to phone calls, SMS reminders, letters and emails.

Arrangements greater than 12 months need to be approved in accordance with Council's Hardship policy.

Council may collect the following information during the arrangement process; this information will be used for debt recovery process:

- Contact numbers (mobile, work, home)
- Employment details
- Email address

3.1.5 Default of Payment Arrangement

Where a debtor is in default of a payment arrangement (that is, the debtor fails to meet the payments within the timetable agreed), a default letter will be sent to the ratepayer. The default letter will allow the debtor seven days to pay or re-negotiate the payment arrangement.

Where the debtor fails to comply with the terms of the default letter, Council will commence or reinstate legal proceedings to recover the debt.

Council will not enter into further payment arrangements where a ratepayer is in default of a payment arrangement more than twice within a 12 month period.

Council will use various methods to contact ratepayers regarding defaulted arrangement. This includes but is not limited to phone calls, SMS reminders, letters and emails.

3.1.6 Legal Proceedings

All debt recovery cost and fees associated with any course of action are to be borne by the owner of the debt and will subsequently remain a charge on the property until paid.

The following procedure is to be employed by Council's Debt Recovery Provider:

Supplementary Contact Procedures

To supplement the procedures employed before and during, Council's Debt Recovery Provider may be instructed to use other multiple communication channels to remind, contact and negotiate payment arrangements with ratepayers and customers. Options include, but are not limited to, telephone calls, email, SMS, Facebook and on-line chat.

(a) Notice of Occupier is issued

A notice under Section 569 of the Local Government Act 1993 may be issued if the property is rented.

OR

Statement of Liquidated Claim Issued

A Statement of Liquidated Claim will be issued to all overdue assessments with a debt balance greater than \$500.

(b) Judgement

Where a response to the Statement of Liquidated Claim is not received, default judgement is to be entered into by the Debt Recovery Provider.

(c) Garnishee Issued

Where subsequent details are known and an arrangement is not maintained, a garnishee is to be attached to the debtors wage in recovery of the debt.

OR

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.

OR

Warrant Issued

On the entry of a judgement and the failing of the debtor to enter into a payment arrangement, a warrant is to be issued by the Court against the debtor to recover personal property.

Council's staff will determine whether a notice to the occupier, warrant, garnishee or oral examination summons will be issued or commence, based on the individual circumstances of the debtor.

(d) Bankruptcy and Winding Up Proceedings

Bankruptcy and winding-up proceedings, authorised only by the General Manager, will commence if the debt is in excess of \$5,000 and previous action has secured judgement.

OR

Sale of Land for Unpaid Rates and Charges where the above steps have been unsuccessful, the General Manager is to commence a sale of land for unpaid rates and charges, in accordance with Chapter 17, Part 2 Division 5, Section 713 of the Local Government Act 1993.

3.2 Water Consumption and Charges

3.2.1 Due Dates

Water meters are read three times a year and accounts are sent to the property owners after each meter reading. The due date for payment is 30 days from the date of the Water and Sewer notice.

3.2.2 Interest

Interest accrues on a daily basis in accordance with Section 566 of the Local Government Act, 1993 at the rate adopted in Council's Revenue Policy, on rates and charges that remain unpaid after they become due and payable.

3.2.3 Overdue Notice

A reminder notice will be issued within seven days after each instalment date to all ratepayers with unpaid instalments over an amount of \$50. Payment will be requested within 14 days of the mailing date on the reminder notice. The notice will advise that arrangements may be made with Council to pay the overdue amount.

A final notice will be issued after the expiry date of the reminder notice to ratepayers with unpaid instalments over an amount of \$50 and who have not contacted Council to make a suitable payment arrangement. The final notice will advise that the recovery of rates and charges may be referred to Council's debt collection agency if the overdue amount is not paid in full within seven days or a suitable arrangement entered into.

If a final notice does not result in payment in full or suitable payment arrangements being made, recovery action shall be commenced through Council's external debt recovery agency.

3.2.4 Arrangements

Council may enter into a Payment Arrangement with any ratepayer in accordance with Section 564 of the Act.

A suitable arrangement for the payment will clear the total outstanding debt;

- (a) before the subsequent rate instalment is due; and where this cannot be achieved;
- (b) by the end of the current financial year provided that all subsequent rate instalments that may become due in that time frame are paid or are incorporated into the total repayment amount.

Such arrangements may be approved by Revenue Staff. Staff will record and monitor arrangements for compliance.

Council will accept over the phone payment arrangements for weekly, fortnightly or monthly payments. However, to formalise the arrangement, Council must send to the ratepayer Council's Payment Agreement form setting out the terms and conditions of the agreement made over the phone. The ratepayer must sign the agreement and return it to Council within 14 days of the posting date of the agreement; otherwise the agreement is taken to be not valid.

Council will use various methods to contact rate payers regarding defaulted arrangement. This includes but is not limited to phone calls, SMS reminders, letters and emails.

In accordance with Section 568 of the Act, money paid in respect to rates or charges levied on land is to be applied towards payment of those rates and charges in the order in which they became due.

Once legal proceedings have commenced against a debtor, only delegated Council Officers can determine any payment agreement which must be formalised in writing. It is Council's preferred option to enter into a direct debit agreement.

Arrangements greater than 12 months need to be approved in accordance with Council's Hardship policy.

Council may collect the following information during the arrangement process; this information will be used for debt recovery process:

- Contact numbers (mobile, work, home)
- Employment details
- Email address

3.2.5 Default of Payment Arrangement

Where a debtor is in default of a payment arrangement (that is, the debtor fails to meet the payments within the timetable agreed), a default letter will be sent to the ratepayer. The default letter will allow the debtor seven days to pay or re-negotiate the payment arrangement.

Where the debtor fails to comply with the terms of the default letter, Council will commence or reinstate legal proceedings to recover the debt.

Council will not enter into further payment arrangements where a ratepayer is in default of a payment arrangement more than twice within a 12 month period.

Council will use various methods to contact rate payers regarding defaulted arrangement. This includes but is not limited to phone calls, SMS reminders, letters and emails.

3.2.6 Legal Proceedings

All debt recovery cost and fees associated with any course of action are to be borne by the owner of the debt and will subsequently remain a charge on the property until paid.

The following procedure is to be employed by Council and Council's Debt Recovery Provider:

Supplementary Contact Procedures

To supplement the procedures employed before and during, Council's Debt Recovery Provider may be instructed to use other multiple communication channels to remind, contact and negotiate payment arrangements with ratepayers and customers. Options include, but are not limited to, telephone calls, email, SMS, Facebook and on-line chat.

(a) Notice of Occupier is issued

Where a response to step 1 is not received, a notice under Section 569 of the Local Government Act 1993 may be issued if the property is rented.

OR

Water Restriction Notice issued

After the expiration of the demand letter, if an account in excess of \$500 remains unpaid or no satisfactory payment arrangement has been made, a Water Restriction Notice is issued by Council. The due date for payment is 14 days from the date of the Water Restriction Notice.

(b) Notice of intention to restrict

After the expiry date of the Water Restriction Notice, if no payment or satisfactory payment arrangement has been made, a notice of intention to restrict water supply is issued by Council. This gives an additional 7 days to make full payment or a suitable arrangement. Council must receive payment or a suitable arrangement by this date. If payment is made via B-Pay or Australia Post it needs to be received by Council prior to the due date.

(c) Water Restriction

On, or as soon as practicable after the nominated date appearing on the notice of intention to restrict, if no payment or a satisfactory arrangement has been made, the restriction device is to be fitted to the water meter connected to the property. Full payment of overdue charges and the re-connection fee must be received before the restrictor will be removed. Any payments made via Australia Post or B-Pay cannot be confirmed until the payment is received by Council, so the restrictor will stay on the property until payment can be confirmed.

(d) Referral to Debt Recovery Provider

If the installation of a restrictor has not recovered payment or if the property is tenanted, then Council will employ the Debt Recovery Provider to instigate legal proceedings. In such instances, the debt collection procedures in the Rates and Charges section of this policy are to apply.

3.3 Sundry Debtors

3.3.1 Due Dates

Council issues debtor accounts for numerous services. Accounts are generally issued on a weekly, fortnightly and monthly basis. The trading term is 30 days from the date of invoice.

3.3.2 Overdue Notice

Thirty days after the date of the invoice, a "Reminder Notice" is to be issued to all miscellaneous debtors with unpaid debts.

If a "Reminder Notice" does not result in payment in full or suitable payment arrangements being made, a "Final Overdue" request for payment letter is sent.

Seven days after the Final Overdue request has been sent, recovery action may commence.

Where provided in some agreements, interest may be charged on overdue accounts.

3.3.3 Arrangements

Arrangements for payments shall be made in accordance with Council's adopted procedures. Where a miscellaneous debtor defaults on an approved arrangement for payment, recovery action will recommence from the stage which had been reached prior to the last arrangement being made.

3.4 Hardship

In cases of genuine hardship each case is to be referred to the Director Business Cultural Financial Services following a recommendation from the Revenue Team Leader for consideration in accordance with Council's adopted procedures.

3.5 Further Considerations for the Collection of Rates & Charges, Water & Sewer Charges and Sundry Debtor Debts

Where a matter proceeds to a pre-trial consultation or hearing, Council's Solicitor is to be instructed to act on Council's behalf.

Interest is to be applied to all outstanding rates & charges, water & sewer charges and sundry debtor fees and charges, where deemed, whether a suitable arrangement is in place or not. The interest rate is determined by Council as part of adopting the Delivery Programme and Operational Plan. Interest commences to accrue on unpaid rates & charges, water & sewer charges and sundry debtor fees, where deemed, as soon as practical after the due date.

Interest is applied to sundry debtors, where deemed, in accordance with the legislation under which the fee or charge is raised.

The General Manager is to be advised by the Revenue Team Leader or the Director – Business, Cultural & Financial Services of any staff member or Councillor whose overdue account has been referred for legal proceedings.

Council's Revenue staff may be required to act as authorised officers in relation to the recovery of rates and charges where that nominated person is required to represent Council at Court.

4 Definitions

None

5 Exceptions

None

6 Legislation

Local Government Act 1993 NSW
Local Government (General) Regulation 2021

7 Related Documents

Office of Local Government – Debt Management and Hardship Guidelines – November 2018

8 Directorate

Business Cultural and Financial Services