



PARKES SHIRE COUNCIL

# DEBT RECOVERY

# POLICY

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## DEBT RECOVERY POLICY

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### CONTROLLED DOCUMENT INFORMATION

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### Version History

Version Number	Date Changed	Modified by	Details & Comments
0	Date Policy Created 16 June 2017	Debt Recovery Officer	Policy Created
1.	21 August 2018	Debt Recovery Officer	Various amendments
2.	11 March 2021 Adopted 18.05.2021 Res No. 21-195	Revenue Accountant	Section 3 Section 5 Section 6 Section 8

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## 1. Introduction

Council requires a Debt Recovery Policy to ensure that debt collections are reviewed on a regular basis. It will also provide a framework for the efficient and effective collection of outstanding debts and fulfil statutory requirements.

## 2. Purpose

This Policy is to determine when and how recovery action for overdue Rates & Charges, Water Charges & Consumption and Sundry Debtors will take place and to also maintain an acceptable level of debt recovery, as Council has a responsibility to ensure monies owed, are recovered in a timely and effective manner, to fund its services and facilities to our community and to ensure effective cash flow management. During the Debt Recovery process, Council will treat people fairly, consistently and in a confidential and professional manner.

## 3. Policy for Outstanding Rates & Charges, Water Charges & Consumption

Council may take recovery action within one (1) month of the Rates & Water becoming overdue unless the Ratepayer requests a short extension or enters into a suitable Payment Arrangement.

- + Council will accept that there are Ratepayers who cannot meet mandatory instalment options as provided under Section 562 of the Local Government Act 1993 by their due dates. Council therefore may accept an alternative payment schedule either by way of:
  - A short extension of time to pay any overdue amount for Rates & Water; or
  - A Payment Arrangement in accordance with Section 564 of the Act. Payment Arrangements can be for weekly, fortnightly or monthly payments provided that:
    - Council determines the reasons for the arrangement are acceptable and;
    - The Payment Arrangement is entered into rating and/or water system. Arrangements can be made in person, over the phone and via email.

Once an arrangement is entered into the customer is liable for these payments. Failure to make scheduled payments under the arrangement may see the account referred directly to Council's Debt Recovery Agent for collection.

Interest will continue to accrue at the prescribed rate per annum as per Section 566 of the Local Government Act 1993 on any arrears during the period of the extension or payment arrangement.

### + Extensions:

- A verbal extension of time to pay any overdue amount for Rates & Water in full may be agreed upon, provided the extension will not be greater than 30 days after the due date of the current instalment.
- If the terms of an extension are required for longer than 30 days due to extenuating circumstances, then an Arrangement must be signed which would ensure the arrears under the extension are paid in full prior to the due date of the next instalment.



### + **Payment Arrangements:**

- If an Arrangement is made to pay the outstanding instalment amount only, then this would need to be paid in full before the next Rate or Water instalment becomes due.
- Payment Arrangements will be negotiated with a view to clearing all outstanding arrears as well as any current Rates & Charges and Water Charges & Consumption within a six (6) month period.
- Any Arrangements are made so that all amounts owing are paid in full by 30 June of that financial year. The preferred payment method when a Payment Arrangement is entered into is, via Direct Debit, Centrepay or BPay. Council offers weekly, fortnightly and quarterly Direct Debits for rates and water accounts.
- Extenuating circumstances can be taken into consideration if any of the above conditions cannot be met but must be referred to the Revenue Accountant ~~Recovery Officer~~ for approval.
- Other Arrangements should clear the total outstanding debt by the end of the current financial year or within a 12-month period at the latest.
- Council may extend this 12-month period if they believe exceptional circumstances exist. Such Arrangement may be approved by the Revenue Accountant or the Chief Finance Officer.
- Failure by the Applicant to adhere to the agreed payment schedule or the instalment Arrangement will result in further recovery action being taken. If a Ratepayer defaults on a Payment Arrangement three (3) times and no attempt has been made to contact Council, the debt will be referred to Council's Debt Recovery Agents.

### + **Extensions or Payment Arrangements not honoured:**

- Where a Ratepayer has not honoured the Arrangement, the Rates/Water Officer has the discretion as to whether to accept a new Arrangement or refer the matter to Council's Debt Recovery Agents for recovery. Any new Arrangement cannot be accepted until the first payment under the newly agreed Arrangement is received by Council.
- In the event that a Ratepayer fails to make a payment in full under the Arrangement and does not notify Council of any financial difficulties, the total amount outstanding becomes payable and is subject to Council's normal recovery procedures without further notice to the Ratepayer.
- Once legal proceedings have commenced against a Ratepayer only delegated officers of Council or its Debt Recovery Agents can negotiate Payment Arrangements with that Ratepayer.



#### + **Debt Recovery Action:**

- If insufficient payments to cover arrears for Rates & Charges, Water Charges & Consumption have been made or where there is no current valid Arrangement in place then Debt Recovery action will commence.
- To recover any arrears of Rates & Charges, Water Charges & Consumption, Council or their Debt Recovery Agents will issue the following -
  - A Reminder Notice
  - A Letter of Demand and/or a Letter of Intent from one of Council's Debt Recovery Agents
- If the Ratepayer does not contact Council or its Debt Recovery Agents to arrange to pay the arrears, or to enter into a suitable arrangement, then legal proceedings may be instigated against the Ratepayer which will include the issue of a Statement of Claim against the owner/s of the property.
- Following service of the Statement of Claim, if the Ratepayer fails to pay the arrears or enter into an Arrangement suitable to Council, then Council will obtain Default Judgment and arrange to recover the Judgment Debt through the appropriate recovery actions.
- Any legal costs and expenses incurred in Debt Recovery proceedings will be charged against the property (including the expenses of tracing a person in accordance with Section 605 of the Act) and will be payable by the Ratepayer as these costs will remain a charge on the land until paid in full.

#### **4. Restricting Water Supply**

Council has a responsibility to ensure the recovery of outstanding Water Charges and/or Consumption is collected in a timely and consistent manner and if not, then a Water Flow Restrictor will be fitted to an individual water connection which will allow restricted water use so as to maintain personal hygiene only.

- + A Water Flow Restrictor will only be fitted when all avenues of the Debt Recovery process have been exhausted. In the case of an unrecovered debt, the installation of a Water Flow Restrictor is only to be fitted where the minimum outstanding water charges are \$500.00 or more, **or** a minimum of two (2) billing periods and where a suitable Payment Arrangement has not been entered into.
- + The cost of the installation and removal of a Water Flow Restrictor is borne by the property owner. The fees payable are listed in Council's Fees & Charges.
- + Refer to Council's Water Restriction Policy and Local Government (General) Regulation 2005 - Reg. 144, "Cutting off or Restricting Water Supply".



## 5. Policy for Outstanding Sundry Debtors

Council will take recovery action within 30 days (60 days from date of invoice) of a Sundry Debtor Account becoming overdue, unless the Sundry Debtor requests a short extension or enters into a suitable Payment Arrangement.

- + All debtor accounts are strictly 30 days from the date of the Invoice unless prior arrangements have been made.
- + Monthly Statements are to be forwarded to the Sundry Debtor. Amounts outstanding for more than thirty (30) days are to be regarded as overdue.
- + Statements will continue to issue, but where accounts are outstanding for more than sixty (60) days, then this matter will be referred to Council's Finance Support Officer in order to forward the matter to Council's Debt Recovery Agents for recovery.
- + "Letter of Demand" and/or Letter of Intent will be issued requesting payment within seven (7) days from Council's Debt Recovery Agent.
- + Payment Arrangements can be entered into for payment of Sundry Debtor accounts if requested. These debts will need to be paid within six (6) months unless otherwise discussed.
- + Extenuating circumstances can be taken into consideration if the Sundry Debtor account cannot be paid within a reasonable time agreed by Council but must be referred to the Finance Support Officer for approval. In these circumstances a hardship application must be completed for review.
- + Where a customer has an outstanding balance for more than 30 days overdue there will be no further credit given until previous accounts paid in full i.e., private works, waste management.

## 6. Hardship

Council recognises there are cases of genuine financial hardship requiring respect and compassion in special circumstances.

- + When a Ratepayer or Sundry Debtor demonstrates a genuine financial hardship, Council may consider a longer-term Payment Arrangement subject to the completion of the Payment Arrangement and Hardship Application Form. These Forms can be used for arrears in Rates & Charges, Water Charges & Consumption and Sundry Debtors.
- + Ratepayers or Sundry Debtors can apply for an Application for Hardship.
- + This Application will be made in accordance with Council's Hardship Policy, reviewed by Rates/Water Officer with final sign off considered by Council's Revenue Accountant.
- + Each Application will be considered on its own merits.
- + Refer to Council's Hardship Policy and Hardship Application relating to the relevant criteria in which to apply for Hardship.



## 7. Sale of Land

Council will proceed to the Sale of Land where legal action is unsuccessful and Rates & Charges are overdue for more than five (5) years for occupied land or one (1) year in the case of vacant land. This is the last resort that Council takes in recovering the arrears in Rates & Charges on a property.

- + Reasonable attempts have been made to locate the owner of the land where the current address is unknown to Council.
- + Debt Recovery actions have been undertaken by Council and the overdue Rates & Charges remain unpaid.
- + Council will commence the Sale of Land process against the eligible properties which will be sold by public auction in accordance with Section 713 of the Act, subject to a Resolution of Council.
- + Once the property is listed to be sold, Council will only accept a payment in full or a suitable payment arrangement of the outstanding balance prior to the date of the Auction.

## 8. Responsibility

The Revenue Accountant is responsible for all Debt Recovery matters relating to the recovery of arrears of Rates & Charges, Water Charges & Consumption in consultation with the Rates/Water Officers. Sundry Debtors in consultation with the Finance Support Officer. Consultation may also take place with the Chief Financial Officer.

## 9. Related Documentation

This Policy should be read in conjunction with the:

Council's Water Restriction Policy

\*Council's Hardship Policy & Hardship Application Form.

*\*It should be noted that payment arrangement forms are now entered electronically and produced via the system for customers to sign.*

## 10. References

Local Government Act 1993 - Section 562

Local Government Act 1993 - Section 564

Local Government Act 1993 - Section 566

Local Government Act 1993 - Section 605

Council's Water Restriction Policy

Local Government (General) Regulation 2005 - Reg 144

Local Government Act 1993 - Section 713

