

| Document Name | Document Version Number | Review Date |
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| Debt Recovery Policy | 1.0.2 | February 2016 |
| Date Adopted | Minute Number | Status |
| 11 February 2015 | 3987 | Revised |

Purpose

The objective of this policy is to ensure monies owed to Council are recovered in a timely, efficient and effective manner in order to finance Council's operations and ensure effective cash flow management. Whilst carrying out this responsibility Council will:

- Treat all people fairly and consistently under this policy;
- Treat all matters under this policy confidentially; and
- Treat all people with respect and sensitivity in considering their circumstances.

Scope

This policy applies to any person or organisation owing rates, fees, charges, interest and other debts to Council.

Definitions

Ratepayer: The person liable for payment of the rates and charges due and payable on the property for which the hardship is claimed

Policy Content

This policy provides a framework for the effective and efficient collection of outstanding debts and fulfils statutory requirements in relation to the recovery of rates, charges, fees and other debts.

1. RECOVERY OF RATES AND CHARGES

1.1 Rates and Charges Notice

Rates and charges notices are issued in July each year and are payable in four instalments on 31 August, 30 November, 28 February and 31 May each financial year. A rate instalment notice is issued 30 days before each instalment is due.

1.2 Reminder Notice

If the whole or part of an instalment is not paid within fourteen (14) days of the instalment due date, then a reminder notice will be issued. Reminder notices will be issued to all ratepayers and will request payment within no less than fourteen (14) days of the mailing date on the reminder notice. The reminder notice will advise that the recovery of the rates and charges may be referred to Council's debt collection agency if the overdue amount is not paid in full within the period specified on the reminder notice. The notice will also advise that arrangements may be made with Council to pay the overdue amount.

1.3 Recovery Action – Referral to Debt Collection Agency

Following the expiration of the period specified on the reminder notice Council will refer all assessments to its debt collection agency, provided the amount overdue is greater than \$200 and no arrangement has been made to pay the overdue amount.

1.4 Recovery Action – Debt Collection Agency Procedures

- a) The debt collection agency will as soon as practicable after receipt of a referral from Council issue a notice to the ratepayer in relation to each overdue amount advising that Council has referred the debt to the agency for collection and that payment is required within seven (7) days of the date of the notice, otherwise legal action will commence. The notice is to specify the minimum amount in legal costs that may be added to the ratepayer's rate assessment if legal action is commenced.
- b) Following the expiration of the seven (7) days as requested in the notice the debt collection agency is to issue a statement of liquidated claim following approval from Council to proceed with legal action.
- c) Following the statutory period after service of the statement of liquidated claim and with Council's approval the debt collection agency are to issue a pre-judgement notice. The notice advises the ratepayer that Council intends to proceed to Default Judgement against them unless payment is received within seven (7) days of the date of the notice. The notice is to specify the minimum amount of legal costs that may be added to the ratepayer's rate assessment if judgement is entered against the ratepayer and information explaining to the ratepayer that a default judgement will be listed on their credit file for a period of five (5) years even if the amount is subsequently paid/finalised and that this listing may affect the success or failure of future applications for credit.
- d) Following the expiration of the seven (7) days as requested in the notice the debt collection agency is to then obtain judgement against the ratepayer following approval from Council to proceed with the legal action.
- e) Once judgement is obtained against the ratepayer, the debt collection agency with Council's approval is to take the necessary proceedings to recover the debt including but not limited to:
 - A garnishee of income
 - Writ of execution on goods and chattels
 - Examination summons
 - Service of a rent order where property is tenanted
 - Bankruptcy proceedings (subject to resolution of Council)
 - Sale of land for unpaid rates (subject to resolution of Council)

1.5 Arrangements to Repay Rates and Charges

Council recognises that some ratepayers may experience financial difficulties in meeting their rate commitments. Council will seek to assist ratepayers to make arrangements that are consistent with the ratepayer's capacity to make regular payments.

A ratepayer may at any time make arrangements to pay off their outstanding rates and annual charges by regular payments, subject to the following guidelines (refer also to Council's Hardship Policy)

- Payments must be made on a weekly, fortnightly or monthly basis
- Arranged payments must be of an amount so that all amounts owing are paid in full by 30 June of that financial year
- Extenuating circumstances can be taken into consideration if either of the above two conditions cannot be met, but must be referred to the Accounting Officer or Chief Financial Officer for approval

All ratepayers who enters into an arrangement will continue to have interest charged on the outstanding amount in accordance with Section 566 of the Local Government Act 1993 (the Act), subject to Council's Hardship Policy.

Where a ratepayer has not honoured a previous arrangement the Accounting Officer has the discretion as to whether to accept a new payment arrangement or continue with further recovery action. Any new arrangement cannot be accepted until a payment is received to show good faith.

In the event that a ratepayer fails to make a payment in full under an 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.

In accordance with Section 568 of the Act, payments will be applied towards the payment of rates and charges in the order in which they become due.

2. RECOVERY OF SUNDRY DEBTOR ACCOUNTS

2.1 Sundry Debtor Invoices and Statements

Invoices are raised as debtor information comes to hand, for example construction of kerb and guttering, footpaths, waste, private works etc. Within seven (7) of the close of a month a statement will be issued. The due date for payment is thirty (30) days after the invoice date.

2.2 Overdue Sundry Debts

If an account is not paid by the due date a second and then a third monthly statement will be forwarded as a reminder. Once an account has amounts that are 90 days in arrears, Council will refer the account to its debt collection agency.

2.3 Recovery Action – Suspension of Credit Facilities

If the account is an ongoing account such as waste tipping fees, further credit to that debtor will be withdrawn until the account is paid at the discretion of the Accounting Officer or Chief Financial Officer.

2.4 Recovery Action – Debt Collection Agency Procedures

- a) The debt collection agency will as soon as practicable after receipt of a referral from Council issue a notice to the account holder in relation to each overdue account advising that Council has referred the debt to the agency for collection and that payment is required within seven (7) days of the date of the notice, otherwise legal action will commence. The notice is to specify the minimum amount in legal costs that may be added to the account holder's account if legal action is commenced.
- b) Following the expiration of the seven (7) days as requested in the notice the debt collection agency is to issue a statement of liquidated claim following approval from Council to proceed with legal action.
- c) Following the statutory period after service of the statement of liquidated claim and with Council's approval the debt collection agency are to issue a pre-judgement notice. The notice advises the ratepayer that Council intends to proceed to Default Judgement against them unless payment is received within seven (7) days of the date of the notice. The notice is to specify the minimum amount of legal costs that may be added to the account if judgement is entered against the account holder and information explaining to the account holder that a default judgement will be listed on their credit file for a period of five (5) years even if the amount is subsequently paid/finalised and that this listing may affect the success or failure of future applications for credit.

- d) Following the expiration of the seven (7) days as requested in the notice the debt collection agency is to then obtain judgement against the account holder following approval from Council to proceed with the legal action.
- e) Once judgement is obtained against the account holder, the debt collection agency with Council's approval is to take the necessary proceedings to recover the debt including but not limited to:
 - a. A garnishee of income
 - b. Writ of execution on goods and chattels
 - c. Examination summons
 - d. Service of a rent order where property is tenanted
 - e. Bankruptcy proceedings (subject to resolution of Council)

2.5 Arrangements to Repay Sundry Debtor Accounts

An account holder may at any time make arrangements to pay off their outstanding account by regular payments, subject to the following guidelines (refer also to Council's Hardship Policy)

- Payments must be made on a weekly, fortnightly or monthly basis
- Arranged payments must be of an amount so that all amounts owing are paid in full by 30 June of that financial year
- Extenuating circumstances can be taken into consideration if either of the above two conditions cannot be met, but must be referred to the Accounting Officer or Chief Financial Officer for approval

Where an account holder has not honoured a previous arrangement the Accounting Officer has the discretion as to whether to accept a new payment arrangement or continue with further recovery action. Any new arrangement cannot be accepted until a payment is received to show good faith.

In the event that an account holder fails to make a payment in full under an 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.

3. SALE OF LAND FOR UNPAID RATES AND CHARGES

Where any rate or charge is overdue and has remained unpaid for more than five (5) years from the date it became payable, Council may proceed to sell the land in accordance with Division 5 of Part 2 Chapter 17 of the Local Government Act 1993.

Where any rate or charge is overdue for a period greater than 12 months in respect of vacant land and the amount overdue exceeds the Valuer General's current valuation of the property, Council may proceed to sell the land in accordance with Division 5 of Part 2 Chapter 17 of the Local Government Act 1993

4. KERB AND GUTTER & FOOTPATH CONSTRUCTION CONTRIBUTIONS

Council has adopted the Administration of Contributory Footpath and Kerb & Gutter Schemes Policy a procedural guide for the creation and implementation of all contributory projects for the construction of footpaths and kerb and gutter under the Roads Act 1993 and as a guide for the equitable distribution of costs between Council and owners of abutting properties.

In addition to the provisions relating to the recovery of outstanding sundry debt as detailed in Point 2 above, the following payment options will apply specifically for Landowners affected by contributions to Kerb and Gutter and Footpath construction:

- The debt may be repaid over three (3) years in weekly, fortnightly, monthly or quarterly instalments with the first repayment falling due three months after the completion of the works.
- If the Landowner fails to make any two consecutive payments then legal action may be instigated in accordance with the procedures for Rates and Charges.
- Landowners suffering genuine hardship will be considered under Council's Financial Hardship Policy.

5. LEGAL COSTS

All debt recovery costs 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.

Any ratepayer or sundry debtor that wishes to appeal against the legal costs that have been added to their assessment or account must state their appeal and the reasons for the appeal in writing to Council.

All requests for a review of legal costs will be assessed and the facts of the case collated by the Accounting Officer with the final decision as to whether the costs will be written off to be made by the General Manager, subject to the amount in question being less than \$1,000. In cases where the amount being appealed is greater than \$1,000 the matter will be referred to Council for consideration.

6. THIRD PARTY REPORTING

Council will not supply private credit agencies with information regarding legal action it has taken in the recovery of overdue rates. However, Council recognises that judgement details are supplied to credit agencies by NSW courts.

If a ratepayer or account holder requests proof that a debt owed to Council has been paid, a notice will be issued by Council or Council's debt collection agency confirming payment has been made. Such notice will only be issued if all overdue debts have been paid in full.

Further, if a ratepayer or account holder requests a Notice of Discontinuance to finalise a judgement at the Court, Council will require all overdue debts to be paid in full. If this requirement is met, Council's debt collection agency will carry out the process for a Notice of Discontinuance. If the overdue debts are not paid in full and the ratepayer requires a Notice of Discontinuance urgently, they can apply for the Notice of Discontinuance themselves through the Court. Council will not commence the process if rates and charges are still outstanding.

Links to Policy

Hardship Policy

Pensioner Concession Policy

Administration of Contributory Footpath and Kerb & Gutter Schemes Policy

Links to Procedure

Nil

Links to Forms

Nil

References

Nil

Responsibility

Director Corporate & Community Services

Document Author

Director Corporate & Community Services

Relevant Legislation

Local Government Act 1993

Local Government (General) Regulation 2005

Associated Records

Nil

| Document Name | Document Version Number | Review Date |
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| Hardship Policy | 1.0.2 | February 2016 |
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Purpose

Council recognises that there are cases of genuine hardship requiring respect and compassion in special circumstances. This policy establishes guidelines for assessment of hardship applications applying the principles of social justice, fairness, integrity, appropriate confidentiality and compliance with statutory requirements.

Scope

This policy applies to all applications for waiving, deferment and alternative payment arrangements, or writing off of rates, fees, charges and interest accrued on such debts.

Definitions

Ratepayer: The person liable for payment of the rates and charges due and payable on the property for which the hardship is claimed

Eligible Person: A person who is in receipt of a Pension Concession Card issued by Centrelink, the Department of Veterans Affairs or the Department of Veterans Affairs Gold TPI or EDA Card

Policy Content

This policy provides a framework for responding to applications from owners/ratepayers and customers experiencing genuine hardship with the payment of their rates, annual charges and fees in accordance with the Local Government Act 1993 (the Act) and the Local Government (General) Regulation 2005 (NSW).

1. HARSHIP ASSISTANCE AVAILABLE TO RATEPAYERS AND CUSTOMERS

A ratepayer may be eligible for consideration for hardship assistance in the payment of overdue rates, annual charges, interest and fees where:

- The person is unable to pay rates or accrued interest when due and payable for reasons beyond the person's control; or
- Payment when due would cause the person hardship

The Act provides for the following assistance to ratepayers and customers who may experience hardship in some circumstances in paying rates, annual charges and fees:

- Periodical payment arrangements for overdue rates and charges (Section 564)
- Writing off or reducing interest accrued on rates and charges (Section 564 & 567)
- Waiving, reducing or deferring the payment of the increase in the amount of rates payable because of hardship resulting from general revaluation of land in the Local Government Area (Section 601)
- Waiving or reducing rates, charges and interest of eligible pensioners (Section 575-582)
- Waiving or reducing Council fees when the inability to pay is due to hardship (Section 610E)

Council will consider applications for assistance with the following principles:

- Council will individually assess cases of financial hardship;
- Council will not reduce rates or annual charges, but will consider alternative available approaches to dealing with cases of financial hardship;
- Council will consider a scheme or periodical payment outside the due dates in cases of hardship or extenuating circumstance.

Applications for hardship must be made on the appropriate form, available from Council.

- The applicant must be the owner/spouse or part owner of the property and be liable for the payment of rates on the property
- The property to which the hardship application applies must be categorised as residential or farmland for rating purposes
- The property to which the hardship application applies must be the principle place of residence of the applicant/s
- The application for hardship must be accompanied with supporting documentation which may include but is not limited to:
 - Reasons why the person was unable to pay the rates and charges when they became due and payable;
 - Copy of recent bank statements for all accounts;
 - Details of income and expenditure;
 - Letter from a recognised financial counsellor or financial planner confirming financial hardship;
 - Letter from a medical professional confirming medical conditions due to hardship.

Council may request the applicant attend an interview to assist Council in the understanding of the issues causing hardship.

2. HARSHIP ASSISTANCE BY PERIODICAL PAYMENT ARRANGEMENTS

Council may enter into a formal agreement with a ratepayer eligible for alternative periodical payment arrangements for due and payable rates and charges. Council or the ratepayer may initiate a proposal for a periodical payment agreement. In accordance with Section 568 of the Act, payments will be applied towards the payment of rates and charges in the order in which they become due.

The following guidelines should be met in determining eligibility:

- Payments must be made on a weekly, fortnightly or monthly basis
- Arranged payments must be of an amount so that all amounts owing are paid in full by 30 June of that financial year
- Extenuating circumstances can be taken into consideration if either of the above two conditions cannot be met, but must be referred to the Chief Financial Officer for approval

Financial details of the ratepayer including income/outgoings may be required.

3. HARDSHIP ASSISTANCE BY WRITING OFF ACCRUED INTEREST AND COSTS

Council applies interest rates to the maximum allowable under Section 566 of the Act. However, Council may write off accrued interest and costs on rates or charges payable by a person under Section 567 of the Act and the Local Government (General) Regulation 2005 where:

1. The person was unable to pay the rates or charges when they become due for reasons beyond the person's control, or
2. The person is unable to pay accrued interest for reasons beyond the person's control, or
3. Payment of the accrued interest would cause the person hardship

Council may write off interest and costs in accordance with Section 567(3) of the Act under the following circumstances:

- The ratepayer is experiencing genuine hardship. In such cases, Council may request the completion of a hardship application;
- The ratepayer is a "first time" defaulter, has previously had a good payment record and there mitigating circumstances;
- Prolonged or serious illness has prevented the ratepayer meeting their financial obligations to Council;
- The ratepayer has complied with all criteria with respect to a Section 564 periodic payment agreement;
- Council is satisfied that the circumstances giving rise to the default are temporary.

4. HARDSHIP ASSISTANCE DUE TO CERTAIN VALUATION CHANGES

Under Section 601 of the Act, any ratepayer who incurs a rate increase following a new valuation may apply to Council for rate relief in the first year the valuation is used for rating purposes. If the new rate payable causes the ratepayer to suffer substantial hardship (Section 601(1)). Notwithstanding the provision, Council will not consider applications under this provision, as valuations are independently determined by the Valuer General. Council will encourage aggrieved ratepayers to make an appropriate application under the appeal provisions of the NSW Valuation of Land Act 1916.

In addition, it is considered that Council has maximised its scope under the Act to adopt a rating structure that cushions the impact of any change in valuation on rates.

5. ASSISTANCE TO ELIGIBLE AGED PENSIONERS – DEFER PAYMENT OF RATES AND CHARGES

Aged pensioners who satisfy the eligibility criteria may make application to defer the payment of rates and charges against their estate. If granted, payment of the rates, charges and interest will be deferred until any of the following occurs:

- Death of the ratepayer; or
- Sale of the property; or
- The ratepayer ceases to occupy the property as their principle place of living and rents the property out

The criteria used to determine eligibility for deferral will be:

- The ratepayer must be an aged pensioner as defined by Centrelink in receipt of a pensioner rate concession card; and
- The property must be the ratepayer's principle place of living; and
- The property must be used for residential or farming purposes only; and
- The property can have no more than a single dwelling house or residential unit erected upon it; and
- The total amount of rates and charges (net of pensioner concession) payable must be more than 8% of the annual age pension of an individual (if the ratepayer is an individual) or 8% of the annual age pension of a couple (if the ratepayer is a couple) at the date of the original application.

An initial prescribed application form must be completed and lodged with Council for determination of eligibility by the Accounting Officer. A ratepayer dissatisfied with a decision of the Accounting Officer may have that decision reviewed by the Director Corporate & Community Services.

Council will post out a letter each year to the aged pensioner with a copy to sign and return authorising the continuation of the deferral. The purpose of the annual letter is to confirm that the aged pensioner continues to own and occupy the property, is still alive and is aware of and agrees to the deferral. Deferral will continue once granted without the need to satisfy the 8% criteria again, if the pensioner continues to own and occupy the property. Where the pensioner ceases to occupy the rateable property or the property is rented the repayment timeframe for the deferred rates and charges will be negotiated by the Senior Revenue Officer. A person dissatisfied with a decision of the Accounting Officer may have that decision reviewed by the Director Corporate & Community Services.

Interest charges accrue in respect of deferred rates and charges at the rate determined by Council under Section 566 of the Act. No deferred rates, charges or interest are to be written off under this policy.

The maximum number of years for which rates, charges and interest can be deferred under this policy is ten (10) years. Should the aged pensioner wish to continue the deferral of rates, charges and interest beyond this period, payment of the first deferred year's rates, charges and interest will be required. This cycle may continue as long as required.

6. HARSHIP ASSISTANCE IN RELATION TO COUNCIL FEES

The General Manager will have the delegated authority to make such decisions in relation to the waiving or reducing of fees up to the amount of \$1,000. For amounts over \$1,000 the decision must be by resolution of Council.

Any application for hardship assistance in relation to Council fees or charges other than annual charges by waiving or reducing fees under Section 610(E) of the Act will be assessed in accordance with the same eligibility criteria used to assess hardship assistance in respect to rates and annual charges.

7. GENERAL

Financial hardship cases will only be discussed in Closed Council or Committee Meetings.

All hardship applications shall be determined in accordance with Council delegations.

All hardship applicants shall be advised in writing of Council's decision within 30 days of receipt of the application.

Privacy will be maintained in accordance with the NSW Privacy and Personal Information Protection Act 1998.

Links to Policy

Debt Recovery Policy

Pensioner Concession Policy

Links to Procedure

Nil

Links to Forms

Hardship Application Form

References

Nil

Responsibility

Director Corporate & Community Services

Document Author

Director Corporate & Community Services

Relevant Legislation

Local Government Act 1993

Associated Records

Nil

| Document Name | Document Version Number | Review Date |
|-----------------------------|-------------------------|---------------|
| Pensioner Concession Policy | 1.0.9 | February 2016 |
| Date Adopted | Minute Number | Status |
| 11 February 2015 | 3987 | Revision |

Purpose

The objective of this policy is to provide eligible pensioners with the statutory pensioner concession relating to Rates and Charges under the provision of Section 575 of the Local Government Act 1993 (The Act).

Scope

This policy applies to ratepayers who are eligible pensioners and is pursuant to Chapter 15, Part 8 Division 1 of the Act and part 5 Division 4 of the Local Government (General) regulation 2005.

Definitions

Eligible Pensioner: A person who is in receipt of a Pension Concession Card issued by Centrelink, the Department of Veterans Affairs or the Department of Veterans Affairs Gold TPI or EDA Card

Principle place of residence: The property that the ratepayer occupies as their sole or dominate residence

Ratepayer: The person liable for payment of the rates on the property for which the pensioner concession is claimed

Policy Content

1. ELIGIBILITY FOR REBATE

- A mandatory rebate of rates and charges (includes domestic waste management charge) to the maximum amount determined by Section 575 of the Act will apply for eligible pensioners.
- Where an owner becomes an eligible pensioner after the commencement of a quarterly instalment period, the rebate will commence from the start of the next quarterly instalment period
- Where an owner ceases to qualify as an eligible pensioner, or sells the property to which the rebate applies, the rebate will cease at the end of the current instalment period.
- If a ratepayer is in receipt of a pension concession card, currently receiving a pension rebate on the property considered to be their sole or principle place of abode and is then required to enter an aged care facility for health or care reasons, the pension rebate will continue to apply as long as the property is not being rented or occupied by another person.
- As provided by Section 577 of the Act, Council will grant a rate concession where an eligible pensioner, not the owner of the property, has a life interest in the property and is responsible for payment of rates. Council requires confirmation in writing preferably from a legal representative with a copy of the will of a deceased estate, copy of the Certificate of Title if the life tenancy is registered or relevant documentation to validate a life tenancy agreement.
- On land that is jointly owned and the liability for payment of the rate is shared with ratepayers who are not eligible pensioners, the rebate amount will be calculated proportionally according to the ratio that the eligible pensioner bears to the total number of owners. As provided by Section 577 of the Act, there will be an exception where a legal agreement exists that makes the eligible pensioners solely liable for payment of the rates. In this case the full rebate will apply.

- Pensioner rebate concessions are to be granted only in the year the application is made and the rating period immediately preceding it. Rebates may be granted for years other than the current and preceding year only to correct a proven clerical error.

2. ASSISTANCE TO ELIGIBLE PENSIONERS

Section 567 of the Act provides that accrued interest on rates and charges payable by a person may be written off if in Council's opinion payment of the accrued interest would cause the person hardship.

Section 577 of the Act enables Council to make an order deeming certain persons who are jointly liable with an eligible pensioner(s) or solely liable, but who are not themselves eligible, to be eligible pensioners for the purpose of a mandatory reduction in accordance with Section 575 of the Act.

Section 582 of the Act allows Council to waive or reduce rates, charges and interest due by any person prescribed by the regulations who is in receipt of a pension, benefit or allowance under the Social Security Act 1991 of the Commonwealth. This may be in the form of an additional rebate provided by Council that is to be set by a resolution of Council at the commencement of the relevant financial year.

The Office of Local Government (OLG) Rating and Revenue Manual advises councils have the discretion to accrue rates, charges and applicable interest against a pensioner's estate. The OLG advises that if councils wish to use this discretion, agreement is required from the pensioner ratepayer. For further details regarding the deferral of rates and charges for pensioners see Council's Hardship Policy.

3. APPLICATION PROCESS

- Application for a pension concession on a property must be made by completing the prescribed pensioner rebate application form and all information must be provided before the application can be assessed including a copy of the pension concession card.
- The application must be signed by the applicant or a person with power of attorney for the applicant.
- The property must be the applicant's sole and principle place of abode.
- Once assessed, the applicant will be notified in writing of Council's decision and the amount of rates and charges payable.

Links to Policy

Debt Recovery Policy
Hardship Policy

Links to Procedure

Nil

Links to Forms

Pensioner Rebate Application Form

References

Nil

Responsibility

Director Corporate & Community Services

Document Author

Director Corporate & Community Services

Relevant Legislation

Local Government Act 1993

Associated Records

Nil