

# DEBT MANAGEMENT AND HARDSHIP POLICY

## POLICY ADMINISTRATION

<i>Dates</i>	Policy approved 27/7/2020 (Version 2) This policy is effective upon its approval. Policy is due for review July 2023
<i>Approved by</i>	Council Meeting 27/7/2020 (Version 2) Council Resolution CCL054-20
<i>Exhibition Period</i>	N/A
<i>Policy Owner</i>	Chief Financial Officer, Business and Corporate Services
<i>Related Documents</i>	Application for Payment Arrangement Hardship Application Form Pensioner Rebate Application Form
<i>References &amp; Legislation</i>	<i>Local Government Act 1993</i> <i>Local Government (General) Regulation 2005</i> Office of Local Government, 'Debt Management and Hardship Guidelines', November 2018 <i>Civil Procedures Act 2005 No. 28</i> <i>Uniform Civil Procedures Rules 2005</i> <i>Civil Procedure Regulation 2017</i>
<i>Document Identifier</i>	Policy #: Pol-068.02 Doc #: D19/201537
<i>Breaches of Policy</i>	Breaches of any policy will be responded to in accordance with adopted codes and/or relevant legislation.
<i>Record Keeping</i>	All documents and information obtained in relation to the implementation of this policy will be kept in accordance with the NSW State Records Act 1998, Georges River Council's Corporate Records Policy and adopted internal procedures.

## PURPOSE

This policy provides a consistent, fair and transparent framework that outlines how Council will collect monies owing, assess hardship claims, provide assistance to customers suffering genuine financial hardship and, where necessary, recover overdue payments to manage debt.

## SCOPE

This Policy applies to all customers with rates, sundry debts, fees, and/or charges owing to Council.

## DEFINITION OF TERMS

Term	Meaning
<i>Debt</i>	Monies owing to Council as part of its general business activity, this may include rates, sundry debts, fees, and/or charges owing to Council.
<i>Default Judgment</i>	In cases where the customer does not respond to a Summons issued to them, the Court may make a default judgment whereby it will make a decision without having the matter heard in Court.
<i>Eligible Pensioners</i>	The Local Government Act 1993, Division 1, Part 8 of Chapter 15 provides concessions for an eligible pensioner: (a) who is a member of a class of persons prescribed by the regulations, and (b) who occupies that dwelling as his or her sole or principal place of living. A further eligibility criterion is defined in clause 134 of the <i>Local Government (General) Regulations 2005</i> and Section 575 of the <i>Local Government Act, 1993</i> .
<i>Examination Notice</i>	Document served on a judgment debtor allowing at least 28 days to provide information of their financial circumstances. The document has questions about the individual's income, assets and debts.
<i>Hardship</i>	This includes any situation where an individual is having difficulty paying legally owed debt. This can result from life changes (such as illness, unemployment or changed financial circumstances) and can restrict a person's short-term capacity to pay.
<i>Garnishee Order</i>	Legal document issued by the court ordering third parties who hold funds on behalf of the defendant (e.g. an employer) to pay funds to Council. Garnishees can be issued against a defendant's wages, bank accounts or other third party holding funds on behalf of the defendant.
<i>Legal Costs</i>	Amounts incurred by Council in recovering overdue debts (e.g. Court, interest and professional costs) which can be legally recovered from the ratepayer.
<i>Letter of Demand</i>	Demand letter from Council or Council's legal recovery representative issued in accordance with the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission guidelines

<i>Payment Arrangements</i>	A formal agreement issued by Council confirming an arrangement with the customer on the debt owing. These include: <ul style="list-style-type: none"> <li>• Extension of due date</li> <li>• A payment plan which is a documented agreement to pay the debt at specified intervals i.e. weekly, fortnightly or monthly instalments and over a fixed period</li> </ul>
<i>Statement of Liquidated Claim (Summons)</i>	A legal document filed in Court and served on the debtor that sets out the claim and allows 28 days after service to pay the claim, file a defence or come to an arrangement, or judgment may be entered against them.
<i>Stop the Clock</i>	An approach to suspend debt recovery, legal action and interest accrual while a ratepayer's hardship payment arrangement application is awaiting determination or while they are complying with a payment arrangement.
<i>The Act</i>	The Local Government Act 1993
<i>Writ of Execution</i>	A Court document that authorises the Sheriff to seize goods of the judgment debtor and sell them at public auction in reduction of the judgment debt.

## POLICY STATEMENT

### 1. General Principles

- 1.1. In accordance with the relevant provisions of the *Local Government Act 1993* (the Act) and *Local Government (General) Regulation 2005*, Council is committed to recovering monies owing to it in a timely, efficient and effective manner.
- 1.2. Council allows flexibility in this approach by recognising and accommodating genuine cases of financial hardship experienced by a customer.
- 1.3. Council will endeavour to take timely action to prompt by communicating with customer's relevant information when following-up overdue amounts prior to taking formal legal action.
- 1.4. All revenue recorded must be reconciled and verified with the source system and records pertaining to that income stream on a monthly basis.
- 1.5. Council is committed to raising invoices within 3 business days of the services being supplied.

### 2. Collection of Monies Owning

- 2.1. In the case of Rates and Charges, instalments are payable by the due date as specified in the Rates and Charges Notice. In all other Council invoices, the period of free credit allowed is 30 days from the date of invoice, unless bound by relevant legislation.

- 2.2. Any amounts remaining unpaid after the due date will attract an overdue interest charge, rate or fee on the outstanding amount(s), as outlined in Council's current adopted annual Revenue Policy and/or Fees and Charges document.
- 2.3. Any applicable legal costs and expenses incurred in recovering debts will be charged in addition to the original debt.
- 2.4. Any amounts paid on or before the due date may attract a discount, as outlined in Council's current adopted annual Revenue Policy and/or Fees and Charges document.
- 2.5. Council's debt recovery process will be followed in respect of all debts, until the debt has been paid in full, exceptions will apply for 'stop the clock' circumstances.
- 2.6. Debt recovery process:

10 business days after due date	<ul style="list-style-type: none"> <li>• Where available and appropriate, additional channels of communication may be used to inform the customer of the outstanding debts. This may include options such as SMS reminders and telephone calls. Council may utilise other databases to identify relevant contact details.</li> <li>• Where permissible, suspension of credit and/or services will be considered, subject to full payment of the debt.</li> </ul>
14 business days after due date	<ul style="list-style-type: none"> <li>• Reminder notice to be issued by ordinary mail or email.</li> </ul>
28 days after due date	<ul style="list-style-type: none"> <li>• Notice of Demand to be issued by ordinary mail or email.</li> </ul>
If the amount remains outstanding following issue of Notice of Demand	<ul style="list-style-type: none"> <li>• Commence legal action with a view to also recover legal costs incurred. Commencement of legal action is to be the last resort and the cost of recovery will be assessed against the outstanding debt.</li> </ul>

### 3. Hardship Assistance

- 3.1. Council recognises that there may be exceptional circumstances where a customer may face hardship, such as loss of employment or illness. Council aims to work with such customers to avoid legal action and, depending on the circumstances, may be able to provide the following assistance options:
  - Extension of due date and interest free period;
  - Development of a payment plan;
  - Write off or reduce accrued interest; or
  - Waive, reduce or defer whole or part of the debt.
- 3.2. A customer seeking consideration for financial assistance in the form of a payment arrangement must complete the prescribed application form and include the appropriate supporting evidence. The application for a payment arrangement must contain, but is not limited to, the following information:
  - Address and contact details of the customer;

- Details of the reason for the financial hardship; and
  - Details of the assistance being sought.
- 3.3. In instances where the customer is seeking consideration of write off, deferment, postponement or reduction of all or part of the actual debt, additional supporting financial information is required within the prescribed application form.
- 3.4. Each relevant application is considered on its merits and within the provisions of relevant legislation in which Council is bound. Determination assessed by a delegated officer of the Council or Council in the event the relevant legislation prescribes for this.
- 3.5. Section 601 of the Act provides for ratepayers who incur a rate increase in the first year following a revaluation of land values, to apply to Council for the rate relief, if the increase in the amount of rates payable would cause them substantial hardship.
- Applications for hardship under Section 601 must be submitted within six months of the posting date of the Rates and Charges Notice with a higher rate resulting from the General Revaluation of Land Value for rating purposes.
  - Council will provide rate relief, under Section 601 if the new rates payable exceed 5% of the gross household income of the applicant(s). In such circumstances, Council has the discretion to waive, reduce or defer payment of whole or any part of the increase in the amount of the rate payable for such period, and subject to such conditions that the Council deems appropriate.
- 3.6. If an application is accepted, the applicant must enter into a mutually acceptable agreement with Council which specifies the terms and conditions of the relief granted.
- 3.7. In the event that a customer fails to comply with a payment arrangement and does not notify Council, the total amount outstanding becomes payable and will be subject to Council's debt recovery process and the relevant interest charges or late fees.
- 3.8. The rateable property subject to the application for hardship must be the sole or principal place of residence of the ratepayer who is responsible for payment of Rates and Charges for that property.

#### **4. Additional Pensioner Hardship Assistance - Concessions**

##### **4.1. Concession Amounts**

4.1.1. The statutory pensioner rebate granted against the ordinary rates and domestic waste management charge under Section 575 of the Act is \$250.00.

4.1.2. Council may also grant additional voluntary rebates or provide other concessions against particular special rates or charges. Where these apply, they will be outlined in the Council's Operational Plan.

##### **4.2. Pensioner Eligibility**

4.2.1. Division 1, Part 8 of Chapter 15 of the Act provides concessions for an eligible pensioner:

- a) who is a member of a class of persons prescribed by the regulations,
- b) who occupies that dwelling as his or her sole or principal place of living.

Entitlement is granted under Section 575 of the Act which provides that:

- If an eligible pensioner is the person solely liable, or a person jointly liable with one or more other persons, for a rate or charge levied on land on which a dwelling is situated, the rate or charge is, on application to the council and on production to the council of evidence sufficient to enable it to calculate the amount of the reduction, to be reduced in accordance with this Section.
- If a person becomes an eligible pensioner after the day on which a rate or charge is made and levied, the person is entitled to a reduction under this section of the rate or charge equal to the number of full quarters remaining after the day on which the person became an eligible pensioner in the year for which the rate or charge is made.

4.2.2. The eligible pensioner is the property owner of their primary residence. In cases where more than one property is owned, the rebate is only applicable to their primary place of residence.

4.2.3. Where a pensioner resides in an aged care facility the pensioner status will continue to apply if an eligible pensioner ratepayer, so long as their rateable property was considered to be their sole or principal place of living prior to entering aged care, and the property is not being rented while they are in aged care.

4.2.4. Under Section 577 of the Act, in order to avoid hardship, Council may extend the pensioner concession to spouses who jointly occupy a dwelling and are jointly liable for the rates and charges with an eligible pensioner, if it considers it proper to do so.

4.2.5. Under 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 payments of rates. Council requires confirmation in writing (preferably from a legal representative) with a copy of the Will of a deceased estate, and/or a copy of the Certificate of Title (if the life tenancy is registered).

4.2.6. Where a pensioner has travelled overseas and their concession card was cancelled then the pensioner must reapply using the newly issued pensioner concession card.

#### 4.3. Granting of a Concession

4.3.1. Council will grant pensioner rebates to pensioners who:

- Meets the eligibility criteria to receive a pensioner rebate (eligible pensioner);
- Lodges a completed Council Pensioner Concession Rates Rebate Application, signed by the eligible pensioner or a person with power of attorney for the applicant; and
- At time of form lodgement, provides Council with a copy of the back and front of the applicant's valid Centrelink Pensioner Concession Card or Department of Veterans' Affairs (DVA) Gold Card that is embossed Totally Permanently Incapacitated (TPI) or Extreme Disablement Adjustment (EDA).

- 4.3.2. Pensioner rebates will remain in place once granted and automatically be applied to future Rates and Charges unless revoked by Council due to change of eligibility status.
- 4.3.3. If a person becomes an eligible pensioner after the day on which Rate and Charges are issued, they are entitled to a pro-rata amount of the pensioner rebate for the remaining full quarters of the current annual Rates and Charges.
- 4.3.4. Council will retrospectively grant the pensioner rebate up to a maximum of 12 months from date of application, where eligibility during these periods is confirmed.
- 4.3.5. Checks of pensioner rebate eligibility will be carried out by Council on a bi-annual basis in conjunction with Centrelink and the Department of Veteran Affairs. If at any particular time, eligibility is not confirmed, Council will remove any further concession and write back to the date eligibility ceased. Reinstatement of a pensioner concession will require reapplication.
- 4.3.6. In circumstances where a person is no longer eligible for a pensioner rebate, the entitlement is taken to cease on the last day of the quarterly instalment period during which those circumstances occurred. Reversal of pensioner rebates will be made as required by Section 584 of the Act.

#### 4.4. Pensioner Deferment of Rates

- 4.4.1. Aged pensioners who satisfy the eligibility criteria may make application to defer the payment of rates, allowing them to accrue as a charge on the land, to be paid upon the death of the pensioner or the sale of the property, or if the pensioner ceases to occupy the property as his/her principal place of abode.
- 4.4.2. Deferment will only apply to the general rates on the property. The pensioner will be expected to pay the annual domestic waste service charge, if the service is available to the property.
- 4.4.3. The criteria used to determine eligibility will include:
  - The applicant must be in receipt of an age pension (Centrelink or DVA) in relation to the property
  - The property must be used for residential purpose
  - The property must be the pensioners principle place of abode
  - The property must be a single dwelling house or a residential strata unit
- 4.4.4. Council will continue to provide an annual rates and charges notice each year showing outstanding rates and charges and quarterly instalment notices as per the provisions of the Act.
- 4.4.5. In addition, Council will make contact with the pensioner each year to confirm that the eligibility criteria is still current.
- 4.4.6. It is proposed that in lieu of a voluntary pensioner rebate, interest charges will not accrue in respect of deferred rates and charges at the rate determined under the Act.



- 4.4.7. Council may at any time cease the arrangement for interest to not accrue on deferred rates. Appropriate correspondence will be provided to the relevant ratepayer in the event this occurs and a review of the arrangement can occur.
- 4.4.8. If eligibility ceases, the Agreement to Defer Rates and Charges will become null and void and the amount of outstanding Rates and Charges will become due and payable along with interest charges commencing to be accrued. Council may approve periods in which pensioners may defer their Rates and Charges against their eventual estate with interest not accruing.
- 4.4.9. Pensioners are advised to seek their own independent financial advice before consenting to have their Rates and Charges deferred against their eventual estate.
- 4.4.10. Rates, charges and interest accrued will become due and payable at the time any of the following occurs:
- change of property ownership through sale or estate;
  - The ratepayer ceases to occupy the property as their principal place of living and rents the property out; or
  - Pensioner rebate eligibility ceases for the applicant (Refer Section 2.1)
  - A pensioner taking part in this deferment scheme may, at any time, pay any amount towards reducing the accrued balance of Rates and Charges.

#### 4.5. Pensioner Monthly Payment Arrangements

- 4.5.1. Under section 582 of the Act (Abandonment of Pensioners Rates and Charges) a council may 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.
- 4.5.2. Council elects to allow eligible pensioners to pay off their rates and charges over a 12 month period with no interest charges occurring.
- 4.5.3. It is proposed that in lieu of a voluntary pensioner rebate, interest charges will not accrue at the rate determined under the Act.
- 4.5.4. If eligibility ceases, the monthly payment plan will required review and interest charges may commence accruing.
- 4.5.5. Council may at any time cease the arrangement for interest-free monthly payment arrangements. Appropriate correspondence will be provided to the relevant ratepayer in the event this occurs.

### 5. Legal Action

- 5.1. In the case that legal recovery is required, Council may include any number of the following enforcement options available through the Court system:
- Statement of Liquidated Claim;
  - Default Judgement;
  - Writ of Execution;
  - Examination Notice;

- Rent for Rates (Section 569 of the Act);
- Garnishee Order;
- Sale of Land (Section 713 of the Act); or
- Any other action available through the legal system deemed appropriate in the circumstances.

5.2. Costs and expenses incurred in legal debt recovery actions will be charged against the customer and recoverable from them in accordance with the relevant legislation.

5.3. Where permitted by the Act and Regulations, the Rates and Charges debt will be associated with the debtor's property in Council's corporate land and property database and become a legal debt on the property. Consequently, the debt will be included on any Section 603 Certificates issued by Council, which details all outstanding debts associated with that property and will be payable on property settlement.

5.4. Where legal action to recover unpaid Rates and Charges is unsuccessful and the Rates and Charges remain unpaid for more than five (5) years from the date on which it became payable, the property may be sold by public auction in accordance with Section 713 of the Act.

5.5. In accordance with Section 713 of the Act and section 4.4 of this Policy, Council will undertake an annual review of properties eligible for public auction and proceed to sale.

## RESPONSIBILITIES

Position	Responsibility
Revenue Team	<ul style="list-style-type: none"> <li>• Provide determinations on hardship applications in relation to:               <ul style="list-style-type: none"> <li>○ Extension of due dates up to 3 months</li> <li>○ Payment plans to the length of 12 months</li> <li>○ The write off or reduction of accrued interest to the maximum value of \$50 in the event customer have complied with the payment arrangements.</li> </ul> </li> <li>• Ensure documentation and annual cumulative total of annual stop the clock interest charges.</li> <li>• Ensure documentation within the corporate system for all actions taken against a customer's account as per this policy.</li> <li>• Provide advice on the estimated cost of recovery and whether to proceed on legal action associated with the outstanding debt.</li> </ul>
Chief Financial Officer	<ul style="list-style-type: none"> <li>• Provide monthly reports to businesses on outstanding debts.</li> <li>• Provide advice and direction on the estimated cost of recovery and whether to proceed on legal action associated with the outstanding debt.</li> <li>• Preparation of quarterly reports based on performance indicators by debt category, based on balances greater than \$5,000 and over 90 days outstanding.</li> <li>• Preparation of reports to Council, annually, for doubtful debts greater than \$20,000.</li> <li>• Review and approve adjustments based on error of input within</li> </ul>

	<p>financial delegation.</p> <ul style="list-style-type: none"> <li>• Ensure documentation and annual cumulative total of annual stop the clock interest charges.</li> <li>• Ensure documentation within the corporate system for all actions taken against a customer's account as per this policy.</li> <li>• Ensure the application of this policy within the Revenue Team.</li> <li>• Provide or source training for relevant Council departments on debt management.</li> <li>• Provide determinations on hardship applications in relation to: <ul style="list-style-type: none"> <li>○ Extension of due dates up to 6 months</li> <li>○ Payment plans to the length of 18 months</li> <li>○ The write off or reduction of accrued interest to the maximum value of \$100 in the event customers have complied with the payment arrangements.</li> </ul> </li> </ul>
Managers (debt management responsibility)	<ul style="list-style-type: none"> <li>• Ensure operations comply with this Policy.</li> <li>• Review monthly debtor report and where feasible, take action on suspending services based on debts being outstanding.</li> <li>• Review and approve adjustments based on error of input within financial delegation.</li> <li>• Provide advice to the Revenue Team on likelihood of recoverability</li> <li>• Ensuring debts are raised and captured in the corporate system in accordance with the services provided.</li> <li>• Ensure account details are correct and GST provisions are applied.</li> <li>• Provide advice and direction on the estimated cost of recovery and whether to proceed on legal action associated with the outstanding debt.</li> <li>• Provide advice and support to the Revenue Management Team on the management of outstanding debts.</li> </ul>
Directors (debt management responsibility)	<ul style="list-style-type: none"> <li>• Performance measures are to be agreed with all staff involved in collection activities and will form part of the expectations of these roles. All revenue owed is to be invoiced for collection must be raised within 3 business days from the date services were rendered.</li> <li>• Provide advice and direction on the estimated cost of recovery and whether to proceed on legal action associated with the outstanding debt.</li> </ul>
Manager Library Services	<ul style="list-style-type: none"> <li>• In addition to the above management responsibly, provide determinations on hardship applications in relation to: <ul style="list-style-type: none"> <li>○ The write off or reduction in library fines to the maximum value of \$500.</li> </ul> </li> <li>• Ensure documentation and annual cumulative total of total fines written off or reduced for annual reporting processes.</li> </ul>
Director, Community and Culture	<ul style="list-style-type: none"> <li>• In addition to the above management responsibly, provide determinations on hardship applications in relation to: <ul style="list-style-type: none"> <li>○ The write off or reduction in library fines to the maximum value of \$1,000.</li> </ul> </li> <li>• Ensure documentation and annual cumulative total of total fines written off or reduced for annual reporting processes.</li> </ul>

Director, Business and Corporate Services	<ul style="list-style-type: none"> <li>• Review and approve adjustments based on error of input within financial delegation</li> <li>• Provide determinations on hardship applications in relation to: <ul style="list-style-type: none"> <li>○ Extension of due date up to 12 months</li> <li>○ Payment plans to the length of 24 months</li> <li>○ Write off or reduce accrued interest to the maximum value of \$500.</li> </ul> </li> <li>• Provide advice and direction on the estimated cost of recovery and whether to proceed on legal action associated with the outstanding debt.</li> </ul>
General Manager	<ul style="list-style-type: none"> <li>• Review and approve adjustments based on error of input within financial delegation</li> <li>• Provide determinations on hardship applications in relation to: <ul style="list-style-type: none"> <li>○ Extension of due date above 12 months</li> <li>○ Payment plans to the length of above 24 months</li> <li>○ Write off or reduce accrued interest to the maximum value of \$10,000.</li> <li>○ Waive, reduce or defer whole or part of the debt to the maximum value of \$10,000.</li> <li>○ Provide direction on whether to proceed to legal action associated with the outstanding debt.</li> </ul> </li> </ul>

## VERSION CONTROL AND CHANGE HISTORY

Version	Amendment Details	Policy Owner	Period Active
KCC	Former Kogarah City Council Hardship Policy discontinued	Manager Finance	24/03/2014 - 16/12/2019
KCC	Former Kogarah City Council Debt Recovery Policy discontinued	Manager Finance	25/11/2013 - 16/12/2019
HCC	Former Hurstville City Council Rates and Charges Recovery Policy discontinued	Team Leader Rates	03/06/2015 - 16/12/2019
1.0	Georges River Council Debt Management and Hardship Policy (Council Resolution CCL078-19)	Chief Financial Officer	16/12/2019 – 27/07/2020
2.0	Amendments to sections '4.4 Deferment of Rates' and '4.5 Monthly Payment Arrangements' of the Policy, based on the additional assistance to eligible pensioner ratepayers as adopted by Council on 27 July 2020 (CCL054-20).	Chief Financial Officer	27/07/2020 – Ongoing