



# Debt Recovery and Hardship **Policy**

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## Policy summary

1. This policy defines how Central Coast Council (“CCC”) will undertake Debt Recovery and will identify and support individuals under genuine financial hardship.
2. This policy takes into consideration the 23A Debt Management and Hardship Guidelines issued November 2018.

## Background

3. CCC relies on rates and charges to fund facilities and services for our community.
4. CCC is a Water Authority and relies on payment of water accounts to ensure continuous service to our community.
5. CCC recognises that it is in the community interest to maximise the collection of rates and charges and to recover interest, costs and expenses where these are necessarily incurred by CCC.
6. CCC recognises that any debt recovery procedures need to consider individual cases of genuine financial hardship.
7. CCC is committed to engaging with its customers to limit the unreasonable use of legal action in recovering arrears.
8. CCC is required to conform to sections 569, 605, 712-726 of the *Local Government Act 1993* (“Act”), which deal with debt recovery of outstanding rates and charges, expenses with tracing persons, liability of the occupier and sale of land.
9. CCC is required to conform with regulations 133 and 213 of the *Local Government (General) Regulation 2005* which deals with procedures for the sale of land to recover overdue rates and charges and writing off debts to Council.
10. CCC is required to conform to sections 357 and 359 of the *Water Management Act 2000* (“WMA”). CCC is a recognised Water Supply Authority as per regulation 109(2) and 110(2) of the *Water Management (General) Regulation 2011* (“WMR”).
11. CCC is required to conform to regulation 207 of the WMR which deals with the restriction of water supply in respect to unpaid service or other charges.
12. CCC will conform to the Privacy and Personal Information Protection Act 1998.
13. CCC has considered recommendations made by the Independent Pricing and Regulatory Tribunal (“IPART”) in relation to easing the impact on financially disadvantaged customers who

may be adversely affected by any increases in prices relating to water, sewerage and stormwater drainage.

14. CCC recognises that in cases of genuine financial hardship, assistance may be required in respect to payment. This policy establishes guidelines for assessment of hardship applications.
15. CCC endeavors to ensure the hardship application process identifies those ratepayers who are experiencing genuine financial hardship and are eligible for assistance.
16. CCC is required to conform to sections 564, 567, 575, 582, 601 of the Act, which deals with options available to CCC in respect to customers experiencing hardship, payment arrangements and the waiving of interest/fees due to hardship, payment agreements, revaluation of lands or being an eligible pensioner.

## Policy Statements

### **Jurisdiction**

17. This Policy covers all elected members of Council, all personnel employed by Council, any person or organisation contracted to or acting on behalf of Council, any person or organisation employed to work on Council premises or facilities and all activities of the Council.
18. This policy does not confer any delegated authority upon any person. All delegations to staff are issued by the Chief Executive Officer.
19. It is the personal responsibility of all Council employees and agents thereof to have knowledge of, and to ensure compliance with this policy.

### **General**

20. CCC will engage with its customers in arrears to obtain payment to satisfy their account and prevent avoidable escalation of the debt recovery processes and the use of legal action.
21. CCC will not reduce rates or annual charges for the purposes of debt recovery.
22. CCC will not instigate legal action against any person who has evidenced genuine financial hardship and who is willing to enter into and comply with an affordable, approved payment arrangement.
23. CCC will not instigate legal action against any person who is complying with an approved payment arrangement.

24. CCC will recover legal costs and expenses incurred in the process of debt recovery where it is legally able to do so.

## **Payment Arrangements**

25. Staff involved in debt recovery may offer payment arrangements to any debtor including flexible arrangements, multiple payment methods or bill smoothing (eg: weekly, fortnightly and monthly payment options)
26. In the absence of an approved Hardship Application, all arrears must be paid in full within the approved time period upon commencement of any arrangement to pay. An extension on the approved time period is available for pensioners upon commencement of any arrangement to pay. The extension available to pensioners is generally double the time period available to non-pensioners.
27. Extended time period payment arrangement can be accessed through an approved Hardship application.

## **Sale of Land for Unpaid Rates (to be a last resort)**

28. Where any rate or charge is overdue and remains unpaid for more than 1 year in respect to vacant land or 5 years in respect to any other land, from the date it became payable, CCC may proceed to sell the land, as a last resort, in accordance with Chapter 17 Part 2 Division 5 of the Local Government Act, 1993.
29. Where any rate or charge is overdue in respect of vacant land and the amount exceeds the Valuer General's current valuation of the property, CCC may proceed to sell the land, as a last resort, in accordance with Chapter 17 Part 2 Division 5 of the Local Government Act, 1993.

## **Sundry Debtors**

30. CCC will only issue sundry debtor invoices to confirmed and identified legal entities or individual users.
31. CCC reserves the right to not extend credit and require payment in advance of any services supplied.
32. CCC may cease the provision of credit facilities to debtors when an account is overdue by more than 14 days.

## **Water Restrictions (to be a last resort)**

33. CCC will only restrict water supply as a last resort where other reasonable attempts to recover an unpaid charge have failed and after appropriate notice has been given.

34. CCC will not restrict water supply where it is known that the resident is a registered kidney dialysis patient or has another medical condition requiring continuous access to unrestricted water supply.

## Hardship

35. CCC will not reduce rates or annual charges but will consider alternative available approaches to dealing with cases of financial hardship.

36. CCC recognises that hardship can arise from a temporary change in circumstances such as loss of income, illness, loss from an accident, natural disaster or emergency, family violence or financial impact due to externalities.

37. CCC recognises that long term hardship can arise from the above or can relate to the challenge of managing living costs with a low or fixed income such as a pension.

38. CCC will consider applicants individually for hardship assistance in accordance with this Policy.

39. CCC will consider applicants for hardship assistance where:

- (a) The rateable property is the principle place of residence
- (b) The property is the principal place of residence of a dependent of the ratepayer who is also suffering genuine financial hardship
- (c) The property is owned by an aged pensioner and is vacant whilst the ratepayer is in short term care

40. CCC may consider hardship assistance when ratepayers or customers are unable to make payment when due and payable for reasons beyond their control or where such payment would cause the person hardship.

41. Staff may in the applying concessions for a hardship application, utilise options including arrangements for an appropriate extended payment schedule

42. As part of any application for payment relief under financial hardship the ratepayer or customer must confirm the nature of the hardship and the estimated time the hardship will be experienced. Evidence confirming the ratepayer's hardship status must accompany the application in one of the following forms:

- Evidence from third parties such as the ratepayer's bank or accountant
- Evidence from a recognised financial counsellor such as a member of the Financial Counsellors Association of NSW. <http://www.fcan.com.au/>
- Statutory declaration from a person familiar with the ratepayer's circumstances who is qualified to provide CCC with a clear unbiased assessment of the ratepayer's hardship status such as a carer or power of attorney

- CCC may request additional information to confirm the ratepayer's hardship status if deemed necessary
43. If the ratepayer continues to experience hardship after the period agreed to in the original application, a new application must be made. In such circumstances CCC may require up to date personal financial information to confirm the ratepayer's continuing hardship.
44. CCC, at its discretion, may withdraw any hardship concession.
45. Hardship Applications will be assessed by the Unit Manager, Finance and determined by the Director Corporate Affairs.
46. Where an applicant is unsatisfied with the outcome, they can make an appeal to the Office of the Internal Ombudsman who will review the decision for determination by the Chief Executive Officer.
47. Hardship arrangements may be cancelled where the ratepayer fails to comply with the payment plan, no longer owns the land, advises Council that financial hardship no longer applies or provides false or misleading evidence of financial hardship to Council.

## Variation

48. CCC reserves the right to amend terms of trade for sundry debt from time to time.
49. CCC reserves the right to amend this policy from time to time.
50. The Chief Executive Officer can exercise their discretion with regard to adherence of the operational procedures of this policy.

## *Support services*

51. Council will, in accordance with the Guideline, refer ratepayers and those facing financial hardship to the following:
- A [Moneysmart.gov.au: https://moneysmart.gov.au/managing-debt](https://moneysmart.gov.au/managing-debt)
  - B Legal Aid NSW: <https://www.legalaid.nsw.gov.au/get-legal-help/find-a-service>
  - C Community legal centers NSW: <https://www.clcnsw.org.au/find-legal-help>

## *Related resources*

### 52. Legislation:

- A [Local Government Act 1993 \(NSW\)](#)
- B Local Government (General) Regulation 2005
- C Water Management Act 2000
- D Water Management (General) Regulation 2011 ("WMR").

### 53. Associated/Internal documents:

- a. Code of Conduct (found on the intranet)
- b. Delegations of Authority Policy (found on the intranet)
- c. Office of Local Government Debt Management and Hardship Guidelines, November 2018



## History of revisions

Amendment history	Details
Original approval authority details	<p>Council</p> <hr/> <p>26/4/2017 – Minute No 216/17</p> <hr/> <p>Adoption of Policy for Central Coast Council.</p>
Version 1	<p>Council</p> <hr/> <p>23 March 2021 – Minute No 75/21</p> <hr/> <p>Moved to new template. Addition of revision history. Consideration of Section 23A guidelines including addition of decision makers and review authority, and resources for those facing financial hardship.</p>