

Debt Management Policy

Purpose

The purpose of this policy is to ensure:

1. Effective control of debts owed to Council
2. Council staff are sympathetic and helpful to debtors suffering genuine financial hardship
3. Council fulfils the statutory requirements contained in the *Local Government Act 1993* and associated Local Government Regulations with respect to the recovery of rates and other user pays fees and charges
4. Council's cash flow is optimised and the collection of outstanding debts is maximised
5. Staff have a clear policy with regard to the management of debt in Council's operating environment

Scope

This policy applies to all situations where a debtor defaults on an obligation to pay Council an amount of money including, but not limited to:

- Rates and charges
- Water usage charges
- Fees and charges as approved by Council

This policy will apply to:

- Councillors
- Permanent employees, whether full-time or part-time
- Temporary or casual employees
- Consultants
- Contractors working for Yass Valley Council and their employees
- Other people

Definitions

Term	Meaning
Debtor	An individual or corporate entity who owes money to Council
Default	Default occurs when a debtor has not met a legal obligation to pay money

Policy Principles

1. Council will act to promote the timely payment of rates and user pays fees and charges

Council will provide modern payment processes in place that best suit current day needs, including electronic payments of rates, fees and charges and options to smooth out payments across the year for more substantial bills.

It is important that Council recovers debt from unpaid rates and charges fairly and equitably. Council will give special consideration when debtors face hardship to limit unnecessary fees, interest and legal costs that can cause additional financial stress.

Council recognises that most debtors act responsibly if they are given clear, easy to understand information about the rates and other user pays fees and charges they owe, as well as flexible arrangements to pay in an easy and timely way.

2. Council will provide clear information about debts and defaults

Council will provide debtors in default with an overdue notice. The overdue notice will contain a date by which the account should be settled. It will also explain the next action Council will take should the account not be paid by the date contained in the overdue notice. This will include a warning about restriction of services or access to facilities which may be put in place.

Council will also provide advice to the debtor about where to find information about local support services including free legal advice or financial counselling. Council will explain that it may consider engaging in either a repayment arrangement or an Informal Dispute Resolution Process where it forms the view that doing so will achieve a mutually satisfactory outcome for both Council and the debtor.

3. Financial hardship

Council will clearly explain what the debtor must do if the debtor is experiencing financial hardship and needs Council to formally consider providing relief. This will usually involve the debtor making an application for financial relief in accordance with the *FIN-POL-28 Financial Hardship Policy*.

When a debtor makes an application for hardship in accordance with *Financial Hardship Policy*, Council will take a 'stop the clock' approach, suspending further action by Council until a decision is made about the hardship application.

Council will make a determination about the type of relief, if any, to be provided in accordance with *Financial Hardship Policy*.

If a debtor does not seek relief under *Financial Hardship Policy*, and the account remains in default Council will initiate debt recovery action.

4. Restriction of services or access

Council will only restrict access to services if a debtor has been provided with adequate notice that access or services will be restricted. Council will explain when the restriction will take effect and the actions a debtor can undertake to prevent the restriction.

A water flow limiting device may be installed on water meters where the account has not been paid, and a suitable arrangement has not been entered in to. Such a device shall restrict the flow of water in accordance with Clause 144 *Local Government (General) Regulation 2005*.

5. Residential tenants

Council requires that all tenants of a Council owned rental property pay rent two weeks in advance. Council also expects electricity and other utilities are paid on time.

Residential tenants who fall into arrears will be dealt with pursuant to the requirements contained in the *Residential Tenancies Act 2010*.

In general terms, if rent has not been paid for 14 days, Council will notify the tenant. If the rent remains unpaid for 14 days Council will issue a non-payment termination notice setting out the details as required, which may include the date the tenant must vacate the premises if they have not paid the arrears in full, or entered into an agreed repayment plan.

If the tenant has not either paid the arrears in full, entered into repayment plan or vacated the property by the date specified in the non-payment termination notice, Council will make application to the NSW Civil and Administrative Tribunal for a termination order.

6. Debt recovery action

Once Council has exhausted all reasonable avenues to prevent matters from proceeding to Court, or other formal action, Council will apply best practice legal methods for the recovery of debt.

Debt recovery action may include the passing of a debt to a commercial recovery agent, or Council undertaking legal action through the appropriate Court to recover the debt.

If Council decides to seek assistance from a commercial recovery agent Council will ensure, as far as is practical, the agent operates in accordance with the *Debt collection guideline: for collectors and creditors*. Council will not seek assistance from a commercial recovery agent if the debt owed is less than \$800.

In certain circumstances Council may seek to sell land to recover unpaid rates if the requirements of s713 *Local Government Act 1993* have been met.

Responsibilities

Asset owners will:

- Monitor payments and advise the Finance Section if an asset user has defaulted on payments

Contract Managers will:

- Monitor payment schedules and advise the Finance Section if a contractor has defaulted on payments.

Finance Section will:

- Provide all necessary administrative support for the operation of this policy
- Develop and document any procedures for the effective implementation of this policy
- Keep sufficient records to enable monitoring of compliance with this policy and provide information required for Annual Financial Statements, Integrated Planning and Reporting purposes and internal organisational performance measurement.

The Chief Financial Officer will:

- Advise asset owners or service providers that services or access should be restricted.

References

This policy is to be read in conjunction with the following:

Legislation	<i>Local Government Act 1993</i>
	<i>Local Government (General) Regulation 2005</i>
	<i>Residential Tenancies Act 2010</i>
	<i>Bankruptcy Act 1966</i>
	<i>Commercial Agents & Private Inquiry Agents Act 2004</i>
	<i>Corporations Act 2001</i>
	<i>Division of Local Government Rating and Revenue Raising Manual</i>
	<i>Debt collection guideline: for collectors and creditors</i>
	<i>NSW Uniform Civil Procedures Rules 2005</i>
	<i>Financial Hardship Policy</i>
<i>Rebate for Undetected Water Leaks Policy</i>	
Policies and procedures	

Approval History

Stage	Date	Comment	MagiQ Reference
Review	12 May 2010	Special Planning Meeting	Min No. 170
Review	31 May 2021	EMT	
Adopted	23 June 2021	Council Meeting	Min No. 122

Ownership and Approval

Responsibility	Role
Author	Chief Financial Officer
Owner	Chief Financial Officer
Endorser	Executive Management Team
Approver	Council

Day	Debt management stage	Due date	Action by Debtor	Council actions and considerations
0	Charge notification	14 days	Make payment by due date or enter into arrangement	
If not paid or arrangement entered into				
28	Reminder notice sent Advise that service will be restricted/suspended if not paid	14 days	Make payment by due date or enter into arrangement	
If not paid or arrangement entered into				
42	Notification of Outstanding Debt sent Service restricted or suspended	14 days	Make payment by due date or enter into arrangement	<ul style="list-style-type: none"> • Confirm debtor details are correct • Debt review • Dispute resolution • Financial counsellors
If not paid or arrangement entered into				
56	Notice of Demand Advise that debt passed to agent if not paid	14 days	Make payment by due date or enter into arrangement	<ul style="list-style-type: none"> • As above • Develop payment agreement, s564 • Defer payment requirements, s601 • Write off interest, debt, s564, s567, s607, cl131 • Refer for recovery agent action if not paid • Sale of land, s713
If not paid or arrangement entered into				
70	Debt passed to collection agent			•