



# Council Policy

<b>Policy Title:</b>	<b>Debt Recovery and Provision of Credit</b>
<b>Policy Number:</b>	6.5
<b>Focus Area:</b>	Governance and Process
<b>Responsibility:</b>	Finance and Procurement
<b>Meeting Adopted:</b>	16 October 2018

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## OBJECTIVE

To provide direction to staff to ensure the efficient and effective recovery of all types of Council debts.

## POLICY

### 1. Background/Legislative Requirements

Sections 569, 605 and 712-726 of the *Local Government Act 1993* deals with debt recovery of outstanding rates and charges, expenses with tracing persons, liability of the occupier and sale of land. Regulation 133 of the *Local Government (General) Regulation 2005* details procedures for the sale of land to recover overdue rates and charges.

### 2. Recovery Action

- (a) Recovery action will commence when rates and charges are not paid by the due date for each quarterly instalment or by the due date and by the invoice due date for a sundry debtor account.
- (b) A reminder letter will be issued after the due date for amounts with an outstanding balance greater than \$20.00. The reminder letter will request full payment or an acceptable payment arrangement to be entered into within 14 days from the issue date of the letter.
- (c) If no acceptable payment arrangement or full payment is received by the due date of the Reminder Letter, a Letter of Demand will be issued with an outstanding balance greater than \$500.00 and or an account that has 2 or more instalments or quarters outstanding. The Letter of Demand will request full payment or an acceptable payment arrangement to be entered into within 14 days from the issue of the letter.
- (d) If full payment is not received or a suitable arrangement is entered into following the issuing of a Letter of Demand the debt will be forwarded to Council's external debt recovery agent for recovery of the outstanding debt.

(e) The external debt recovery company will forward a Letter of Demand advising that legal proceedings and costs will be incurred if full payment or a suitable payment arrangement is not actioned within 14 days from issue.

(f) If full payment is not received or suitable payment arrangement entered into, a Statement of Claim will be issued for the arrears as at the date of issue and served. Following the expiration of the statutory period, to protect Council's interest in the matter and all available actions to recover the amount outstanding, if the debt is not cleared, a Notice of Motion Default Judgement for liquidated claim will be lodged.

(g) Recovery actions by Council's external debt recovery company to recover the outstanding debts that will be considered may include, but not limited to:

- (i) Writ of Execution on goods and chattels,
- (ii) Examinations summons,
- (iii) Service of a rent order where the property is tenanted,
- (iv) A garnishee of income (bank or wages),
- (v) Sale of land for unpaid rates in accordance with Section 713 of the Local Government Act 1993.

All legal costs and expenses incurred in recovering outstanding rates and charges will be charges against the property in accordance with Section 605 of the *Local Government Act 1993*. Legal costs incurred in outstanding sundry debtor accounts will be billed against the applicable sundry debtor account of which the debt is owed.

(h) If Judgement is obtained this will be reported to Equifax Veda and listed on your credit file. The Judgement remains on your file for 5 years and Richmond Valley Council will not remove this from your file.

### **3. Payment Arrangements**

Ratepayers or sundry debtors who are unable to pay a debt amount owing to Council by the due date, may apply to enter into an arrangement with Council to make regular payments by completing a Council issued Payment Arrangement form. Upon completion of a Council issued Payment Arrangement form, a negotiated amount will be agreed upon, with the aim of recovering all arrears and the current years charges within the current financial year where possible. Payments may be made weekly, fortnightly or monthly.

Where the ratepayer fails to adhere to the payment arrangement and has not contacted Council to amend the current arrangement, recovery action will commence. If legal action has been suspended due to the ratepayer entering into a payment arrangement and the agreement has not been met by the ratepayer, the legal action will be recommenced at the level when the suspension took place.

In accordance with Section 556 of the *Local Government Act 1993*, Council charges interest on overdue rates and charges. Entering into a payment arrangement does not negate the charging of interest.

If a ratepayer is experiencing financial hardship due to rates and charges they can apply for relief in accordance with Council's policy titled "Financial Hardship".

#### **4. Sale of Land for Unpaid Rates**

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

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, Council may proceed to sell the land in accordance with Division 5, Part 2, Chapter 17 of the *Local Government Act 1993*.

On an annual basis, a report shall be referred to Council for consideration listing all ratepayers who fall into the above category. The report will provide a detailed history of the circumstances of each case together with a recommendation in relation to the possible sale of the land to recover the overdue rates and charges.

#### **5. Sundry Debtors and the Provision of Credit**

Sundry debtors are overdue if not paid within 30 days of the issuing of an invoice.

Council may cease the provision of credit facilities to debtors when an account is overdue by more than 30 days.

No credit is to be provided to any person(s) or organisation(s) except for Government Departments or other Councils without prior approval of the General Manager or delegated nominee.

Approval will only be considered upon completion of an approved Application Form.

Credit approval for all amounts less than or equal to \$300.00 will be denied unless otherwise approved by the General Manager or delegated nominee. Any approvals in this instance also require a Council issued credit application to be completed.

Debtors are subject to debt recovery and legal procedures. Amounts that are overdue of \$10.00 and above will be sent a reminder. The remind letter will request full payment. If no acceptable payment is received then a Letter of Demand may be issued on all accounts with a balance greater than \$150.00. If full payment is not received then the debt may be forwarded to Council's external debt recovery agent for recovery of the outstanding debt.

## REVIEW

This policy will be reviewed by Council at the time of any relevant legislative changes, compliance requirements or at least every four (4) years.

<b>Version Number</b>	<b>Date</b>	<b>Reason / Comments</b>
1	23/06/2015	Policy review and presentation in new template
2	15/08/2017	Policy review
3	16/10/2018	Policy review