

# Council Policy



<b>Policy Title:</b>	<b>Debt Recovery</b>
<b>Policy Number:</b>	6.05
<b>Focus Area:</b>	CS2 Great Support
<b>Responsibility:</b>	Finance and Procurement
<b>Meeting Adopted:</b>	16 March 2021 [160321/10]

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## OBJECTIVE

To provide guidelines to staff, the community and Council to ensure that Council's debt recovery is clear, consistent and fair. To satisfy legislative debt management and debt recovery requirements.

## SCOPE

This policy applies to all Council staff, ratepayers, community members and businesses.

## LEGISLATION

*Local Government Act 1993*

Local Government (General) Regulation 2005

## RATES AND CHARGES

Rates are payable in full by 31 August or by quarterly instalments. Quarterly instalments are due on the following dates of each year:

31 August

30 November

28 February

31 May

## WATER/SEWER

Notices are due within 30 days of date of issue.

Notices will be issued at least 30 days prior to due date.

## DEBTORS

Invoices are due 30 days from invoice date.

## REMINDER NOTICES

Reminder notices will be issued when rates and charges, water/sewer and debtors are not paid by the due date.

Reminder notices will be issued on balances that are equal to or greater than \$20 or an account that has two (2) or more instalments/quarters outstanding. The reminder notice is due within fourteen (14) days of issue.

## LETTER OF DEMAND

Should the Reminder Notice remain unpaid, a Letter of Demand will be issued on all accounts with a balance that is equal to or greater than \$100 and or an account that has two (2) or more instalments or quarters outstanding. The Letter of Demand will request full payment, or an acceptable payment arrangement be entered into within fourteen (14) days from the letter issue date. The Letter of Demand also states that if the ratepayer does not pay in full or enter a payment arrangement Council may forward the debt to Council's external solicitors.

A ratepayer may negotiate a payment arrangement or apply for financial hardship at any time during this process.

## PAYMENT ARRANGEMENT

Ratepayers who are unable to pay a debt by the due date, may apply for a negotiated payment arrangement. It is Council's intention to have all debt paid within the current financial year. 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 adhered to, the legal action will be recommenced at the level where the suspension took place.

Entering a payment arrangement does not negate the charging of interest.

## FINANCIAL HARDSHIP

Ratepayers who are financially struggling may apply for financial hardship.

In order for Council to determine eligibility outlined in the Financial Hardship policy, applicants are required to complete Council's Financial Hardship Application form and provide financial information.

The purpose of the financial hardship is to enter a negotiated payment arrangement. Whilst the negotiated payment arrangement is being adhered to Council will not charge interest for a set period of time and if legal action has been commenced Council will suspend this action.

All applications are treated as confidential.

Interest accrues on rates and charges, water/sewer that remain unpaid after they become due and payable.

Interest accrues daily.

The rate of interest is that set by Council but must not exceed the rate specified by the Minister by notice published in the Gazette.

## APPLICATION OF PAYMENTS

Money paid to Council in respect of rates and charges, water/sewer will be applied towards payment of those rates or charges, water/sewer in the order in which they became due.

## WATER RESTRICTORS

Should Council's Reminder Notice and Letter of Demand not be acknowledged then Council may utilise all scenarios available. This may be legal action or the installation of water restrictors and/or or both.

Where a customer does not pay the water/sewer account by the Letter of Demand due date, Council will issue an Intent to Restrict Water Flow to the ratepayer.

This notice will request full payment, or an acceptable payment arrangement be entered into within fourteen (14) days from the letter issue date. The payment arrangement must have all debt paid in full within the current financial year. This notice will also clearly state that if the ratepayer does not pay in full or enter a negotiated payment arrangement Council will restrict the flow of water from the property meter.

Should a restrictor be installed, the flow will be limited to 1 litre per minute and or 0.4 litre per minute and a water restrictor installation fee will be added to your debt.

Should a payment arrangement be entered into and the agreed arrangement is not adhered to then a restrictor will be installed and not removed until all charges, including the restrictor fee is paid in full.

Should Council restrict the flow to 1 litre per minute and a payment arrangement not be entered into within three (3) months Council will further reduce the water flow to 0.4 litres per minute and a second installation fee will be charged. This 0.4 litres per minute flow will remain in place until all debt is paid.

Should a restrictor be installed, Council will not remove the restrictor until the associated restrictor fees and the full balance of the water/sewer account is paid in full.

The only exceptions to water restrictors are:

- Dialysis Patients
- Hospitals
- Schools
- Pre-schools
- Retirement Homes
- Tenanted Properties – occupier must be able to show proof of a Residential Tenancy Agreement, Commercial Property Lease Agreement, or a legal lease of such.

## ANTI-TAMPERING

When Council install a water restrictor Council will also install an anti-tamper device. Should the meter, restrictor or anti-tamper device be damaged or if there is evidence of attempted removal, the owner will be dealt with under Section 636 of the *Local Government Act*.

## RESTRICTOR FEES

All fees in relation to water restrictors are adopted as part of Council's Annual Revenue Policy.

All fees must be paid in full with the original debt.

## LEGAL ACTION

If Council receives no response to the issuing of the Council's Letter of Demand, then Council may forward the debt to Council's external solicitors.

Legal action by the external solicitors will commence with their Letter of Demand, providing fourteen (14) days to make payment in full or enter a negotiated payment arrangement or apply for financial hardship.

If full payment, a negotiated payment arrangement or financial hardship application is not received, then a Statement of Claim will be issued for the arrears as at the date of issue and served.

Following 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 paid in full, a Notice of Motion for Default Judgement will be lodged in the Courts.

Thereafter, recovery actions that will be considered include, but are not limited to:

- Garnishee of income (bank/wages)
- Service of Rent Order where property is tenanted
- Writ of Execution on goods and chattels
- Examination Summons
- Statutory Demand
- Sale of Land for Unpaid Rates in accordance with Section 713 of the *Local Government Act*.

All legal costs and expenses incurred in recovering outstanding rates and charges will be charged against the property.

All legal costs and expenses incurred in recovering outstanding debtors will be charged against the debtor.

If Judgement is obtained this will be reported to Equifax Australia 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.

## SALE OF LAND

In accordance with the *Local Government Act 1993* Section 713 to 726 Council may sell land to recover unpaid rates and charges.

For the purposes of this Division, a rate or charge is overdue if:

- in the case of vacant land, it has remained unpaid for more than one year, or
- in the case of any other land, it has remained unpaid for more than 5 years, from the date on which it became payable.

A council may, in accordance with this Division:

- sell any land (including vacant land) on which any rate or charge has remained unpaid for more than 5 years from the date on which it became payable, and
- sell any vacant land on which any rate or charge has remained unpaid for more than one year but not more than 5 years from the date on which it became payable, but only if
  - (i) the council obtains a valuation of the land from the Valuer-General, and
  - (ii) the total amount of unpaid rates or charges on the land exceeds the valuation, and
  - (iii) the council sells the land within 6 months after the date when the council received the valuation.

The council must not sell any such land unless the General Manager or the Public Officer certifies in writing:

- what rates and charges (including overdue rates and charges) are payable on the land, and
- when each of those rates and charges was made and how it was levied, and
- when each of those rates and charges became payable, and
- what amounts are payable by way of overdue rates and charges on the land, and
- what amounts are payable by way of rates and charges (other than overdue rates and charges) on the land.

The council may, in the case of adjoining parcels of land (whether in the same or different ownerships) each of which may be sold under this Division:

- sell them separately or as a single parcel and under whatever conditions of sale it considers proper, and
- do such things as it considers appropriate for the purpose of selling the land at its full value.

## REVIEW

This policy will be reviewed by Council at the time of any relevant legislative changes, compliance requirements or once yearly.

Version Number	Date	Reason / Comments
1	23/06/2015	Policy review and template update
2	15/08/2017	Policy review
3	16/10/2018	Policy review
4	16/03/2021	Policy review, template update and rename (previously 'Debt Recovery and Provision of Credit')