

Wagga Wagga City Council

DEBT MANAGEMENT POLICY

REFERENCE NUMBER	POL 017		
ORIGINAL APPROVAL DATE	December 2018		
RESPONSIBLE MANAGER	Manager Finance		
RESPONSIBLE DIRECTORATE	Finance		
<p>This document is to be reviewed: every four years or in the first twelve months of the new term of Council, whichever is the earliest.</p> <p>Next review date: December 2022</p>			
Revision number	Issue Date	Council Resolution	Council Meeting Date
1	May 2018	Res No: 18/465	17 December 2018

PART 1: INTRODUCTION

Council's Debt Recovery Policy aims to provide a framework for the recovery of unpaid rates and charges and unpaid sundry debtor accounts.

Council raises approximately 60 per cent of its income through rates, user charges and fees. To ensure adequate cash flows it is important that Council's debt recovery is efficient, effective and economical and reduces the likely occurrence of unrecoverable debts. The Office of Local Government benchmark for outstanding rates is less than 5% for city and coastal councils, and less than 10% for rural areas. As Wagga Wagga is a regional centre, Management have set a target of less than 4% by the year 2021.

1.1 Policy Objectives

Council will exercise its debt recovery powers in order to reduce the overall debt. It will be guided by the principals of:

1. Equity

To ensure consistency, fairness, integrity and confidentiality of all proceedings for both Council and the customer.

2. Transparency

Ensuring the obligations of Council's customers are clear in assisting them to meet their financial obligations where possible.

3. Compliance

To fulfil the statutory requirements of the Local Government Act, 1993 with respect to the recovery of rates, charges and other debts.

4. Financial Sustainability

To maximize collections of outstanding debts and to optimize Council's cash flow and overall financial performance and sustainability.

5. Consideration of Financial Hardship

To be sympathetic and helpful to customers suffering genuine financial hardship.

1.2 Scope of Policy

This Policy applies to all debtors (including ratepayers) who have outstanding monies owed to Council.

This Policy does not confer any delegated authority upon any person. All delegations to staff are issued by the General Manager in accordance with Section 378 of the Local Government Act 1993.

The specific provisions contained within the Local Government Act 1993 and associated Regulations must be adhered to when applying this Policy.

1.3 Definitions

Act	Local Government Act 1993
Claim	A claim made to the Court by a party (whether a claimant, a defendant or another party)
Council	Wagga Wagga City Council
Court	Magistrates Court
Customer	Ratepayer or Debtor
Debt Collection Agency	An Organisation engaged to recover a debt owed to Council.
Debtor	A person, organisation, company or other entity that has a debt or legal obligation to pay an amount to Council, including a ratepayer.
Debt Recovery Proceedings	Legal proceedings for the recovery of debt owed to Council.
Default	A failure by the Debtor to abide by the terms and conditions agreed under an arrangement for the payment of outstanding rates and/or charges.
Interest	The fee charged by Council, expressed as a percentage, on rates and charges that remain unpaid after the due date.
Interest Rate	Made in accordance with Section 566 of the Local Government Act 1993.
Judgment	Includes any order for the payment of money, including any order for the payment of costs.
Judgment Debt	Includes any: <ul style="list-style-type: none"> (a) amount payment under a judgment (b) interest after judgment that is payable on that amount under section 101 of the Civil Procedure Act 2009 (c) other amount payable under rules of court without the need for a judgment

Payment Arrangement	An agreement entered into by Council and a customer for the payment of outstanding rates, charges or fees under an agreed payment plan.
Pensioner Rebate	A rebate granted in accordance with Section 575 of the Local Government Act 1993.
Ratepayer	Includes the Crown in respect of rateable land owned by the Crown and means: <ul style="list-style-type: none"> (a) An owner in any case where this Act provides that a rate is to be paid to the council by the owner (b) A holder of a lease in any case where this Act provides that a rate is to be paid to the council by the holder of the lease
Rates and Charges	Includes Land Rates, Domestic Waste Charges, Sewer Charges, Stormwater Levy Charges, Emergency Services Property Levy Charges, levied in accordance with the Local Government Act 1993.
Rent for Rates	Rent for Rates Notice may be served on the current occupant/tenant in accordance with Section 569 of the Act
Stop Credit	Council will not have any further business dealings with the customer unless the customer pays in cash, or the account is paid in full.
Sundry Debtor Account	An account issued by Council for a charge or service.
Write Off	A debt declared non-collectible

1.4 Legislative Context

Local Government Act 1993 (NSW)

- Part 3 Delegation of functions
- Part 7 Payment of rates and charges
- Part 9 Miscellaneous matters concerning rates and charges

Local Government (General) Regulation 2005 (NSW)

- Part 3 Rates and charges, Division 3 Payment of rates and charges

Civil Procedure Act 2005 (NSW)

Privacy and Personal Information Protection Act 1998 (NSW) (PIPA Act)

Valuation of Land Act 1916

1.5 Related Documents

Council's Code of Conduct

Council's Annual Revenue and Pricing Policy

POL 112 Conflicts of Interest Policy

POL 102 Financial Hardship Policy

1.6 Responsibilities

Outstanding debt requiring legal action will be submitted to the Manager Finance for approval to commence legal action.

For debtors who have an approved payment arrangement, it is the responsibility of the debtor to advise Council if they cannot adhere to the approved payment arrangement.

1.7 Reporting Requirements

Council's outstanding rates and charges are reported in Council's Annual Financial Statements.

1.8 Approval Arrangements

1.8.1 Sale of Land

Under Section 713(2) of the Act, a Council (by resolution) may sell any land on which any rate or charge has remained unpaid for more than five (5) years from the date on which it became payable.

The Council resolution also gives the appropriate delegation for the General Manager to set the appropriate reserve prices, and also to execute all of the necessary documents in regards to the sale.

1.8.2 Write-Off of Outstanding Accounts

The General Manager has the delegated power to write off Rates and Charges deemed non-collectible that are less than \$1,000 each.

A Council resolution is required to write off Rates and Charges deemed non-collectible which are greater than \$1,000 each.

Whilst Rates charges are secured debts and are linked to the property, there are certain circumstances where the outstanding debts may be required to be written off.

1.9 Review Procedures

Outstanding accounts are to be reviewed by Council's Debtors section and appropriate recovery action commenced in accordance with this Policy.

PART 2: POLICY CONTENT

2.1 General Provisions

2.1.1 Rates and Charges

Rate Notices are issued by July 31 each year in accordance with Section 562 of the Act.

Instalment Notices are issued one month prior to the legislated instalment due date, pursuant to Section 562(5) of the Act.

Instalments are due on the following dates each year:

- 31 August
- 30 November
- 28 February
- 31 May

2.1.2 Interest on Overdue Rates and Charges

Interest is calculated daily on overdue rates and charges at the maximum rate announced by the Minister for Local Government each year in accordance with Section 566(3) of the Local Government Act 1993.

Interest is not charged on legal costs.

Sections 564 and 567 of the Act allows Council to provide assistance to ratepayers who are experiencing financial hardship by writing-off accrued interest charges if the person complies with a mutually agreeable payment arrangement. All applications for assistance must be made in accordance with POL 102 Financial Hardship Policy.

2.1.3 Recovery of Rates and Charges

Rates and charges not paid by the due date are considered outstanding.

A reminder notice is issued to the property owner whose rates and charges are greater than \$100 and remain outstanding 14 days after the due date.

If rates and charges remain outstanding, and no payment arrangement has been agreed, Council may commence debt recovery proceedings.

Refer to the Rates and Charges Debt Recovery Flowchart for a visual representation of this process.

2.1.4 Debt Recovery Proceedings

Debt recovery proceedings may be instigated for rates and charges when the amount outstanding is at least two instalments and/or \$800 in arrears.

Legal costs and expenses incurred in debt recovery proceedings will be raised as a charge against the property.

Council will recover outstanding rates and charges by the following methods:

2.1.4.1 Payment Arrangements

A ratepayer may at any time arrange with Council officers to pay off their outstanding rates and charges by agreed regular payments.

All ratepayers who enter into an arrangement will continue to have interest charged on the outstanding amount in accordance with Section 566 of the Act.

For a ratepayer on an approved payment arrangement who defaults more than twice, the total outstanding rates and charges will become due and payable immediately i.e. subject to debt recovery action.

2.1.4.2 Commencing Legal Action/Statement of Claim

If no contact is made after Council's reminder letter, a Letter of Demand may be issued by Council's External Debt Collection Agency giving the ratepayer **14 days** to contact Council; pay the amount in full; or enter an approved payment arrangement.

Should no payment arrangement be mutually agreed within this time, legal action may be taken by Council's external Debt Collection Agency by way of a Statement of Claim. Costs associated with the Statement of Claim will be raised as a charge against the property.

The ratepayer has 28 days from the date of service of the Statement of Claim to pay the amount in full or arrange alternative payment options with Council.

If the ratepayer still fails to make contact with Council or Council's nominated Debt Collection Agency, Default Judgment is entered against the ratepayer. This judgement will be automatically uplifted to the ratepayers credit file by the Court.

Council will defend any action in relation to a Statement of Claim in court proceedings if required.

2.1.4.3 Default Judgment/Post Judgment

Once Default Judgment has been entered against a ratepayer, the following Post Judgment actions are then enforceable. These include, but are not limited to:

- Rent for Rates
- Garnishee Orders (Wages, Bank and Third Party)
- Examination Notice
- Examination Summons Order
- Writ of Execution
- Warrant of Apprehension
- Creditors Statutory Demand (Windup Notice)
- Bankruptcy Notice Sale of Land under section 713 of LGA
- Sale of Land for Unpaid Rates and Charges

All legal costs are recoverable from the ratepayer.

2.1.4.4 Sale of Land for Unpaid Rates and Charges

Council may, in accordance with Section 713 of the Act:

- (a) 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
- (b) 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. council obtains a valuation of the land from the Valuer-General, and
 - ii. total amount of unpaid rates or charges on the land exceeds the valuation, and
 - iii. Council sells the land within 6 months after the date when the council received the valuation.

This course of action is only to be used as a last resort.

If the land is not sold at auction, the property may be sold by private treaty.

If the sale amount is less than the outstanding rates and charges, Council will consider the debt to be paid in full in accordance with Section 719 of the Act, and will write-off the remaining outstanding balance.

If the amount received is more than the amount outstanding, Council will hold the money for persons having estates or interests in the land immediately before the sale according to their respective estates and interests. Section 720 of the Act provides for Council to pay the balance of the purchase money or any part of the balance to or among the persons who are, in its opinion, clearly entitled to it. The receipt by the person of any payment so made is an effectual discharge of Council's liability.

2.1.5 Sundry Debtor Accounts

Sundry debtor accounts are due and payable within 30 days of the date of issue.

2.1.5.1 Recovery / Legal Proceedings for Sundry Debtor Accounts

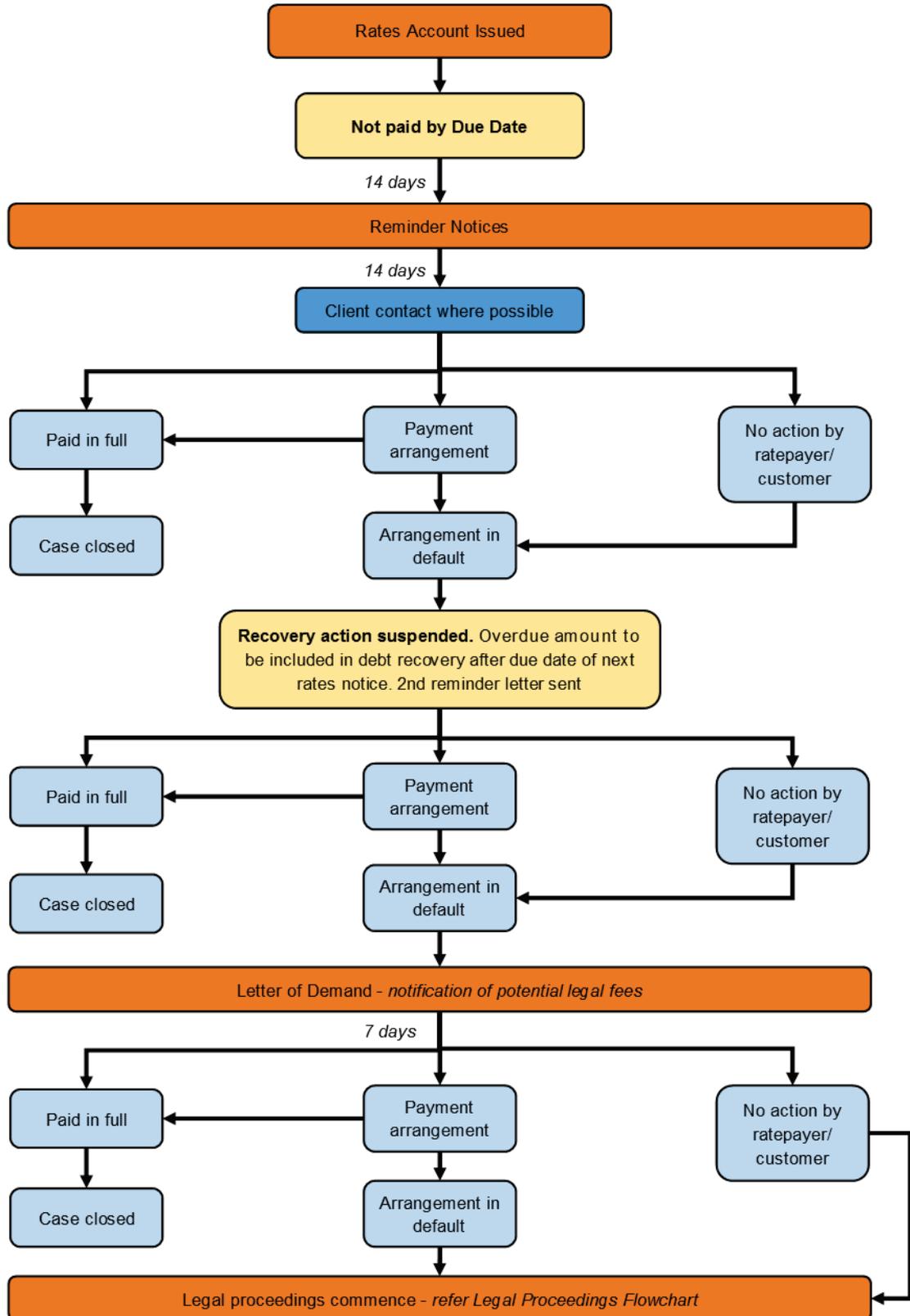
Debt recovery proceedings may be instigated for sundry debtor accounts that remain outstanding for a period of greater than 60 days.

Where an amount is overdue for more than 60 days, the customer will be placed on stop credit and the account may be forwarded to either Council's external debt collection agency for recovery or the Office of the Sheriff. The external debt collection agency will issue a final "Letter of Demand" outlining that the debt is to be paid in full within 14 working days.

Legal costs and expenses incurred in debt recovery proceedings will be pursued through the legal proceedings.

Recovery action can be put on hold where a repayment schedule is approved by Council Officers and adhered to by the debtor.

Rates and Charges Debt Recovery Flowchart



Legal Proceedings Flowchart.

