

1. Purpose

Council requires significant levels of income to provide an extensive range of services to the Community, and receives this income from various parties including ratepayers, Federal and State Governments, community and sporting groups, and businesses. This income is received from different sources such as rates and user charges, statutory charges, grants and subsidies. To assist in delivering these services effectively and efficiently, Council should receive this income in a timely manner.

This policy provides a clear, equitable, accountable and transparent process that Council will follow for its debt management and recovery practices. This policy will also aim to ensure that all debts owed to Council are received by the due date or followed up within specified timeframes.

2. Definitions

Arrangement – an agreement between Council and a Ratepayer and/or Debtor to repay an amount of money within a timeframe according to an agreed schedule.

Credit – the purchase and/or provision of goods and services from Council by a debtor on the basis of a commitment to pay at a future time.

Debt – the amount of money owed by the debtor as a result of a transaction/s with Council. A debt is expected to be settled within the normal payment terms of trade.

Debtor – an individual, organisation or other party that transacts with Council where goods or services are provided, use of facilities are made available, fines and license fees are levied and any other transaction that results in a future payment to Council. A debtor is an asset for Council, as it gives rise to an anticipated future benefit. The future benefits and cash inflows, which occur when the debt is paid.

Invoice Date – the date which the invoice has been raised in the debtors system.

Owner – the registered proprietor of a ratable property.

Prescribed Percentage – the amount calculated in accordance with Section 181(17) of the Local Government Act 1999 based on the cash advance debenture rate for that Financial Year.

Provision of Doubtful Debts – the accounting procedure for recognising the estimated value of debts that may end up being uncollectable.

Ratepayer/s – the person/s who appear in the assessment record as the owner/s, occupier/s or principal ratepayer/s of a rateable property.

Recurring Charges – charges that are charged on a set frequency, ie lease fees.

Risk – the possibility of non-payment of the debt by the debtor when the amount is due. The likelihood of non-payment increases with the age of the debt.

Write Off – the accounting procedure for cancelling a debt that is no longer collectable resulting in its removal from Council's balance sheet.

3. Purpose of this Document

The purpose of this document is to provide a clear and concise policy framework in which to pursue all outstanding debts owed to the Council. This document will also ensure consistency, fairness, integrity and confidentiality for both the Council and the debtor. This document will also assist in the effective management of Council assets through the timely collection of outstanding monies.

4. Scope of this Document

This document applies to all Council business. All procedures and debt recovery practices are to be consistent with this document.

5. Rates

Rates Debtors shall include all those owing general rates, separate rates, differential rates, Community Wastewater Management Systems (CWMS) service charges, waste service charge amounts and any other charge levied by Council annually and issued on a quarterly rate notice.

5.1 Arrangements to Pay

- 1.1.1 All arrangements shall be determined on the merits of each individual case. Recovery action for overdue rates will be suspended whilst the terms and conditions of the arrangement to pay are being met, however fines and interest will continue to apply as per 5.2.
- 1.1.2 Each arrangement shall specify the amount of each regular payment and the frequency of which each payment must be made to Council. Payments under an arrangement should be of regular amounts and be payable at regular intervals.
- 1.1.3 Payment defaults of two consecutive payments (default being either late payment or non-payment of the agreed amount) will result in the arrangement being terminated. Recovery action may be taken for recovery of the amount due.
- 1.1.4 All payment arrangements are only valid until 30 June of each year. If rates are still in arrears at the end of the financial year, a new arrangement will be required to be negotiated with an aim to have all rates paid by the end of that financial year.

5.2 Fines and Interest

If an instalment of rates is not paid on or before the date on which it falls, the instalment:

- (a) will be regarded as being in arrears;
- (b) will incur a fine of 2 per cent of the amount of the instalment in accordance with Section 181 of the Local Government Act 1999; and
- (c) on the expiration of each full month from that date, will incur interest at the prescribed percentage of the amount in arrears (including the amount of any previous unpaid fines and interest) calculated as per diagram below.

$$P = \frac{\text{CADR} + 3\%}{12}$$

P = prescribed %

CADR – LGFA Cash advance debenture rate for that financial year.

5.3 Overdue Letter / Final Notice

- 5.3.1 A letter stating 'Rates Overdue' shall be issued within 14 days after the due date of the fourth quarter (final) instalment to all Ratepayers whom have arrears of \$50.00 or more and have not made satisfactory arrangements. This letter will advise of the outstanding debt (including any fines and interest) and that payment is due within 30 days.
- 5.3.2 A letter stating 'Final Notice' shall be issued within 90 days after the due date of the fourth quarter (final) instalment, to all Ratepayers with an entire years rates in arrears or more, advising that failure to pay or make suitable arrangement will result in the debt being referred to Council's Debt Collection Agency for recovery.

5.4 Legal Action

- 5.4.1 Legal action will be initiated by referring the account to Council's Debt Collection Agency who will send a 'Letter of Demand' to the ratepayer. Council is then guided by the Collection agency as to the most suitable form of recovery action.
- 5.4.2 Once the debt has been referred to the Debt Collection Agency all communication regarding the debt is to be directed to the Agency.
- 5.4.3 All legal costs and expenses incurred by the Council from the recovery of outstanding rates and charges will be charged against the debtor's property assessment.
- 5.4.4 If the Debt Collection Agency have exhausted all possible avenues to recover arrears under section 5.4.1 of the policy then the Rates Officer (or equivalent) can authorise the Debt Collection Agency to proceed to court (with the amount updated to include arrears for the full financial year) in the following circumstances;

- the amount owing is more than \$950.00; or

5.4.5 If the rates outstanding are more than 2 years in arrears and sections 5.4.1 and 5.4.4 of the policy have previously been undertaken, then the Rates Officer (or equivalent) will close the file with the Debt Collection Agency and proceed to 5.5.

5.5 Sale of Land for Non-Payment of Rates and Charges

5.5.1 Once the legal action process in 5.4 has been exhausted and before any other legal action in terms of Section 184 of the Local Government Act 1999 has commenced, Council will:

- (a) obtain a copy of the Certificate of Title for the property;
- (b) advise the Ratepayer in writing of the debt outstanding; and
- (c) contact the Registered Mortgagee to obtain the position of the mortgagee regarding the possibility of refinancing or paying the arrears outstanding. If the registered mortgagee advises that this is not an option, then the Sale of Land for Non-Payment of Rates and Charges process may commence.

5.5.2 Council may proceed to sell the land where any rate or charge is overdue and has remained in arrears for more than three (3) years from the date on which it became payable in accordance with Section 184 of the Local Government Act 1999.

5.5.3 Prior to instigating any action, the ratepayer will be given the opportunity to make a suitable payment arrangement in a reasonable effort to discharge the arrears on the property.

5.5.4 A report will be provided to full Council prior to commencement of action for Sale of Land for Non-Payment of Rates and Charges in accordance with Section 184 of the Local Government Act 1999.

6. Sundry Debtors

Sundry Debtors include people owing Council miscellaneous monies including, but not limited to, lease fees, recurring charges and administrative charges.

6.1 Invoices

Invoices will be sent for any debt raised providing 30 days for payment.

6.2 Arrangements to Pay

- 6.2.1 All arrangements shall be determined on the merits of each individual case. Recovery action for overdue sundry debtors will be suspended whilst the terms and conditions of the arrangement to pay are being met.
- 6.2.2 Each arrangement shall specify the amount of each regular payment and the frequency of which each payment must be made to Council. Payments under an arrangement should be of regular amounts and be payable at regular intervals.
- 6.2.3 Payment defaults of two consecutive payments (default being either late payment or non-payment of the agreed amount) will result in the arrangement being terminated. Recovery action may be taken for recovery of the amount due.

6.3 Overdue Letter / Final Notice

- 6.3.1 A letter stating 'Invoice Overdue' shall be issued within 14 days after the due date of the invoice to those debtors who have not made satisfactory arrangements. This letter will advise of the outstanding debt and that payment is due within 30 days.
- 6.3.2 A letter stating 'Final Notice' shall be issued within 90 days after the due date of the invoice, advising that failure to pay or make suitable arrangement will result in the debt being referred to Council's Debt Collection Agency for recovery.
- 6.3.3 If Council receives no response from the debtor after 12 months from the due date of the invoice, Council may refer the debt greater than \$200.00 to Council's Debt Collection Agency for recovery.

6.4 Legal Action

- 6.4.1 Legal action will be initiated by referring the account to Council's Debt Collection Agency who will send a 'Letter of Demand' to the debtor. Council is then guided by the Collection agency as to the most suitable form of recovery action.
- 6.4.2 Once the debt has been referred to the Debt Collection Agency all communication regarding the debt is to be directed to the Agency.
- 6.4.3 All legal costs and expenses incurred by the Council from the recovery of outstanding rates and charges will be charged against the debtor.

7. Write Offs

Debts may be written off only when all reasonable attempts at recovery have been exhausted.

The Chief Executive Officer will ensure all debts are regularly reviewed and only the Chief Executive Office has the authority to write off bad debts in accordance with Section 143 (1) of the Local Government Act 1999 and delegated by Council to the Chief Executive Officer (with limitations) as outlined within the Delegations Register

8. Document administration and control

Policy title:	Debt Recovery Policy
Policy number:	04.48
Policy type:	Council / Statutory
Responsible officer:	Director Community & Corporate
Committee Review:	Audit & Risk Committee 3 March 2023 [027-2023]
First issued / adopted:	20 October 2015
Review period:	Reviewed within 12 months following the conclusion of a periodic election, inline with legislative changes or by resolution of Council.
Last reviewed:	20 October 2015 - 184-8430; 15 March 2016 - 47-8468; 20 March 2018 19 July 2022 [049-2022] 21 March 2023 [046-2023]
Next review date:	By November 2027
Current Version:	Version 4
Date revoked:	n/a
Applicable legislation:	Local Government Act 1999, s49 Ombudsman Act 1972 South Australian Work Health and Safety Act 2012
Related documents:	Register of Fees & Charges for relevant Financial Year Annual Business Plan and Budget for relevant Financial Year Rates Remission and Hardship Policy CWMS and Water Supply Hardship Policy
Public consultation required / undertaken:	No
Availability	<p>This Policy is available for inspection at the Council office and any person may obtain a copy of this Policy upon payment of the fee fixed by Council in accordance with Council's Fees and Charges adopted each financial year. It is also available on Council's website mtr.sa.gov.au.</p> <p>Any grievance in relation to this policy or its application should be forwarded in writing to the Chief Executive Officer of the Council.</p>
File reference:	W:\4. Policy Manuals\Current Policy Manual