

Related Policy

These procedures are for the implementation of the Debt Administration Policy and provide procedures to be followed by staff engaged in Debt Management and Debt Recovery and their managers.

The recovery of overdue debts, including rates, annual charges and other fees and charges, in accordance with these procedures, may only be taken if authorised by Council's Debt Administration Policy.

Compliance

Council will, at all times, comply with all relevant legislation, Court rules and legal procedures that are in affect at the time of undertaking either Debt Management or Debt Recovery.

Debt Management and Debt Recovery

Council undertakes both Debt Management and Debt Recovery for the following areas of its business:

- Rates and Annual Charges
- Accounts Receivable
- Ryde Aquatic Leisure Centre
- Library Services
- Regulatory Services, including health notices

Debt Management

Debt management is the process by which debts are followed up by Council prior to the commencement of any legal action.

It includes the issuance of Statements, Reminder Notices, Final Notices and Letters of Demand. It also includes the making of arrangements to pay the debt off, over a period of time

The Debt Management process is controlled by the Business Area that raises the debt and may be undertaken by the business area or outsourced to a mercantile agent, depending upon the capabilities of the business area's computer system.

Rates and Annual Charges

Debt management for rates and annual charges consists of the following steps:

- Arrangements to pay, including
 - Arrangement confirmation
 - Monitoring; and

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- Default follow-up
- Instalment Reminder Notice
- Missed Instalment Notice
- Final Notice

Arrangements to pay – Section 564 Local Government Act, 1993

In certain cases, some Ratepayers may genuinely be experiencing a period of financial hardship and as a result may have difficulty in meeting the cost of each rates instalment as and when it falls due. In such cases, Council will consider an arrangement for periodical payment of Rates and Charges.

- An arrangement may be entered into at any time during the debt management or debt recovery process, except when Council has resolved to sell a property under the Sale of Land provisions outlined in the Local Government Act.
- The amount to be paid by a payment arrangement should be overdue, but Council may accept and record an offer by a ratepayer to make payments in advance.
- If an arrangement is required for an amount not yet due a new arrangement may be entered into after the amount becomes overdue.

The following guidelines should be met before any arrangement is accepted:

- The arrangement should be negotiated on the basis that the overdue amount be finalised within a mutually agreed timeframe.
- Arrangements may be made on a weekly, fortnightly, monthly or bi-monthly basis but should align with how the ratepayer gets paid.
- An extension of time, extending beyond 31 days, without a regular payment being agreed to, **will not** be accepted.
- However, extenuating circumstances can be taken into consideration if any of the above conditions cannot be met, but must be referred to Team Manager Rates & Revenue for approval.

Instalment Reminder Notice

Instalment Reminder Notices are issued quarterly in accordance with Section 562 of the Local Government Act, 1993.

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Missed Instalment Notice

A "Missed Instalment Notice" will be issued within 10 working days of the due date of the instalment giving a further 7 days from the date of the Notice to pay or make a satisfactory arrangement. This notice **will not** be sent to ratepayers who:

- have made a satisfactory arrangement for payment with Council, or
- have legal action in progress for the overdue amount or
- the balance overdue is less than \$10.00.

Final Notice

A Final Notice will be issued within 5 days of the due date of the Missed Instalment Notice giving 7 days to pay or make an arrangement and informing the ratepayer that failure to comply with the Final Notice will result in commencement of legal action.

A Final Notice **will not** be issued unless:

- Rates overdue are greater than \$300.00 in total.
- An existing payment arrangement for the overdue amount is in default and a Final Arrangement Default Letter has not been complied with,
- The overdue amount is not the subject of current legal action.

However, a Final Notice may be issued at any time as determined by the Chief Financial Officer.

Accounts Receivable

Debt management for Accounts Receivable consists of the following steps:

- Arrangements to pay, including
 - Arrangement confirmation
 - Monitoring; and
 - Default follow-up
- Monthly Statement
- Reminder Notice
- Final Notice

Arrangements to Pay

In certain cases, some Debtors may genuinely be experiencing a period of financial hardship and as a result may have difficulty in paying the sundry debt

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as and when it falls due. In such cases, Council will consider an arrangement for periodical payment.

- An arrangement may be entered into at any time during the debt management or debt recovery process,

The following guidelines should be met before any arrangement is accepted:

- The arrangement should be negotiated on the basis that the overdue amount be finalised within 6 months.
- Arrangements may be made on a weekly, fortnightly, monthly or bi-monthly basis but should align with how the debtor gets paid.
- An extension of time, extending beyond 31 days, without a regular payment being agreed to, **will not** be accepted.
- However, extenuating circumstances can be taken into consideration if any of the above conditions cannot be met, but must be referred to Team Manager Rates & Revenue for approval.

Monthly Statement

A Statement will be issued within 5 days of the last working day of the month showing all outstanding invoices and the balance due on each invoice.

Reminder Letter

- A reminder notice will be issued for any invoice which is overdue greater than 30 days.
- The Notice will request that payment or an arrangement be made with 7 days of the date of the letter.
- A reminder notice **will not** be issued where a suitable arrangement to pay for the overdue amount is being kept.

Final Notice

- A final notice will be issued for any invoice which is overdue greater than 60 days.
- The notice will request payment or an arrangement to pay be made within 7 days of the date of the letter,
- The final notice will include a statement that failure to pay or make a suitable arrangement may result in legal action being taken.

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- A final notice **will not** be issued where an arrangement to pay for the overdue amount is being kept or recovery action is in progress for the overdue invoice/s.

Ryde Aquatic Leisure Centre

Debt management for the Ryde Aquatic Leisure Centre consists of the following:

- Courtesy Reminder
- Follow-up telephone call
- Debtors Reminder Letter 1
- Final Notice (Debtors Reminder Letter 2)

Courtesy Reminder

A Courtesy Reminder will be issued within 5 days of the last working day of the month showing all outstanding invoices and the balance due on each invoice.

Follow-up telephone call

The Courtesy Reminder will be followed-up with a telephone call after the due date for payment shown on the Courtesy Reminder.

Debtors Reminder Letter 1

- A reminder notice will be issued for any invoice which is overdue greater than 30 days.
- The Notice will request that payment or an arrangement be made with 7 days of the date of the letter.
- A reminder notice **will not** be issued where a suitable arrangement to pay for the overdue amount is being kept.

Final Notice (Debtors Reminder Letter 2)

- A final notice will be issued for any invoice which is overdue greater than 60 days.
- The notice will request payment or an arrangement to pay be made within 7 days of the date of the letter,
- The final notice will include a statement that failure to pay or make a suitable arrangement may result in the matter being referred for recovery action.

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- A final notice **will not** be issued where an arrangement to pay for the overdue amount is being kept or recovery action is in progress for the overdue invoice/s.

City of Ryde Library

Debt Management for the City of Ryde Library will be undertaken in accordance with the City of Ryde Library Debt Management procedures to be advised.

Regulatory Services

Debt management of amounts due for Regulatory Services is unique to each type of service rendered. The different methods are being developed and will be incorporated when finalised.

Debt Recovery

Debts from all of the areas of business listed above will be referred from Debt Management to Debt Recovery if the following criteria are satisfied:

1. The debt for all business areas other than rates and charges has been overdue for less than three years.
2. The debt, in the case of rates and charges, has been overdue for less than 20 years.
3. A Final Notice warning of possible recovery action has been issued for the overdue amount.
4. The amount to be referred to Debt Recovery does not exceed the amount shown on the Final Notice plus interest in the case of overdue rates and charges.
5. Amounts referred are greater than \$300.00 in total (excluding legal costs).
6. An existing payment arrangement for the overdue amount is in default and a request for the payment arrangement to be brought up to date has not been complied with.
7. The overdue amount is not the subject of current legal action.

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The debt recovery process for all business areas of council consists of the following steps:

- Notice of Intention to Take Legal Action
- Statement of Liquidated Claim
- Judgment at Court
- Examination Summons
- Garnishee Order
- Writ of Execution

In the case of rates and charges the following additional two debt recovery processes are available:

- Rent Orders
- Sale of Land for Unpaid Rates

Debt recovery may be taken, either in-house using Council staff or systems or, it may be outsourced to a mercantile agent.

The relevant action/process to be applied in each case will be determined by the Team Manager Rates & Revenue or the Chief Financial Officer. In determining the relevant action consideration will take into account the debtors/ratepayer's history of payments, the amount outstanding and the likelihood of the action being successful.

The aim is to get the debtor either to satisfy the debt in full or to enter into arrangements to pay that they can meet, so as to avoid further legal action.

Notice of Intention to Take Legal Action

- A Notice of Intention to Take Legal Action will be issued as the first step in the Debt Recovery process for all business areas of Council.
- A Notice of Intent **will not** be sent to people who are the holder of a pensioner concession card except, in the case of rates and charges, a Notice of Intent will be served for debts which have been overdue for less than 20 years.
- The Notice of Intent will demand the payment of the overdue amount or the making of a satisfactory payment arrangement by a due date stipulated in the Notice.

Statement of Liquidated Claim

If the debt remains unpaid after the due date stipulated in the Letter of Intention to Take Legal Action, or an appropriate payment arrangement, which satisfies the "Arrangement Guidelines" has not been made, then a "Statement of Liquidated Claim" (i.e. Summons) will be issued by the Court.

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Judgement at Court

Once service is made of the summons, and it remains unpaid after 28 days, an application will be made to the Court for judgement, including costs and interest.

Examination Summons

Once judgement is made and if deemed necessary, an application will be made for an examination summons, so that the financial affairs of the debtor can be determined to see what further action can be taken to recover the outstanding amounts.

Garnishee Order

Once the Examination Summons is complete and the debtor is not making payments or has not fully satisfied the debt, then an application will be made to the Court for a Garnishee against the debtor's income source.

Writ of Execution

Should a Garnishee fail, then a Writ of Execution will be sought from the Court, so that assets of the debtor can be seized to satisfy the debt.

Sale of Land

Should all avenues of recovery action be unsuccessful, Council is able, under Section 713 of the Act, to sell land for overdue rates and charges where the rates and charges remain unpaid for a period of more than five years.

A report will be presented to Council each year in relation to those properties that fall within Section 713 of the Act.

Hardship generally – rates and charges

Waiver of Interest in Certain Circumstances

Interest on overdue/accrued Rates and Charges is to be applied in accordance with Section 566 of the Act.

In accordance with Section 564 of the Local Government Act, 1993, Council may write off or reduce interest if the person complies with the arrangement and in accordance with Council's delegations.

Accrued interest on Rates and Charges may be written off in accordance with Section 567 of the Act, due to financial hardship upon written application, in accordance with the administrative guidelines.

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Costs and Interest

Unless the imposition of legal costs and/or interest is deemed to be in error, the waiving of legal costs and/or interest **will not** be considered except in exceptional circumstances. When assessing the writing off of interest, in accordance with Section 567 of the Act, the following circumstances are considered:

- The ratepayer is experiencing genuine hardship. In such cases, Council may, request some evidence or substantiation of the hardship before waiving interest.
- The ratepayer has not incurred interest for late payment in the last two years, and there are mitigating circumstances.
- They are a new owner, and their solicitor has notified Council of an incorrect address for service of notices.
- Prolonged or serious illness has prevented the Ratepayer meeting their expenses.
- The amount of interest is less than \$5.00
- In the case of Legal Costs:
 - Legal action was taken in error,
 - It is considered that, under the circumstances, legal action should not have been taken,
 - The waiving of legal costs are part of an arrangement to pay where the waiver of legal costs has been used as an incentive to maintain the arrangement. In this case legal costs agreed to be waived will only be waived if the arrangement is kept and when the arrangement has been completed.
- The write-off is done in accordance with Council's delegation at the time.

Resulting from new valuations

- Section 601 of the Local Government Act, 1993 refers to hardship arising from land valuation changes and allows Council at its discretion to waive, reduce or defer the payment of the whole or part of the increase in the amount of the rate payable as a result of using new land valuations for the basis of calculating rates.
- The ratepayer would be required to complete an application detailing their financial position that would then be assessed by Council Officers.
- If Council is satisfied it falls within a category of hardship, it has the discretion to waive, reduce or defer the payment.

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- The General Manager has delegated authority to determine these applications.
- Hardship applications are generally available only for exceptional circumstances.

Pensioners

Recovery of amounts owed by Pensioners

Council encourages eligible pensioners to meet their rate commitments as they fall due. Where an eligible pensioner is in financial difficulty, Council officers shall take into account the limited income of eligible pensioners and may enter into an agreement with them for the payment of rates by arrangement.

As a general principle, Council does not take legal action against pensioners; however each case will be assessed individually on its merits.

Eligible pensioners who are suffering extreme financial hardship are able to apply to have their rates reduced or deferred, in accordance with Section 582 of the Act.

Voluntary Council Rebate

Council provides a voluntary Council rebate of \$80 per annum which is only available to ratepayers who are “eligible pensioners” and were already in receipt of this rebate from Council prior to 31 December 1992 who had to be on a full pension and lived in the area for 10 years.

This rebate is no-longer granted and is being phased out through attrition. This rebate is now only applicable where an existing recipient moves from one place to another within the City of Ryde. This rebate is fully funded by Council.

Hardship

In the exercise of Section 577 of the Act, the income/assets level for hardship applications to be considered is that which applies to the granting of the CentreLink Age Pension at the time.

In accordance with Section 577(2), Council will grant a rebate in the following circumstances:

- While not the owner, the spouse of a pensioner will be deemed to be the owner in cases where the owner is in a nursing home. The spouse must be a pensioner, reside at the property and be responsible for all outgoings.

Every approved hardship application must be re-assessed every 12 months.

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Mercantile Agent Delegation Process

The process of debt management and debt recovery of overdue rates, charges and other fees and charges may require a certain level of expertise, which may at times, at the discretion of the Chief Financial Officer, be best managed by a professional Mercantile Agent.

Where utilised, any Mercantile Agent instructed to assist Council with its debt management or debt recovery process will need to comply with Council's policy and procedures for Debt Management and Debt Recovery.

GLOSSARY OF TERMS

Debt Management	<p>Debt management is the process by which debts are followed up by Council prior to the commencement of any legal action.</p> <p>It includes the issuance of Statements, Reminder Notices, Final Notices and Letters of Demand. It also includes the making of arrangements to pay the debt off, over a period of time.</p>
Debt Recovery	<p>Debt recovery is the process by which debts are recovered, through legal action, where debt management has failed in getting the debt paid and is commenced before the expiration of the statute of limitations for recovery of debts.</p> <p>It includes the issuance of a Statement of Liquidated Claim, Examination Summons, Writ of Execution and any other legal process permitted in the recovery of debts.</p>
Debt Administration	<p>Debt administration is the combined processes of debt management and debt recovery.</p>
Referral for legal action	<p>A referral for legal action may be a referral to Council's Team Manager Rates & Revenue or a referral to an external agency at the discretion of the Chief Financial Officer.</p>
Summons	<p>The Summons, identified as a "Statement of Liquidated Claim", is a legal document which outlines to the debtor: that a claim has been made to the Court for the recovery of monies;</p> <ul style="list-style-type: none"> • who has initiated the claim; • who the claim is against; • the monetary value of the claim; and • time period available to relinquish the debt.

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Judgment	In cases where the debtor does not respond to a Summons issued to them, the Court may make a default judgment whereby it will award a decision without having the matter heard
Writ	Document served by a Court Sheriff on a debtor. This document allows a court to seize goods owned by a debtor and be sold. The proceeds are then distributed to the Council as part or full payment of the debt.
Legal Costs	Amounts incurred by Council in recovering overdue debts (e.g. Court, Professional Costs), which can be legally recovered from the debtor.
Sale of Land	In accordance with Section 713 of the Local Government Act, Council has the authority to sell land which has any unpaid rates or charges for more than 5 years.
Rent for Rates	Section 569 of the Local Government Act allows Councils to order tenants of properties with overdue Rates to pay rent to Councils in lieu of unpaid Rates, under specific circumstances.

Review Process and Endorsement

This Policy should be reviewed whenever relevant legislation is amended and after any request of the Executive Team. Whenever this procedure is to be amended it must be submitted to the Executive Team for approval prior to those changes being implemented.

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