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# **Non-Rates Debt Recovery Policy**

## Document Version Control

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## Change History

Version	Review Date	Author	Reason for Change
1.0	28 May 2019	Finance	Adopted by Council
1.1	06 May 2021	Finance	Document moved to align with Council's new policy templates

Non-Rates Debt Recovery Policy		
Owner: Finance	Accountability: Financial Planning and Management	Endorsed by Council: 28 May 2019
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## 1. Scope

This policy has been developed as guidance to management, staff and the community to ensure consistency in the way that non rates debt is collected while also ensuring non rates debt is collected in a transparent and equitable manner in accordance with relevant legislation. This policy outlines the parameters that will be applied when recovering debt to minimise financial risks to Council whilst maintaining transparent engagement with Council's debtors.

For the purpose of this policy, a non-rates debtor is a debt that has not been levied as a Rate or Annual Charge under the Local Government Act but excludes debts referable to Revenue NSW.

## 2. Purpose

The purpose of the policy is to provide guidance to staff so as to ensure that non rates debt is collected consistently while also ensuring non rates debt is collected in a transparent and equitable manner in accordance with relevant legislation. This policy shall be applied during the process of recovering non rates debt.

The objective of this policy is to ensure that Council treats its Non-Rates Debtors in a respectful manner whilst collecting non rates debts. This will be done by ensuring the application of this policy is done so in a transparent and equitable manner, giving non rates debtors every opportunity to pay their debts prior to debt recovery proceedings commencing. The policy takes into account the parameters Council officers will apply whilst collecting overdue non-rates debt.

## 3. Guidelines / Procedures

### Non-Rates Debtors

A non-rates debtor exists when a fee or charge is invoiced and subsequent a debt is incurred. For the purpose of this policy Non-Rates exclude debts issued as a Penalty Infringement Notice (PIN). Council has various trading terms (time taken to pay and invoice), depending on the type of fee or charge with an expectation that the debtor will repay the debt within the nominated payment terms. A debtor will be issued an invoice outlining the fees and charges and the financial obligations to Council.

**Please note that not all of Council's Fees and Charges will incur a debt. Some fees and charges are required to be paid at the time of the fee/charge being incurred.**

Timeframes around the issuance of above will depend on the type of debt and risk associated with the debt. Timeframes and deadlines will be issued on the appropriate debt recovery documentation.

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**If a debtor enters into a reasonable payment arrangement, debt recovery proceedings will be placed on hold until the debt is paid in full (including Legal Costs) or the payment arrangement lapses. If a payment arrangement lapses, debt recovery proceedings will recommence.**

Any costs associated with debt recovery proceedings will be added to the debtor account once incurred and will accumulate as a part of the debt balance owing.

## Payments and arrangements

Once a debt exists, a debtor must pay within the payment terms. If the payment terms are not stipulated on the invoice or associated documentation issued by Council, the payment terms will default to 14 days from the date of invoice.

If a debtor is experiencing financial difficulties, a debtor may request a payment arrangement to finalise the account outside of the nominated trading terms. The onus is on the debtor to ensure payment is made in a timely manner or enter into a reasonable payment arrangement if they cannot meet the original payment terms. The debtor is responsible for maintaining their payment arrangement and if the payment arrangement is broken, Council will (re)commence debt recovery proceedings.

Depending on the nature of debt, other actions such as restriction of services may occur at this stage.

## Debt Recovery Proceedings for Overdue Debt

Where an overdue non rates debt occurs, the debt will be referred for debt recovery proceedings. Debt Recovery proceedings will consist of the following steps:

### Reminder Notice

Reminder Notices will be issued after a non-rates debt becomes overdue. The reminder will inform the non-rates debtor that they have a debt overdue with Council and that if payment is not made within 14 business days, Council may refer the debt to its legal representative for debt recovery action. At the stage, no formal legal action has commenced and no legal costs have been incurred by the non-rates debtor by receiving a reminder notice.

### Legal Letter of Demand

Where the amount shown as due on the reminder notice has not been paid or a reasonable payment arrangement has not been entered into by the due date on the reminder notice, a legal letter of demand will be issued by Council's nominated appointed legal representatives.

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A letter of demand will give the debtor seven (7) days to respond and enter into a reasonable payment arrangement. The intent of the legal letter of demand is to advise the non-rates debtor that if the amount is not paid in full or a reasonable payment arrangement is not entered into, legal proceedings in the form a Statement of Claim will commence and legal costs will accumulate against the non-rates debtors account.

At the stage, no legal costs have been incurred by the non-rates debtor by receiving a legal letter of demand.

## Statement of Claim

Following the expiration of the nominated date on the legal letter of demand, a Statement of Claim will be issued by Council via its nominated appointed legal representatives if payment of the overdue amount has not been made or a reasonable payment arrangement has not been entered into or adhered to.

Council will formally instruct the appointed legal representatives to have a Statement of Claim filed with the relevant court in respect of the overdue non-rates debt including any legal charges incurred and added to the account. The registered Statement of Claim will then be served on the debtor for payment of the debt. These legal costs are payable at the time of filing with the court.

The legal costs and professional fees incurred by Council from the recovery of the overdue debt will be charged to the debtor account.

The debtor can pay the amount of the registered debt with the court, enter into a reasonable payment arrangement with Council or lodge a defence with the court.

## Default Judgement

Following the expiration of the nominated date on the Statement of Claim, Council will seek to obtain a default judgement ruling against the debtor if payment of the full amount of the Statement of Claim has not been paid or a reasonable payment arrangement has not been entered into or adhered to.

Prior to registering a default judgement debt with the relevant court, Council will instruct its appointed legal representatives to issue a letter before filing for judgement debt advising the debtor and giving them seven (7) days to respond. If no response is received within the time frames, an instruction to Council's appointed legal representatives to file for default judgment will be issued and associated costs incurred and charged against the debtors account.

Upon registering a default judgement, the judgement debt will be registered with credit agencies that may have an impact on the non-rates debtor's capacity to obtain a financing in the future.

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## Other Legal Proceedings

After obtaining the default judgement Council may take action as recommended by Council’s legal representative to recover the debt including, but not limited to:

- Writ of Execution
- Examination Summons
- A garnishee against the ratepayer(s) salary or bank account

All recovery proceedings will be undertaken in conjunction with advice from Council’s legal representative and will be authorised by an officer of Council with the appropriate delegation.

## Provision for Doubtful Debts

Aged debts greater than sixty (60) days shall be reviewed and provided for as a doubtful debt, following advice from the initiating section, according to an assessment which has regard for:

- the size and nature of the debt; and
- the debtor in question
- The likelihood of recovering the debt

Any provisions made will be captured in accordance with AASB Accounting standards to ensure compliance with financial reporting requirements.

## Payment Arrangements

Where Non-Rates Debtors are experiencing financial difficulties in meeting the payment of an overdue debt, they are requested to contact Council with a view to making a suitable payment arrangement.

It is Council’s intention to have outstanding balances paid within three (3) months of an arrangement being made. However, Council is sympathetic to non-rates debtors with special circumstances and payment of outstanding amounts with the intention to be settled within six months from the date the arrangement is made.

All payment arrangements will be reviewed on an ongoing basis. Where a payment arrangement has expired and an overdue balance still exists, debt recovery proceedings, as outlined above, will commence.

The onus is on the ratepayer to ensure that their rates are paid in a timely manner in accordance with due dates.

## Approvals

Council shall approve any changes to this policy by form of a Council resolution.

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## 4. References and Legislation

The Local Government Act, 1993 (NSW)  
Local Government Act (General) Regulations 2005  
Government Information (Public Access) Act 2009  
The Local Government Accounting Practice and Financial Reporting (NSW)  
Australian Tax Office Standards  
Legal Profession Uniform Law Application Regulation 2015

## 5. Review Process and Endorsement

This Policy should be reviewed every 2-3 years or as legislation amends and endorsed by Council.

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