



Debt Recovery Policy

Adoption Date:	14 February 2011 by Council Resolution
Review Date:	28 November 2022
Version:	5
Division/Department:	Corporate Performance/Finance
Responsible Officer:	Chief Financial Officer
HPE CM Record Number:	18/180258

1. Policy Statement

This policy is to ensure effective controls are in place for the recovery of outstanding debts to Council and there is transparency and probity in Council's debt recovery processes. A key objective of this policy is to ensure that all reasonable efforts are made to provide debtors with an opportunity to pay their debt or to enter a scheme of arrangement to repay the debt, prior to initiating formal proceedings.

A further objective of the Policy is to recover, or have initiated action to recover, all debts of the Council within ninety (90) days of them falling due unless other arrangements for payment are in place and to maintain the Rates Outstanding Ratio at or below 5%.

2. Application

This policy applies to all of Council's debtors.

3. Community Strategic Plan, Delivery Program and Operational Plan

This Policy relates to Themes, Goals and Strategies outlined in Council's Community Strategic Plan Woollahra 2032 and Priorities outlined in Council's Delivery Program and Operational Plan, specifically:

Theme: Civic Leadership Strategies
Goal: 11 A well-managed Council
Strategy: 11.2 Secure Council's financial position
Priority: 11.2.1 Effective management of Council's finances

4. Relevant Legislation

NSW Local Government Act 1993
NSW Local Government (General) Regulation 2021 (the Regulation)
Civil Procedures Act 2005
Corporations Act 2001
Interpretation Act 1987
Office of Local Government – Council Rating and Revenue Raising Manual
Office of Local Government – Debt Management and Hardship Guidelines 2018

5. Policy Content

Council acknowledges that debtors will for various reasons, from time to time be unable to pay rates when they become due and payable. It is not the intention of Council to cause hardship to any ratepayer through Council's recovery procedures and therefore, Council will give consideration to acceptable arrangements to clear the debt as soon as practicable.

Principles:

Council has a responsibility to recover monies owing to it in a timely, efficient and effective manner, in order to finance its operations and ensure effective financial management.

In doing so, Council will:

- a) Fulfil all statutory requirements of the Act and other relevant laws;
- b) Ensure that customers are treated sensitively and with courtesy, respect and confidentiality and on a case-by-case basis
- c) Apply a fair and reasonable approach to recovering outstanding debts;
- d) Individually assess any hardship application in accordance with its Financial Hardship Policy;
- e) Consider a scheme of arrangement for payment outside the due dates using the following criteria:
 - a. The debtor is able to show cause as to why the debt cannot be paid in full;
 - b. The maximum period for repayment of the debt by instalments is to be within twelve months; or
 - c. Where financial hardship can be demonstrated as a result of a twelve month repayment period, the repayment period can be extended by up to a further twelve months;
- f) Allow, in appropriate circumstances, for a pensioners' rates and/or charges to accrue against the future estate of the sale of the land to which the rate and/or charge applies;
- g) Not initiate action against a debtor which has an existing scheme of arrangement for payment unless that arrangement falls two instalments into arrears;
- h) Only initiate formal proceedings for debts greater than \$1,000 and, in the case of Rates & Annual Charges debtors, two instalments in arrears;
- i) Utilise the services of mercantile agents, except in instances where the debt relates to Rates & Annual Charges and the debtor is in receipt of a pensioner rebate;
- j) Council will review all matters before commencing legal action to recover debts and make reasonable efforts to contact ratepayers before commencing legal action; and
- k) Only apply the provisions of the Local Government Act relating to the sale of land for unpaid rates in instances where the land is vacant or the property is not the ratepayers principal place of residence.

6. Legal Recovery

Legal proceedings for recovery of overdue amounts will only be used as a last resort and are subject to the following criteria:

- a) Rates and charges must have at least two full instalments outstanding

- b) Other debts must be overdue for greater than 90 days
- c) A Letter of Demand for the debt has been issued
- d) The amount of the debt must be more than double the legal costs that would be incurred (in other words, the legal costs must not represent more than 50% of the debt amount)
- e) That there are reasonable prospects of recovery from the Debtor.

Legal proceedings will commence with the issue of a Statement of Claim (Summons). The Council will make best efforts to contact the owner prior to issuing and servicing a Statement of Claim at the Court, in order to minimise any legal costs that the customer may incur. Contact efforts to be attempted may include contact by telephone, email, letter, internet search or attend the property in person.

If the debt remains unpaid after the date stated on the Statement of Claim, then one or more of the following recovery actions may ensue:

- a) Judgement
- b) Writ
- c) Examination Summons
- d) Rent for Rates (Section 569 of the Local Government Act)
- e) Garnishee
- f) Wind up proceedings
- g) Bankruptcy
- h) Sale of Land (Section 713 of the Local Government Act)
- i) Any other action available through the legal system deemed appropriate in the circumstances.

The Council may engage a mercantile agent or law firm to conduct all or part of any legal recovery on behalf of the Council. Any costs incurred by the Council in connection with legal proceedings will be added to the outstanding account.

7. Privacy

Personal information collected in connection with this Policy will only be used for the purposes of determining the application and will not be used for any other purpose or disclosed to any other person unless Council is required to do so by law or authorised to do so by the person to whom the personal information relates.

8. Delegation of Authority

Authority for implementation of the Debt Recovery Policy is delegated by Council to the General Manager in accordance with the *Local Government Act 1993*.

The General Manager has in turn delegated the day-to-day management of Council's debt recovery the Director Corporate Performance and the Chief Financial Officer and, consequently, the authority to approve schemes of arrangement to pay.

Further, Council has delegated authority to the General Manager to write off amounts due to Council up to \$25,000 for any one item. Any amounts for write off greater than \$25,000 are to be reported to Council for the consideration of Councillors.

9. Responsible Officer/s

Director Corporate Performance
Chief Financial Officer

10. Definitions

Term	Meaning
Act	NSW Local Government Act 1993
Agreement / Arrangement	An agreement accepted by Council or its agents for a person to repay a debt within a specific period of time and with conditions applied therein.
Costs	Amounts incurred by Council in recovering overdue debts (i.e. Court, interest and professional costs), which can legally be recovered from the ratepayer.
Debtor	A person or organization that owes Council money
Eligible Pensioner	As defined in Clause 134 of the Local Government (General) Regulation 2021
Hardship	Any situation where an individual is having difficulty paying legally owed debt. This can result from a range of life changes (i.e. illness, unemployment or changed financial circumstances), restricting the short-term capacity to pay.
Interest	Interest raised in accordance with the NSW Local Government Act 1992 and at a rate as adopted by Council as part of its Revenue Policy.
Regulation	The NSW Local Government (General) Regulation 2021
Write off	The accounting procedure for cancelling a debt that is no longer collectable, resulting in its removal from the ratepayer's balance sheet account.

11. Related Policies and Procedures

Financial Hardship Policy	HPECM Reference

12. Review of this Policy

This Policy will be reviewed every two years or in accordance with legislative requirements. This Policy may also be changed as a result of other amendments that are to the advantage of Council and in the spirit of this Policy.

Any amendment (other than minor administrative amendments) to this Policy must be by way of a Council Resolution. Administrative amendments can be made with the approval of the General Manager.

Policy Amendments

Date	Responsible Officer	Description
10 Feb 2004	Don Johnston	Report to C&W
16 Feb 2004	Don Johnston	Adoption – C&W
11 Jan 2011	Don Johnston	Review – to C&W
7 Feb 2011	Don Johnston	Addition of \$20,000 write off DOA to Director Corporate Services
14 Feb 2011	Don Johnston	Adoption by Council
31 Oct 2022	Sue Meekin	Revised into new format, structure and content changed, \$25,000 write off by General Manager