

# DEBT RECOVERY POLICY

## COMMUNITY POLICY



### 1 Scope

This policy applies to overdue rates and charges or other amounts owed to Rockhampton Regional Council by ratepayers, debtors and suppliers.

### 2 Purpose

The key objectives of this policy is to:

- (a) Ensure a fair, consistent and accountable approach to Council's debt management and collection practice;
- (b) Recognise the importance debt recovery has on the capacity of Council to deliver services to the community;
- (c) Maximise the collection of outstanding debts;
- (d) Establish timelines of communication and debt collection itself to deliver consistency of service; and
- (e) Maximise the cost effectiveness of collection processes.

### 3 Related Documents

#### 3.1 Primary

Nil

#### 3.2 Secondary

*Local Government Act 2009*

*Local Government Regulation 2012*

*Magistrates Courts Act 1921*

Accounts Receivable (Sundry Debtors) Policy

Bad Debts Register

Legal Proceedings - Commencement, Cessation and Other Matters Policy

Rate Payment Policy

Rates Relief (Hardship) Policy

Revenue Policy

Revenue Statement

### 4 Definitions

To assist in interpretation, the following definitions apply:

Act	<i>Local Government Act 2009</i>
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CEO	Chief Executive Officer A person who holds an appointment under section 194 of the Act. This includes a person acting in this position.
Committals	A financial commitment, either estimate or accurate, in the Supply Chain Management Module that signifies an approved order committing Council to the future acquisition of goods and/or services.
Council	Rockhampton Regional Council
Debtor	Any person, including a ratepayer, who owes money to Council.
Debt Collection Agent	The third party contracted to provide collection services for Council.
Delegated Officer	An employee appointed to a position sub-delegated the power under section 134 of the <i>Regulation</i> .
Financial Hardship	Unable to meet basic needs, including food, clothing, medicine, accommodation and children's education.
Pensioner	A person who is: (a) A holder of a Queensland 'Pensioner Concession Card' issued by Centrelink, on behalf of the Department of Human Services, or the Department of Veterans' Affairs; or (b) A Queensland 'Repatriation Health Card – For All Conditions (Gold Card)' issued by the Department of Veterans' Affairs; or (c) A person receiving a Widow's Allowance; and (d) Is the owner or life tenant (either solely or jointly) of the property which is his/her principal place of residence; and (e) Has, either solely or jointly with a co-owner, the legal responsibility for the payment of rates and charges which are levied in respect of the property.
Rates and Charges	As defined in the Act, are levies that a local government imposes: (a) On land; and (b) For a service, facility or activity that is supplied or undertaken by: (i) The local government; or (ii) Someone on behalf of the local government (including a garbage collection contractor, for example).
Ratepayer	As defined in the Regulation, a person who is liable to pay rates or charges.
Regulation	<i>Local Government Regulation 2012</i>
Supplier	A person, organisation or entity that performs a specific act or acts including the provision of services and/or materials to another person, organisation or entity under an agreement enforceable by law.
Supply Chain Management Module	Supply Chain Management Module Purchasing and inventory module within Technology One R1, Council's corporate enterprise system.

## 5 Policy Statement

Rates and charges levied under the Act and Regulation provide a major source of revenue for Council and effective collection processes are vital to ensure viability of the organisation, whilst giving all due consideration and assistance to ratepayers and debtors who display genuine commitment to clearing their debt.

The Act and Regulation provide mechanisms to recover overdue rates and charges. Under section 134 of

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the Regulation a debt may be recovered by bringing court actions against the person who is liable to pay the overdue rates and charges.

Overdue rates and charges may also be recovered by selling land under Division 3 of Part 12 of Chapter 4 of the Regulation.

There are no obligations under the Act that require Council to take any particular action in respect of overdue rates and charges before commencing legal action. Debt collection is a legitimate and necessary business activity, but it is essential that such activity is conducted in a fair and appropriate manner.

Council needs to carefully monitor the level of overdue rates and other amounts due to it, and be vigilant in the recovery function, as outstanding amounts can cause disruption to the provision of services and facilities. Rather than letting the level of overdue rates and other amounts escalate over time, it is preferable to constantly and consistently apply a fair, appropriate and vigilant recovery process.

It is sound administrative practice to adopt a policy that provides a uniform approach and not only assists employees in responding to enquiries but also demonstrates transparency by making clear the obligations of ratepayers and processes used by Council in assisting them meet their financial obligations.

Other amounts due to Council maybe recovered under this policy, for example sundry accounts receivable, licence fees, animal registrations and fines. Recognising the intricacies and specialised knowledge required in some of these functions, the financial records for amounts due are maintained within the appropriate module of Council's corporate applications.

Each Council department is responsible for managing their cash flows, ensuring amounts due to Council are collected as efficiently as possible. Assistance is provided from the Financial Services Section when required, including the capacity to transfer particular debts to rates or referral for further debt recovery action.

## 5.1 Overdue Rates and Charges

A period of approximately seven days after the close of the discount period is allocated to verify the accuracy of rate accounts and to identify those with overdue rates and charges.

The first reminder notice is sent to ratepayers whose accounts show outstanding amounts greater than \$10.

The first notice is a polite reminder with no threat of legal action. It encourages ratepayers to contact Council within 14 days if they are experiencing difficulties in paying their account to organise a suitable payment arrangement to clear the outstanding debt. This notice states Council's proposed action for recovery and that interest accrues on the debt and details of payment options. Following the expiry of 14 days after the reminder notice, a list is prepared on accounts that have outstanding amounts that, in the view of the Chief Financial Officer, requires collection action to mitigate the community's risk of lost revenue (rates and/or water charges), taking into consideration paragraphs 5.1.1.1 and 5.1.1.2 respectively.

This list is referred to Council's external debt collection agent for action outlined in paragraph 5.5.

### 5.1.1 Payment Arrangements

Any payment arrangements entered into with Council, to pay arrears, is not an agreement based on Chapter 4, Part 10, Section 125 of the Regulation.

If an assessment contains three or more years in rates or water arrears Council does not enter into any payment arrangement as the property is deemed to be eligible for sale under the terms of paragraph 5.1.2.

#### 5.1.1.1 Pensioners

Council may, at its sole discretion, enter into a pensioner arrangement for payment by regular instalments of rates and charges for pensioners who:

- (a) Are suffering genuine financial hardship;
- (b) Have a balance greater than \$1,000; and
- (c) Require an ongoing repayment arrangement.

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Instalments are to be sufficient to ensure the arrears situation does not worsen (that is, at least enough to clear current period rates each year).

No interest is charged on overdue rates and water charges whilst the pensioner honours the arrangement.

Should the pensioner default under the arrangement they are subject to Council's normal recovery action for overdue rates and water charges in accordance with paragraph 5.5. Interest will apply to any overdue rates and charges as detailed in the Revenue Statement.

#### **5.1.1.2 Payment Arrangements (Rates Only)**

In cases where genuine financial hardship can be demonstrated, arrangements for payment by regular instalments may be accepted. Interest continues to accrue on any overdue rates and charges as outlined in the Revenue Statement.

To assist Council in applying this policy in a fair and consistent basis a ratepayer may be requested to supply additional supporting documentation. This information assists Council in understanding the financial situation of the impacted ratepayer.

Council does not pursue further recovery action against a ratepayer who has an agreed periodic payment arrangement, while the arrangement is current and the ratepayer adheres to the agreed repayment schedule. Council reserves the right to renegotiate or cancel a payment arrangement should circumstances change where the debt will not be paid within a reasonable time frame.

Should a ratepayer propose an arrangement to pay off the outstanding balance by periodic instalments, they are advised of Council's stance in the above paragraph and that whilst an acceptable level of regular payments is maintained; therefore demonstrating a genuine attempt to clear the debt, Council may defer recovery action. Should the ratepayer default under the arrangement they are subject to Council's normal recovery action for overdue rates in accordance with paragraph 5.5. Council does not enter into any further arrangements if previous agreed arrangements have not been adhered to.

Arrangements are reviewed periodically and any defaulted arrangements where an outstanding balance in the view of the Chief Financial Officer, requires collection action to mitigate the community's risk of lost revenue (rates and/or water charges), remains maybe forwarded to Council's debt collection agent without further notice.

Ratepayers are advised that arrangements are not deemed to be an ongoing facility and all future rates must be paid when due. Repeated requests for arrangements are not accepted but in cases of genuine financial hardship, arrangements may be accepted in accordance with the relevant provisions of this policy.

As a general guide, further recovery action is not taken where payments are being made as follows:

- (a) If the outstanding amount is the current levy or less, and adequate information regarding the ratepayers' financial situation has been supplied, Council will consider arrangements not exceeding the end of the relevant rating period.
- (b) If the outstanding amount is in excess of the current levy, and adequate information regarding the ratepayers financial situation has been supplied, Council will consider longer term arrangements for up to a period of 12 months noting that rates and charges that fall within this period are to be included in the arrangement.

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Where these terms cannot be met the account is generally referred for recovery action as detailed in paragraph 5.5. Payments should ensure current rates and charges are paid as issued to ensure the account does not fall further in arrears.

Arrangements with periods greater than those outlined above may be approved in cases of extenuating circumstances (for example long term illness or unemployment). Approval is given by the Rates and Revenue Supervisor or Chief Financial Officer.

### 5.1.2 Selling or Acquiring Land for Overdue Rates or Charges

In accordance with the Regulation, Part 12 Overdue Rates and Charges, Division 3, Selling or Acquiring Land for Overdue Rates or Charges, the Debt Recovery Officer or the Rates and Revenue Supervisor and the Chief Financial Officer periodically prepares a list of ratepayers with rates and charges outstanding in excess of the periods allowed within the Regulation. This list is tabled for Council’s consideration at the earliest opportunity.

## 5.2 Other Debtors

For other debtors a period of approximately seven days after the end of the month and after issue of statements is allocated to verify the accuracy of accounts and to identify those with overdue amounts.

The first of two reminder notices is sent to debtors whose accounts show outstanding balances:

- (a) The first notice is a polite reminder with no threat of legal action. It encourages debtors to contact Council if they are experiencing difficulties in paying their account to arrange a suitable payment arrangement to clear the outstanding debt.
- (b) When the debt is 45 days overdue, a final demand notice is served giving the debtor seven days to complete payment or make appropriate arrangements, followed by a phone call where practical by the Rates and Revenue Unit. The notice contains Council’s proposed action for recovery and confirms that future services will be cancelled at the expiry of the notice period. The notice also advises that future dealings with Council will be on a cash basis and if unpaid the debt will be referred to Council’s debt recovery agent for further recovery action.

## 5.3 Supplier Credit Notes

Where a credit note is received from a supplier and there is no current or proposed future committal, Council undertakes the following process:

- (a) Accounts Payable issues correspondence to the supplier to request the amount be returned to Council via direct deposit;
- (b) If payment is not received by the due date, further correspondence is issued requesting payment, including notification the matter may be referred to Council’s debt collection agency; and
- (c) Giving consideration to the value and age of the unapplied credit note and the previous action taken to recover the amount, the matter may be referred to Council’s debt collection agency in accordance with paragraph 5.6 – Legal Process or approval sought to waive the amount in accordance with paragraph 5.5 - Unrecoverable – Bad Debts.

## 5.4 Landfill Accounts

For landfill accounts a period of approximately seven days after the end of the month and after issue of statements is allocated to verify the accuracy of accounts and to identify those with overdue amounts.

The first of two reminder notices is sent to debtors whose accounts show outstanding balances:

- (a) The first notice is a polite suspension with no threat of legal action. This notice advises the debtor that due to the arrears, their account is now suspended and they are refused entry to the landfill. Access on a cash basis may be considered upon application. It encourages debtors to contact Council if they are experiencing difficulties in paying their account to arrange a suitable payment arrangement to clear the outstanding debt.

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- (b) The final notice advises the debtor that the account is outstanding beyond the 30 days trading terms and that they are refused entry to the landfill until the account has been paid in full or satisfactory arrangements are made with Council to clear the debt. If the debt remains unpaid, it will be referred to Council's debt recovery agent for further action. If the outstanding debt reaches this stage the debtors credit may be permanently revoked and they will become a cash only customer.

## 5.5 Unrecoverable – Bad Debts

After exercising all steps in this policy it may be considered impractical to pursue a particular debt any further (that is, proceeding with legal action is unlikely to recover the debt).

If a debt is considered unrecoverable (for example bankruptcy) and overdue 180 days or more it is necessary to obtain approval to waive the debt.

Approval must be obtained in one of the following ways:

- (a) The CEO, Deputy Chief Executive Officer and Chief Financial Officer are delegated with authority to waive debts where all practical means to recover the debt have been exhausted and such debt is less than \$3,000.
- (b) Debts in excess of \$3,000 are referred to Council for approval to waive.

All waived debts are recorded in the Bad Debts Register which is regularly reviewed and updated by the Revenue Officer – Accounts Receivable.

The relevant officer/s are responsible for advising other Council units of the debtors listed on this register to ensure no further credit is provided.

A report of debts that have been waived are presented to Council at the next available meeting.

## 5.6 Legal Process

Debts may be forwarded to Council's debt collection agent for recovery action based on the following actions by the debtor, ratepayer or supplier:

- (a) Has not responded by way of payment in full;
- (b) Has not entered into an acceptable arrangement to pay off the overdue account;
- (c) Has not accepted an offer or assistance from Council in accordance with the Rates Relief (Hardship) Policy;
- (d) Does not have their account under investigation for accuracy or awaiting a Council decision;
- (e) Has not complied with agreed requirements of a rates relief (hardship) arrangement; or
- (f) Has defaulted on the agreed payment arrangements.

This will result in a polite demand letter from the debt collection agent detailing the debt and confirming they have been instructed to act on Council's behalf to recover the debt allowing seven days to contact them. If after this period no communication, payment or payment arrangement has been received, then a final demand letter allowing 14 days will be sent on Council's behalf to recover the debt and advise that failure to attend to the request may result in further legal action and costs.

Despite the Legal Proceedings - Commencement, Cessation and Other Matters Policy a delegated officer may instruct an agent acting for Council to take steps necessary to recover overdue rates and charges, including bringing court proceedings on behalf of Council.

Unless an acceptable payment arrangement is made, payment in full including all legal outlays is required prior to the withdrawal of the current recovery action.

Accounts referred to the debt recovery agent may be left under their control and updated from time to time with the balance of accruing rates, charges and interest until the debt is paid in full.

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## 6 Review Timelines

This policy is reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by the Council.

## 7 Document Management

Sponsor	Chief Executive Officer
Business Owner	Deputy Chief Executive Officer
Policy Owner	Chief Financial Officer
Policy Quality Control	Legal and Governance



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