

# Revenue - Debt Recovery and Hardship Policy

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## 1. Purpose

The purpose of this policy is to ensure the Revenue Team has clearly documented guidelines for the efficient, fair, and consistent collection of all outstanding rate and sundry debtor accounts. The objectives of this policy are: -

- Provide support to assist ratepayers and debtors during periods of financial hardship.
- Provide a process for the assessment and determination of financial hardship applications.
- To ensure consistency, fairness, integrity, and confidentiality in all proceedings for all parties: Council, the ratepayer, and the debtor.
- To fulfil the statutory requirements of the Local Government Act 1993 ('the Act') with respect to the recovery of rates, charges, and other debts; and
- To maximise collections of outstanding debts and to optimise Council's cash flow.

## 2. Statement

In developing this policy, Council has taken into account the Debt Management and Hardship Guidelines provided by the Office of Local Government and at all times strives to act in a manner that is just, equitable and empathetic to the needs of our community.

This document is to be used as a guideline in administering Council's hardship provisions and debt recovery procedures.

## 3. Scope

This Policy applies to Council's ratepayers and debtors. It applies to rates, annual charges and fees for services provided by Council.

The recovery of water, sewerage and overdue sundry debtor accounts issued by Shoalhaven Water are managed by them under the Shoalhaven Water Debt Management Policy and are not considered here.

Notwithstanding the provisions contained in this policy Council may, from time to time, provide further assistance measures to ratepayers and other debtors to help meet the financial challenges of unexpected situations (such as natural disasters and pandemics) that face our community. Such measures will be in line with the purpose and spirit of this policy and be subject to specific delegations given to authorised officers of Council.

## 4. Hardship

Shoalhaven City Council recognises that genuine financial hardship can arise for some ratepayers and debtors, created by situations beyond their control. Council will consider an application for hardship assistance in certain circumstances to assist them in meeting their financial obligations to Council.

These hardship provisions do not include assistance for sundry debtor accounts which are managed at a business unit level.

The Act provides ways in which Council may assist ratepayers experiencing genuine financial hardship. These include (but are not limited to):

- Payment plans and arrangements to pay (pursuant to s564 of the Act).

- Writing off or reducing the amount of accrued interest (pursuant to s564 and s567 of the Act); and
- Waiving, reducing, or deferring the payment of the whole or part of the increase in the amount of the rate payable by the ratepayer experiencing substantial hardship resulting from a revaluation. (Pursuant to s601 of the Act)

### **General conditions that relate to applications for hardship assistance:**

- A Hardship Committee will consider applications under this Policy. The committee will consist of the Team Supervisor – Debt Recovery & Daily Banking, an Accounts Receivable Officer, Debt Recovery Officer, and Chief Financial Officer.
- Financial Hardship assistance will only be applied to outstanding rates for the ratepayer's primary place of residence.
- Financial hardship will not be applied to:
  - Investment properties.
  - Commercial or Industrial properties.
  - Vacant land; and
  - Small Lot Rural Subdivisions on which building is not permitted. However, in exceptional circumstances hardship assistance may be extended to local small business at the discretion of the Hardship Committee.
- The overdue rates balance must be at least 12 months overdue. Where a ratepayer experiencing financial distress does not meet the criteria for hardship assistance, provisions are made under this policy for ratepayers to make arrangements to pay outstanding balances. Refer to 'Assistance by Periodical Payment Arrangements.'
- Assistance under this Policy covers the rating period from 1 July to 30 June of the following year. A new application is required to be lodged for each new rating year.
- Upon receipt of the hardship application, a report is prepared for submission to the Hardship Committee, and, upon determination, a letter is sent to the person(s) advising of the Hardship Committee's determination.
- Where assistance is granted under this Policy, the ratepayer must maintain a strict regime of regular payments.
- Provided that payments are maintained, interest that has been charged to the rate account from the commencement of the arrangement period will be waived. If the payments are not maintained as advised by the Hardship Committee, then the interest will remain as a debt payable on the rate account; and
- Ratepayers seeking assistance via postponed rates pursuant to section 585 of the Act must complete a hardship application.

### **Applying for assistance under this Hardship Policy:**

- Applications for assistance under this policy must be made on Council's prescribed application form.
- A confidential statement must be provided by the ratepayer as evidence that the payment of the outstanding rates and charges would cause genuine financial hardship to them.
- For the application to be given full consideration, evidence of hardship must be supplied by the person/s. For example, Social Security information, tax return or Workers Compensation details, etc.; and
- If full disclosure is not made by the person/s, or it is found that incorrect disclosures were deliberately made, Council reserves the right to cancel the agreement and collect any interest previously waived.

## 5. Debt Recovery

### **Rates and Charges**

Annual rates and charges notices are issued in July each year. Rates are payable either in full by 31 August, otherwise by four instalments on or before 31 August, 30 November, 28 February, and 31 May. A rate notice or instalment notice is issued no less than 30 days before each instalment is due.

Interest will be charged at the rate disclosed in Council's annual Fees and Charges document. Interest accrues daily on rates and charges that remain unpaid after they become due and payable.

Any rate payment received will be applied towards rates and charges in the order in which they became due.

Where a property is owned by more than one registered proprietor, they are each jointly and severally liable for the full amount of the outstanding rates and charges on the property.

### **Assistance by Periodical Payment Arrangements**

Council may enter into a formal agreement with a ratepayer for the payment of rates and charges that have become due and payable.

There will be circumstances where a ratepayer who is suffering genuine financial distress does not meet the criteria for hardship assistance under this policy. In those cases, the Manager - Revenue, subject to their delegated authority, may accept an arrangement for the payment of outstanding rates and charges without interest being charged to the rate account. Arrangements in these cases are generally for amounts which are overdue less than 12 months and are to be repaid by 30 June in the current year. Specific terms of the agreement will be advised to the ratepayer.

Where the arrangement is not adhered to, Council reserves the right to cancel the arrangement and collect any uncharged interest.

### **Recovery Action - EXCLUDING ELIGIBLE PENSIONERS**

Where the due date for an instalment has passed by a minimum of 7 days, a ratepayer who has overdue rates and charges of \$100 or more and who has not made a suitable arrangement for the repayment of their overdue balance may be sent a reminder letter on Council letterhead from Council's Debt Recovery Agency.

If, after a further 7 days, the balance remains overdue and no contact has been made with Council for a suitable payment arrangement, then all accounts with an overdue balance exceeding the greater of \$800 or one instalment overdue may be referred to Council's Debt Recovery Agency for further action.

### **Debt Recovery Agency Procedures**

The Debt Recovery Agency will, as soon as practicable after receipt of a referral from Council, issue a letter in relation to each overdue amount advising that Council has referred the debt to the agency for collection and that payment is required within 7 days, otherwise legal action will be commenced.

The letter is to specify the minimum amount in legal costs that will be added to the ratepayer's rate assessment if legal action is commenced. Following the expiration of the 7 days, the Debt Recovery Agency will make recommendations to Council on those debtors they seek to have a statement of liquidated claim (summons) issued on. Council's Debt Recovery Officer, or Manager – Revenue, or Team Supervisor – Debt Recovery & Daily Banking will be required to approve these recommendations.

Following the statutory period after service of the statement of liquidated claim, the Debt Recovery Agency will refer to Council for each additional step of the legal proceedings which may include:

- Obtaining Judgment.
- Garnishee.
- Examination Notice.
- Writ of Execution.
- Bankruptcy / Liquidation; and
- Sale of Land.

### **Arrangements to Pay Where Legal Action Has Already Commenced**

Any ratepayer may enter into an arrangement to repay rates and charges with Council, or with Council's Debt Recovery Agency, provided the arrangement will have rates and charges paid in full within 12 months.

Normal interest charges apply to these arrangements. Interest will only be written off (pursuant to s564 of the Local Government Act 1993), subject to the hardship assistance provisions in this policy.

Council's Debt Recovery Officer may agree to a longer-term repayment arrangement if, in their opinion, a ratepayer's current financial circumstances warrant it. A ratepayer dissatisfied with a decision of the Debt Recovery Officer may have that decision reviewed by the Team Supervisor – Debt Recovery & Daily Banking.

Ratepayers are to be advised at the time of making a payment arrangement that, if an arrangement is defaulted, recovery action will recommence without further notice. All arrangements made with Council must be on Council's prescribed form and must be signed by the ratepayer.

### **Recovery Action for Pensioners Who Became Eligible after 1 July 2015**

Where a pensioner leaves the property due to age, ill health or incapacitation, the pensioner concession may still apply. However, this is on the condition that the occupation of the property remains unchanged from when the pensioner was resident in the property, that is, no additional person occupies the property after the eligible pensioner ceases occupation. In this case the reduction will apply for up to two years from the date the pensioner left the property.

Where the due date for an instalment has passed by a minimum of 7 days, a pensioner ratepayer who has overdue rates and charges of \$100 or more and who has not made a suitable arrangement for the repayment of their overdue balance may be sent a reminder

letter on Council letterhead.

If, after a further 7 days, the balance remains overdue and no contact has been made to Council for a suitable payment arrangement, then a second reminder letter may be sent.

If no response is received within 7 days from the second reminder letter, overdue accounts will be referred to Council's Debt Recovery Agency for further action. Subsequent legal action will continue as recommended by Council's Debt Recovery Agency, if approved by the Debt Recovery Officer or Manager – Revenue or Team Supervisor – Debt Recovery and Daily Banking.

Further action will then involve the issue of a final demand 7 days after the second reminder letter, to any eligible pensioner who has an overdue balance exceeding the greater of \$800 or one instalment overdue. The final demand will specify the minimum amount of legal costs that may be added to the ratepayer's rate assessment if legal action is commenced.

### **Recovery Action for Pensioners Who Became Eligible prior to 1 July 2015**

Eligible pensioners who became eligible before 1 July 2015 are permitted to continue to defer payment of their rates and charges in accordance with previous Council Policy (POL12/142 version 3). However, interest will accrue on the overdue balance.

As per Council's Policy 18/48 Revenue – Pensioner Rates and Charges – Arrears and Interest, Council will not institute legal action to recover rates and charges from eligible pensioners, except where rates and charges are outstanding for a period of 17 years, at which time Council will commence action to secure outstanding rates and charges. Such action to secure overdue rates and charges will include the issuing of a Statement of Claim followed by Judgment.

### **Debt Recovery - Deceased Estates**

Once Council has been advised, in writing, that a person is deceased, a memo will be placed on the Council's Rating System and Council will defer action for up to 6 months. In some instances, the estate will be transferred to the Executors, without Council's knowledge, and, in such a case, any legal fees already raised may be waived.

### **Sale of Land for Unpaid Rates**

In some instances, undertaking legal action for the recovery of unpaid rates and charges does not result in the repayment of the outstanding balances. In those cases, and where the rates and charges are overdue for more than five years, or one year in the case of vacant land, Council retains the right under Division 5 of the Local Government Act to pursue the sale of the land to which those unpaid rates and charges apply.

## **6. Accounts Receivable Provisions**

### **GENERAL**

#### **Accounts Receivable Invoices**

Accounts Receivable invoices are issued daily throughout the year. Payment terms are 30 days from the invoice date, except for invoices raised for Shoalhaven Entertainment Centre accounts, which have payment terms of 7 days.

Additional costs, including interest, may be charged on overdue balances at the interest rate disclosed in Council's annual Fees and Charges document. Interest accrues daily on balances that remain unpaid after they become due and payable.

Any payment received will be applied towards the outstanding balances in the order in which they became due.

Where an account is in the name of more than one account owner, they are each jointly and severally liable for the full amount of the outstanding balances.

## **RECOVERY ACTION**

(Excluding Water and Sewerage related accounts, which are managed by Shoalhaven Water under the Shoalhaven Water Debt Management Policy.)

### **Accounts Other Than Caravan Accounts**

Where the due date for payment has passed by a minimum of 7 days, Council may send a reminder letter to debtors with an overdue account balance of \$10 or more.

If payment is not received within 7 days after the reminder letter has been sent, or an acceptable arrangement made, a final reminder letter may be sent to all accounts with an outstanding balance exceeding \$100.

If payment is not received or a satisfactory arrangement made within 7 days after the final reminder letter, these accounts may be referred to Council's Debt Recovery Agency for further action.

For all accounts with an outstanding balance under \$100, Council will make further contact with the debtor to recover the debt.

### **Caravan Accounts**

Where the due date for payment has passed by a minimum of 7 days, Council may send an initial reminder letter to all van owners with an overdue balance greater than the equivalent of one month's site fees.

For accounts with an overdue balance less than the equivalent of one month's site fees, Council may send reminder communications.

If payment is not received within 7 days after the initial reminder letter being sent, or an acceptable arrangement made, a 'Late Fee' invoice may be issued, together with a final reminder letter, to debtors with an overdue balance greater than the equivalent of one month's site fees.

If payment is not received or a satisfactory arrangement made within 7 days of the final reminder letter been sent, then further action may take place including referral to Council's Debt Recovery Agency.

None of the above action restricts Holiday Haven's ability to terminate agreements pursuant to the provisions contained in the ***Holiday Parks (Long-term Casual Occupation) Act 2002***.



## 7. Delegation to Waive or Write-Off Interest or Legal Fees

Ratepayers and debtors may have interest or legal fees waived or written-off where the reason, although not related to financial hardship, is considered reasonable.

The request for the waiver or writing-off of interest or legal fees must be in writing and clearly state the reason the application is to be considered. The following items will not be considered when reviewing an application for interest or legal fees to be waived or written-off:

- Mere oversight of due date for payment.
- Failure to contact Council prior to the due date to advise of financial difficulties.
- Lack of communication from ratepayer or debtor to alter contact mail address.
- Previous arrangement being defaulted; and
- Previous history of late payments.

The *Local Government (General) Regulation 2005* contains provisions in respect to writing off debts to the Council and the fixing of limits above which require a resolution of the Council.

An amount of five thousand dollars (\$5,000) has been adopted as the amount above which debts may be written off by resolution of the Council only. Any debts under this amount may be written off by an order in writing from the Chief Executive Officer or another officer of Council with the specific delegation to do so.

## 8. Right of Appeal

A decision made by the Manager - Revenue or Team Supervisor – Debt Recovery & Daily Banking can be appealed by the applicant by making a formal written request to the Chief Executive Officer for review of the decision.

## 9. Privacy of Information

Personal information collected as a consequence of this policy will be treated in terms of Council's Privacy Management Plan.

## 10. Implementation

The City Performance Directorate will administer this policy.

## 11. Review

The City Performance Directorate will review this Policy within one year of the election of every new council or earlier should circumstances arise to warrant revision.

## 12. Application of ESD Principles

Not Applicable

## 13. Related Policies

- Revenue - Pensioner Rates and Charges – Arrears and Interest Revenue - Overdue Interest Rate.
- Rates and Other Monies – Delegation of Authority to Write Off.