

1. Policy Statement

The objective of this Policy is to maximise rate recovery within the rating period and to instigate appropriate and timely recovery processes to recover overdue rates and charges.

2. Scope

This Policy applies to all ratepayers with overdue rates and charges levied by Council.

3. Responsibility

The Director of Corporate and Financial Services is responsible for the implementation and maintenance of this Policy.

4. Definitions

Rates and charges are defined in s91 of the *Local Government Act 2009*. Without limiting the detail of the legislation, rates and charges are levies that a local government imposes on land and for a service, facility or activity that is supplied or undertaken by the local government or someone on behalf of the local government.

Overdue rates and charges are defined in s132 of the *Local Government Regulation 2012*. Without limiting the detail of the legislation, overdue rates and charges are rates and charges that are not paid by the due date for payment stated in the rate notice. The rates or charges become overdue on the day after the due date for payment of the rates or charges.

5. Policy

5.1 Safeguarding Council's and the Community's Interests

The Chief Executive Officer or delegate may direct that recovery action for any debt be conducted in a way that differs from the processes set out in this Policy when it is considered to be in the Council's or the community's best interest.

Nothing in this Policy binds the Council to precisely follow any process set out in this Policy, and a failure to follow any process does not change or relieve a debtor's obligation to pay a debt when due.

5.2 Rates and Charges

Legal action for the recovery of outstanding rates and charges may commence any time the rate or charge becomes overdue. Unless there are special circumstances which justify taking an alternative course of action or where financial hardship applies in accordance with Council's Financial Hardship Policy, the Council's usual process to recover overdue rates or charges is set out in this section.

Steps

Overdue Reminder Letter

Council will issue an overdue reminder letter if:

- Seven (7) days after the due date on the rates notice the ratepayer has \$20.00 or more in rates or charges owing to Council; and
- A current payment plan has not been entered into; and
- No other recovery action has been commenced.

Overdue Reminder Phone Call

Council Financial Services and Administration staff will attempt to make one overdue reminder phone call if:

- A phone number for the ratepayer is held on file;
- Seven (7) days after the due date on the overdue reminder letter the ratepayer has \$1,000.00 or more in rates or charges owing to Council;
- A current payment plan has not been entered into; and
- No other recovery action has been commenced.

Demand Letter

Demand letters are issued via a Debt Collection Agency in consultation with Hinchinbrook Shire Council Management Staff to those accounts who fail to either respond to the reminder notice or reminder phone call, and/or fail to abide by a payment commitment from a reminder notice. Council will issue a demand letter if:

- Seven (7) days after an overdue reminder phone call the ratepayer has \$1,000.00 or more in rates or charges owing to Council;
- A current payment plan has not been entered into; and
- No other recovery action has been commenced.

Claim and Statement of Claim

The usual practice of Council is that legal action will be commenced if:

- Seven (7) days after expiry of the demand letter, the amount referred to in the letter has not been paid;
- The ratepayer has \$1,000.00 or more in rates or charges owing to Council; and
- There is no current payment plan to pay the outstanding rates, or the payment plan has not been adhered to.

Once the Statement of Claim is served, Council must wait 28 days for the defendant to pay the account or enter into a payment commitment.

Pre-Judgement Letter

Pre-Judgement Letters may be issued to those accounts that have had a Claim issued and served upon them and either:

- Have made no contact or have failed to abide by a payment commitment after being served with the Claim; and/or

- Seven (7) days have passed after the 28-day waiting period after service of Claim has expired.

Default Judgement

Default judgements are issued in Court against those rate payers who have not responded to the Pre-Judgement Letter or have failed to abide by payment commitments from the Pre-Judgement letter.

Post Judgement Warning Letter

Post Judgement Warning Letters are issued to rate payers automatically after Default Judgment orders are received back from the Court. The rate payer is provided with 14 days to either pay the judgement amount or contact the debt collection office for a payment commitment.

Enforcement of Default Judgement

Council can elect to enforce the judgement debt through the bailiff or court examination of the rate payer or elect to hold the account until three (3) years to proceed to sale of residential property, or until one (1) year to proceed to sale of vacant land or land used solely for commercial purposes.

Properties with a Payment Plan

If there is a current payment plan in place, Council will commence legal action if:

- The ratepayer has not fully complied with the terms of the agreed payment plan; and
- The ratepayer has \$1,000.00 or more in rates or charges owing to Council.

Legal action may be temporarily suspended if the debtor enters into a payment plan satisfactory to Council, which includes the provision for the payment of legal costs.

Sale of Land - Residential

Where rates and charges remain unpaid for three (3) years and no approved payment plan exists, Council may, by resolution, commence proceedings to sell the property subject to and by virtue of its powers under the *Local Government Act 2009* and *Local Government Regulation 2012*.

Sale of Land – Vacant Land and Commercial Property

Where rates and charges remain unpaid on vacant land or land used solely for commercial purpose for one (1) year or more and no approved payment plan exists, and judgment has been obtained, Council may, by resolution, commence proceedings to sell the property subject to and by virtue of its powers under the *Local Government Act 2009* and *Local Government Regulation 2012*.

In recognition of individual privacy and to ensure all rate payers are treated consistently, the list of properties which Council resolves to commence land sale for rates and/or charges will be identified by the property number, property location, and real property description only.

Costs

Council will attempt to recover all legal costs incurred for undertaking recovery action for rates and charges from the ratepayer which may include Council making an application to the court to formalise a costs order.

Once formal recovery action has been commenced it will not be discontinued until the amount of the Claim and any further interest levied in accordance with the *Local Government Act 2009* has been paid in full.

Legal action may be temporarily suspended if the debtor enters into a payment plan satisfactory to Council which includes the provision for the payment of legal costs.

5.4 Agreed Payment Plan

Council may grant a payment plan for the payment of rates and charges. There is no limitation of the scope of the payment plan that can be provided by the Local Government Act 2009. However, due to practical and economic reasons, Council has determined arrangements, should be sufficient to service rates arising in the current financial period and interest accrued, plus a minimum of 20% of the rates in arrears. A financial period represents a half year from 1 July to 31 December or 1 January to 30 June.

All payment plans will be confirmed in writing. Failure to meet the agreed payments will result in a broken payment letter being forwarded to the rate payer. The broken arrangement letter should allow the ratepayer up to seven (7) days in which to bring the payment plan back into order. If the plan is not brought into order, the arrangement will be cancelled. In particular circumstances, legal recovery action may commence immediately in the event of default by the ratepayer.

5.5 Pensioners

Council recognises that Pensioners as a class may face financial difficulties in meeting their obligations, however, as specific concessions are provided to them, pensioners with arrears are encouraged to take advantage of payment schedules that will ensure that the balance in arrears does not escalate beyond their means. As such, all pensioners who fall into arrears will be subject to Council's usual recovery action for overdue rates, in accordance with this policy.

6. Legal Parameters

Local Government Act 2009


Local Government Regulations 2012

Magistrates Courts Act 1921

7. Associated Documents

Revenue Statement

Financial Hardship Policy

DOCUMENT HISTORY AND STATUS				
Action	Name	Position	Signed	Date
Approved by Council	Alan Rayment	CEO		29/06/2020
Policy Version	4	Initial Version Adopted	30/06/2015	Current Version Adopted
Maintained By	Corporate and Financial Services		Next Review Date	30/06/2021
File Location	E:\Shared Data\Administration\Change\Policies, Procedures & Forms\02. Current Documents			