

LIVERPOOL PLAINS SHIRE COUNCIL

POLICY REGISTER

Policy No. 1.47

POLICY TITLE: DEBT RECOVERY

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Date Adopted: 27th February 2008
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History of Policy Review

Version	Adoption Date	Minute No	Details of Review
1	27 th February 2008	11515	New Policy
2	29 th April 2009	12320	Inclusion of time frames (recommended by DLG)
3	27 th March 2013	234	Changes to amount outstanding prior to legal action
4	26 th April 2017	2423	Enhanced procedural steps, inclusion of water restriction device, summary of debt recovery timeframes and litigation options.

OBJECTIVES

To ensure collection of rates, charges and debtors are carried out in a transparent manner that complies with the Local Government Act and *Section 60* of the Trade Practices Act.

To increase Councils cash flow while reducing outstanding debts and provides the flexibility to manage Council debt in a sensitive manner and at minimal expense to both Council and the respective debtor.

POLICY STATEMENT**1. Recovery of Debts****Rates and Annual Charges / Water Billing Accounts**

Recovery action will commence when rates and/or charges are not paid by the due date for each quarterly instalment unless arrangements have been entered into to make periodical payments under *Section 564* of the Local Government Act.

➤ Notices

Rate & Annual Charges and Water billing accounts are issued quarterly.

➤ Recovery Action**Rates & Annual Charges**

Section 563(3)(b) of the Local Government Act 1993 defines the dates on which rate instalments are due in each financial year, as follows:

31 August
30 November
28 February
31 May

As the Act no longer provides for an interest free period for the payment of rates and charges the following recovery action will be applied:

- Rate Notices will be issued by the end of July each year.
- Instalment Notices will be issued one (1) month prior to the instalment due date in accordance with Section 562(5) of the Local Government Act 1993 (e.g. 2nd Instalment Notice to be posted no later than 31st October).
- After 7 days of the rate instalment falling due (as above), all ratepayers (excluding those on payment arrangements) having outstanding balances in excess of \$50.00 will be issued with a 14 day reminder letter. The 7 days grace is given for electronic payments paid but not received on the due date and missed payments.
- After 3 days post expiration of the 14 days reminder letter, a subsequent Letter of Demand will be forwarded to ratepayers in relation to properties with an outstanding rates balance greater than \$100.00. The letter will advise that failure to pay or negotiate an agreed payment arrangement within 7 days will result in legal action being initiated to recover the debt, together with any statutory interest and legal charges.
- After 3 days post expiration of the 7 day Letter of Demand, where properties have an outstanding balance of \$500.00 or more and the debtor fails to enter into a satisfactory arrangement, Council will proceed with litigation to recover the outstanding amount.

Water Consumption

Domestic

- An account for water supply is issued to each consumer on a quarterly basis following the reading of water meters.
- The actual water consumption account dispatched to each water consumer provides all relevant details including the past reading, present reading, water consumption, kilolitre consumption charge, total consumption charge and due date.

The following recovery action will be applied quarterly:

- On properties where an amount of \$100.00 or greater is outstanding, an Outstanding Water Consumption Letter will be forwarded 7 days after the due date. Such notice will advise the amount outstanding is due in 7 days and is attracting interest charges in accordance with Section 566 of the Local Government Act 1993.
- Upon expiration of the 7 day Outstanding Water Consumption Letter, where an amount of \$100.00 or greater is outstanding, a notice will be forwarded advising that failure to pay will result in a **restriction device** being fitted to the water meter. Such notice will advise the amount outstanding is due within 14 days and if not paid will result in further charges being raised.
- Upon expiration of the notice Council will fit a restriction device to the meter and issue a notice of restriction to the debtor advising the amount outstanding is due within 14 days plus the appropriate charges as detailed in Council's Fees and Charges for the restriction device being installed and removed. Unauthorized removal of this device will result in a fine being issued under Chapter 16 Part 3 Section 636 "Tampering with Meters and Fittings" of the Local Government Act 1993, with a maximum fine of \$2,200.
- Upon expiration of the Notice of Restriction, a 7 day Letter of Demand will be forwarded advising that failure to pay will result in legal action being initiated to recover the debt, together with any statutory interest and legal charges.
- Failure to make payment or make suitable payment arrangements, following the issue of a Letter of Demand, where properties have an outstanding debt of \$500.00 or more, will result in the matter proceeding to litigation to recover the outstanding amount including interest and legal charges. Council's Finance Manager or Accounts Receivable Officer shall make application to the Local Court for debts less than \$500.00

Non-Domestic

- An account for water supply is issued to each consumer on a quarterly basis following the reading of water meters.
- The actual water consumption account dispatched to each water consumer provides all relevant details including the past reading, present reading, water consumption, kilolitre consumption charge, total consumption charge and due date.

The following recovery action will be applied on a quarterly basis:

- On properties where an amount of \$100.00 or greater is outstanding, an Outstanding Water Consumption Notice will be forwarded 7 days after the due date. Such notice will advise the amount outstanding is due in 7 days and is attracting interest charges in accordance with Section 566 of the Local Government Act 1993.
- Upon expiration of the outstanding water notice a 7 day Letter of Demand will be forwarded advising that failure to pay will result in legal action being initiated to recover the debt, together with any statutory interest and legal charges.
- Upon expiration of the Letter of Demand, where properties have an amount of \$500.00 or greater outstanding and the debtor fails to enter into a satisfactory payment arrangement the

matter will proceed to litigation to recover the outstanding amount.

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Metered Water Tower / Bulk Water Terminal

- An account for water supply is issued to each consumer on a monthly basis following the reading of water meters.
- The actual water consumption account dispatched to each water consumer provides all relevant details including the past reading, present reading, water consumption, kilolitre consumption charge, total consumption charge and due date.

The following recovery action will be applied:

- On accounts where an amount of \$200.00 or greater is outstanding, an Outstanding Water Consumption Notice will be forwarded 7 days after the due date. Such notice will advise the amount outstanding is due in 14 days and is attracting interest charges in accordance with Section 566 of the Local Government Act 1993.
- Upon expiration of the 14 days where an amount of \$200.00 or greater is outstanding a notice will be forwarded advising that failure to pay will result in a **restriction device** being fitted to the metered water tower and termination of the current agreement. Such notice will advise the amount outstanding is due within 14 days and if not paid will result in further charges being raised.
- Upon expiration of the notice a restriction device will be fitted to the metered water tower and a notice of restriction will be issued to the consumer. A notification of termination of the current agreement will also be issued with information to the debtor advising the amount outstanding is due within 14 days plus the appropriate charges as detailed in Council's Fees and Charges for the restriction device.
- Upon expiration of the Notice of Restriction a Letter of Demand will be forwarded advising that failure to pay will result in legal action being initiated to recover the debt, together with any statutory interest and legal charges.
- Upon expiration of the Letter of Demand, where properties have a debt of \$500.00 or greater outstanding and the debtor fails to enter into a satisfactory payment arrangement Council will proceed with litigation to recover the outstanding amount including interest and legal charges.

➤ **Interest**

Interest will be charged in accordance with Section 566 of the Local Government Act 1993, at the rate as adopted by Council.

➤ **Arrangements**

Council in accordance with Section 564 of the Local Government Act 1993 can accept variable rate payments.

- Payment arrangements are to be fair and equitable for both Council and the ratepayer.
- Arrangements shall be considered on an individual basis with an objective to extinguish the debt within twelve months. The recovery of current year rates and charges must not extend more than six (6) months beyond the end of the financial year within which they were due.
- Arrangement approval can be made by the Rates Officer, Finance Manager or Director of Engineering Services.
- Arrangements for arrears of rates and charges in excess of one (1) year can be extended to twelve months beyond the end of the current year. Authorisation can be made by the Rates Officer, Accounts Receivable Officer, Finance Manager or Director of Engineering Services.

- Payment arrangements for more than twelve months MUST be approved by the Finance Manager or Director of Engineering Services.

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- Failure to strictly adhere to the terms of a payment arrangement will result in recovery action being commenced immediately.
- At all times consideration will be given to clear the debt by way of mutually agreed payment arrangements with a view to having the debt cleared prior to the end of the current financial year so the problem is not compounded.
- All arrangements require a signed agreement where the amount outstanding exceeds \$500.00. Details of the arrangement are then entered into the Authority debt recovery module, payment arrangements spreadsheet and a letter confirming the arrangement is then sent to the ratepayer.
- Arrangements are to be monitored weekly by the Rates Officer and Accounts Receivable Officer.
- Ratepayers defaulting on payment arrangements will be issued with a seven (7) day letter requesting recommencement of the payment arrangement. Failure to comply with the request will result in immediate legal action (Details of the account outstanding will be forwarded to the Debt Collection Agency).

➤ **Litigation**

- A Statement of Liquidated Claim (Summons) is to be issued by the Local Court after the expiration of the Letter of Demand.
- Where a debtor lodges a defense against the Statement of Liquidated Claim, the Finance Manager is to be immediately advised and his instructions sought (a solicitor may need to be retained and briefed pending the Court Hearing).

➤ **Default Judgment**

- Council files for Judgment in the Local Court after the expiration of the Statement of Liquidated Claim.
- Default Judgment should be filed thirty five (35) days after the Statement of Liquidated Claim was served.

➤ **Garnishee**

- Garnishee proceedings permit Council to satisfy the outstanding debt from moneys due to the debtor from third parties.
- Council can garnishee the wage or salary payable to the debtor.

➤ **Seizure of Goods**

- Where default Judgment is obtained, an application for the issuance of a Writ of Execution is to be made to the Local Court within five (5) days of receipt of the default Judgment.
- Where seizure of goods is made by the Sheriff in accordance with a Writ of Execution, the Finance Manager will be immediately advised and his affirmation obtained in relation to the physical retrieval of the goods and their disposal at auction or otherwise.

➤ **Sale of Land For Overdue Rates**

Throughout the year the Rates Officer will review all assessments to identify those properties eligible for sale in accordance with Section 713 of the Local Government Act 1993.

This method of debt recovery will only be used as a last resort.

The list of eligible properties will be submitted to the Director of Engineering Services.

- a. The Rates Officer will complete a title search for each property.
- b. Letters will be written to the ratepayer and other interested parties advising of Councils intention to sell the property for overdue rates.
- c. The General Manager must certify the outstanding rates.
- d. The Director of Engineering Services will report to Council recommending the sale of the properties. Formal Council resolution is required to sell the properties.
- e. Council chambers to be booked, local agent appointed to conduct the auction, Council's Solicitor to be advised of the sale and be requested to prepare contracts, advertisements are to be placed in the Government Gazette and local paper advising of the auction.
- f. The properties will be sold on the day if all rates and charges are not paid prior to the auction. (Payment by bank cheque and cash only).

Sundry Debtors – Private Works, Kerb & Gutter and Footpath

The following actions are undertaken to process and monitor these charges:

- On a weekly basis invoices are produced showing the due date and the amount raised.
- At the beginning of each month debtors receive a statement detailing the months transactions.
- The relevant department should advise Finance staff when to raise a debt.
- In the event of non-payment, Council's Finance Department will adopt the measures detailed below to recover the outstanding amount, without advising the instigating department.
- The Finance Department will provide where appropriate a debtor listing showing outstanding debtor balances to the relevant operational managers.
- Each operational manager is obliged to advise Finance of any known problems with debtors as they become aware of such problems. These will be considered by Finance staff prior to initiating litigation.
- Recovery action will commence if other debts (*other than amounts due from Government Departments*) are not paid within thirty (30) days unless payment arrangements have been entered into.

➤ Accounts

If payment is not received within thirty (30) days, the following recovery action:

Reminder letter

- After thirty (30) days of the account falling due after, all persons having outstanding balances in excess of \$20.00 will be issued with a 14 day reminder letter.
- Failure to make payment or make suitable arrangements (as outlined below) within the 14 days, for all outstanding balances in excess of \$100.00, will result in the issue of a 7 day Demand Letter sent from Councils debt collection agency for recovery.
- Upon expiration of the Letter of Demand where accounts have an amount of \$500.00 or greater outstanding and the debtor fails to enter into a satisfactory arrangement Council will proceed with litigation to recover the outstanding amount.

Arrangements

- Payment arrangements are to be fair and equitable for both Council and the debtor. The recovery of outstanding private works charges must not extend more than three (3) months. Arrangement approval can be made by the Accounts Receivable Officer or Finance Manager.
- Arrangements for the payment of capital contributions such as footpaths and kerb & guttering can be made after the issuing date of the invoice. Authorization can be made by the, Finance Manager or Director of Engineering Services.
- Payment arrangements of more than twelve months MUST be approved by the Finance Manager or Director of Engineering Services.
- All arrangements require a signed agreement where the amount outstanding exceeds \$500.00. Details of the arrangement are then entered into the Authority debt recovery module and a letter confirming the arrangement is then sent to the debtor.
- Arrangements are to be monitored weekly by the Accounts Receivable Officer.
- Debtors defaulting on payment arrangements will be issued with a seven (7) day letter requesting recommencement of the payment arrangement. Failure to comply with the request will result in immediate legal action. Details of the account outstanding will be forwarded to the Debt Collection Agency. (Accounts in excess of \$500.00) Council's Finance Manager or Accounts Receivable Officer shall make application to the Local Court for debts less than \$500.00.

2. Writing Off Accrued Interest

Applications for writing off accrued interest under the hardship provisions of the Local Government Act 1993 shall be determined on the merits of each individual case, on the basis of whether or not the hardship criteria have been satisfied by the applicant and a proper opinion can be formed.

3. Writing Off by Resolution

Rates or charges (*including accrued interest*) or other debts will be written off only by resolution of Council.

4. Hardship

- In circumstances where the debtor is a pensioner or a person suffering from drought induced financial hardship, the ability of the debtor to make full or part payments is to be carefully examined and any subsequent demands or arrangements only made without causing financial hardship to the debtor concerned.
- At all times the information provided by debtors to enable an assessment of their overall financial position will be treated as “**CONFIDENTIAL**”.
- It is not the intention to cause hardship to any ratepayer through the above procedures.
- All arrangements are subject to approval by the General Manager.

Timetable**Rates**

Description	No of days after due date
Rate Notice or Instalment Notice	Due date
Reminder Letter (file produced 7 Days after instalment due date and either forwarded printing house for production or printed internally)	7 days
Letter of Demand	17 days
Summons	34 days

Water Consumption

Description	No of days after due date
Water Consumption Notice	Due date
Overdue Water Notice	7 days
The following recovery action will be applied on a quarterly basis:	
Advice of Restriction Device	21 days
Restriction Device Notice	35 days
Letter of Demand	49 days
Summons	59 days

Sundry Debtors

Description	No of days after due date
Sundry Debtor Invoice or Notice	Due date (30 days)
Overdue Sundry Debtor Notice	44 days
Letter of Demand	52 days
Summons	60 days