

CP 28 Debt Management Policy

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Policy Objective

To ensure that the collection of debts is undertaken fairly, impartially, consistently, efficiently, effectively and in accordance with good governance.

To encourage any person, organisation or company having difficulty in paying an outstanding debt to contact the Council and make arrangements for a payment plan to pay the debt in a reasonable and manageable timeframe.

To ensure that the collection of debt is consistent with the *Local Government Act*, Regulations and Accounting Standards and recognised financial practices.

Policy Scope

This Policy includes but is not limited to:

- Rates and charges
- Landfill fees
- Building fees
- Special charge scheme debts
- Facility hire fees
- Lease fees
- Unpaid grants
- Fire hazard clearance charges
- Release Fees
- Saleyards fees
- All miscellaneous fees and charges where a debt is created
- Interest penalties on outstanding fees and charges.

The Local Government Act establishes the law that applies to the declaration of rates, payment of rates, interest on outstanding rates and the collection of overdue rates.

This Policy covers:

- All debts
- Some aspects of invoicing
- The initial establishment of a debt
- Follow up actions to collect outstanding debts
- Creation of a provision for doubtful debts and write off of bad debts.

The Policy does not cover:

- Fees and charges where no debt is created (for example, applications fees that should be paid at the time the application is made and for which an invoice is not raised).
- Non-monetary debts and obligations (for example, outstanding conditions on permits).
- Infringement Management Enforcement (parking fines).
- Local Law enforcement which are taken to Court.

Debt Management Process

The general principles described in this section are applicable to all debts and debtors, but they also need to be considered in conjunction with Section 2 which outlines specific requirements in relation to debt types.

1.1. Payment Terms

The Council's payment terms are 30 days of the invoice being issued unless specific regulations apply or unless *Section 1.4* of this Policy applies, this does not apply to rates and charges.

Venue hire terms will require 50 percent deposit (or as agreed deposit) prior to the date of the venue use. If accounts are not settled within the Council terms, future bookings will not be available until the outstanding accounts have been settled. Future booking will also then require 50 percent deposit and settlement of the booking fee on or prior to booking occurring.

1.2 Invoicing

A debt is created when the service is provided or when the invoice is created whichever occurs first. (*Note: Revenue is recognised in the Council's accounts when the invoice has been raised*).

Unless there is regulation or accepted practice to the contrary, an invoice should be produced and payment requested at the time, or in advance, of the service being provided. This practice reduces the risk of non-payment. However, it is recognised that there will be instances where invoicing and payment in advance is not practical.

The Finance Department is the Department with authority to generate and authorise the creation of the Council invoice in Synergy. Requests for preparation of invoices are to be made via '*Finance - Accounts Receivable Invoice Request Form*', available in the Council's record management system.

1.3 Reminder Notices

Except as specified in *Section 2*, if payment of an invoice has not been received within 14-days after the 30-day payment due date, a reminder notice will be sent out by the Finance Department.

The reminder notice will request payment within 14-days and advise of any penalties that may apply to non-payment. The reminder notice will encourage the debtor to contact the Council to discuss any concerns with the debt or reasons why the invoice has not been paid.

Reminder phone calls and other debt follow up procedures may be employed by the debt owner or the Finance Department.

If payment has not been received within 14-days of the reminder notice due date, a final notice will be sent. The final notice will request payment within seven days.

If payment is not received in the required timeframe after the final notice the debtor may be referred to a debt collection agency.

Further reminder notices will continue to be sent. A record will be kept of all attempts to contact the debtor, whether successful or unsuccessful.

The Finance Department will contact council staff member that made the funding application. Council staff are to contact the body regarding the outstanding debt and investigate if there is an issue or if payment will be made soon.

1.4 Payment Arrangements

Any person, organisation or company who is having difficulty in paying a debt is encouraged to contact the Council and make a personal payment arrangement to pay off the debt in a reasonable and manageable timeframe.

The Finance Department will consider requests for a payment arrangement and may agree upon a payment arrangement (for example, a fortnightly/ monthly payment of an agreed amount until the debt is paid in full).

The Compliance Coordinator may agree upon a payment plan for Local Laws fines.

Details of the payment arrangement must be recorded, and payments monitored. Any defaults (that is, payment not made by the agreed date) will be followed up by The Finance Department (except as described in *Section 2.4*) and a new payment arrangement may be made.

If the debtor defaults on the payment arrangement by missing two or more consecutive payments, debt recovery under *Section 1.8* of this Policy may be commenced, unless the debt is governed by regulations that prohibit debt collection.

1.5 Interest Penalties

The Council will charge interest on unpaid rates and charges in accordance with *section 172* of the *Local Government Act 1989*.

The maximum penalty interest percentage rate is fixed by the Minister in accordance with *section 172* of the *Local Government Act 1989*, as applied on the first day of July.

1.6 Continuation of the Provision of services where debt is overdue

In some cases, specific regulations or funding require the Council to continue to supply services regardless of outstanding debts.

In the case where the service is discretionary (for example facility hire charge or service fee) and is not governed by specific regulation, the relevant Department must not continue to supply service where debts are more than 60 days old, and no payment arrangement has been agreed.

In these circumstances' approval from the relevant General Manager Corporate is required to continue provision of services.

1.7 Financial Hardship (Rates)

Under sections of the *Local Government Act 1989*, councils have the authority to:

- defer payment of rates and charges due to hardship (s170); and
- waive rates and charges and interest due to financial hardship (s171A); and
- enter into Payment Plans for overdue rates and charges (s171B).

1.8 Debt Recovery

Unless there is a specific regulation or other requirements or unless a payment arrangement/plan has been agreed, the Council will refer a debt that is overdue by 75 days or more to a debt collection agency. Rates and Charges debts may be referred to debt collection on a case-by-case basis.

The debtor will be liable for all legal costs incurred by the Council in the debt collection process once a judgement on the debt has been processed by the Court.

The Finance Department will advise the relevant department of the intention to refer the debt to a debt collection agency.

Generally, only debts over \$1,000 will be referred to the debt collection agency. In the case of debts under \$1,000, the debt will be written off and the debtor will be advised that they are no longer eligible to receive the service until such time as the debt is paid. The relevant service provider will also be advised that no credit is to be authorised to the debtor until payment is received.

For debt recovery action not to be taken, the approval of the relevant Department Manager or the Manager Finance is required. If the initial action by the debt collection agency does not result in payment of the debt, the Finance Department will determine if it is financially beneficial to pursue legal recovery.

1.9 Provision Doubtful Debts

Section 1.9 of this Policy does not apply to Rates.

A provision for doubtful debts is a liability to reflect debt that is likely never to be collected and hence is expected to be written off in future periods.

The Finance Department will maintain a provision for doubtful debts based on expected credit losses (ECL). When a Sundry Debtor invoice is raised, the Council will review the potential for loss based on past events, current conditions, and future economic conditions.

1.10 Bad Debts

Section 1.10 of the Policy does not apply to Rates.

If debts are over one year old with no payment arrangement in place, they will be considered as bad debts.

After all avenues to collect the debt have been exhausted approval may be sought to write off a bad debt (see *section 1.11* and *1.13* of this Policy).

The Finance Department will refer all bad debts over one year old to the General Manager Corporate for approval to write off.

All approved write offs will be recorded in the nominated accounts under the Finance Department.

If a debt is written off and a client seeks to have further service provided at a future date, the written off debt will be reinstated, and the client will be required to pay the debt before the service is reinstated.

1.11 Approval to write off bad debts and or penalty interest

A bad debt of up to \$500 may be written off by the Manager Finance.

A bad debt greater than \$500 and less than \$5,000 may be written off by the General Manager Corporate.

A bad debt greater than \$5,000 may be written off by the Chief Executive Officer.

Penalty interest associated with Sundry Debtors and Rates Debtors may be written off or waived by the Revenue Property and Valuations Coordinator or the General Manager Corporate in accordance with the above-mentioned limits.

1.12 Correction of invoicing and rating errors and issuing credit notes

If it is discovered that an error has been made and a rate payer or debtor has been incorrectly undercharged, the Council will correct the error immediately for future billing periods and invoices and the Council will not attempt to apply the correct fee or charge retrospectively.

If it is discovered that an error has been made and a ratepayer or debtor has been incorrectly overcharged, the Council will correct the error immediately for current and future billing periods and invoices. The Council will apply the correct fee or charge retrospectively to 1 July of the current financial year or the date of debt, whichever is later.

Upon written application from the ratepayer or debtor who has been incorrectly overcharged, the General Manager Corporate will consider the merits of the matter and may apply the correct fee or charge retrospectively (for example in the case where an error which had previously been brought to the Council's attention and not corrected).

Any credit notes or other adjustments to amounts owed due to a correction of amounts invoiced or rates levied must be approved by an appropriate delegate in accordance with the *Benalla Rural City Council Financial Delegation of Procurement Authority*.

1.13 Refunds and Waiving of Debt

There may be circumstances where refunds may be required because the service was not provided, or the service was provided in an unsatisfactory manner. The refund must be documented on a *Payment Form*. The form should be approved by the relevant Coordinator or Department Manager.

There may also be special circumstances where the Council may waive a debt as a goodwill gesture. An example may be where a debtor has suffered severe personal hardship. In such a circumstance the debt may be written off as follows:

- A debt of up to \$500 may be written off by the Manager Finance.
- A debt greater than \$500 and less than \$5,000 may be written off by General Manger Corporate.
- A debt greater than \$5,000 may be written off by the Chief Executive Officer.

Requirements in relation to specific types of debtors

2.1 Rates

Section 180 and *section 181* of the *Local Government Act 1989*, outlines the Council's powers in relation to overdue rates and charges. A Rate Notice is sent on or around 1 September each year.

Rates are payable in four instalments due 30 September, 30 November, 28 February and 31 May.

As provided for in the Act, penalty interest is levied on amounts not paid by the instalment due date. Interest charges are applied to the Council charges and the Fire Services Property Levy on a consistent basis, in accordance with relevant legislation.

A reminder notice is sent between 1-2 weeks after each instalment due date. The reminder notice includes unpaid amounts from previous periods and interest payable.

Each reminder notice states that payment must be made now and advises the ratepayer of the payment options available including deferrals and payment plans.

The Council may instruct the debt collection agency or the agency's solicitors or its own solicitors to take the following steps to collect the debt:

1. Debt collection agency Final Notice letter will be issued.
2. Debt collection agency Solicitors letter will be issued.
3. Application will be made to the Magistrates Court for a Complaint to be issued.
4. Pre-Judgement warning letter will be sent to the ratepayer.
5. Application will be made to the Magistrates Court for Judgement.
6. Other options including Summons for Oral Examination, garnishing of wages, etc.

Debt collection is an expensive process, and the full cost of any action is passed onto the Ratepayer and becomes a charge against the property.

Under the relevant Act already specified in this section of policy, in relation to rates, unpaid rates remain as a charge against the property, and they must be paid first when a property is sold. Therefore, there are no doubtful debts or debt write offs in relation to Rates.

2.2 Sale of land to recover unpaid rates

Under *section 181* of the *Local Government Act 1989*, the Council has the power to sell land to recover unpaid rates and charges if the rates and charges have been unpaid for more than three years.

The benefit of selling the land is that the Council will be able to recover all monies owed to it and furthermore, the property becomes a revenue producing property again. That is, the new owner is a new ratepayer.

The Council will not exercise the power it has under *section 181* of the Act:

- Until all other relevant requirements of this Policy (to recover the unpaid rates and charges, on the land in question) have been taken.
- There is a dwelling constructed on the land which is currently being used as a principal place of residence by the ratepayer.

The Council has delegated to the Chief Executive Officer all powers and authorities in respect of *Section 181* of the Act relevant to the sale of land to recover unpaid rates and charges.

In turn, the Chief Executive Officer has delegated that power and authority to the General Manager Corporate. Prior to any action being undertaken by the Council Officers in relation to *Section 181*, approval must be obtained from the General Manager Corporate.

2.3 Leases

There may be terms in the lease agreement that vary from the principles outlined in *Section 3*.

2.4 Grants

Final notices, interest penalties and debt collection processes will not be invoked for unpaid grants.

Roles and Responsibilities

3.1 Debt Owner

The Department with responsibility for the income stream is known as the Debt Owner. The Debt Owner has overall responsibility for the management of the related debt.

The debt owner is responsible for:

- Ensuring that invoiced amounts are correct.
- Aiding Finance in follow up on overdue debts (in some cases all debts are followed up by the debt owner).
- Liaising with Finance in terms of the status of debts (e.g. whether it is likely to be recovered).
- Documenting any discussions with Debtors in relation to outstanding monies and providing the documentation to Finance.
- Ensuring further credit is not given to the Debtor with overdue debts unless there is a specific regulation.
- Gaining approval from the relevant Manager (and in some cases the General Manager Corporate) for any Debt write off and advising Finance accordingly.

3.2 Finance Department

In relation to debt collection, the Finance Department is responsible for:

- Sending out invoices.
- Recording debts in the financial systems.
- Recording payments in the financial systems.
- Sending reminder letters on overdue debt (except for fines and infringement notices).
- Follow up on overdue debt (with assistance from the Debt Owner).
- Determining the level of doubtful debts (with assistance from the Debt Owner).
- Referring debts to a debt collection agency after advice from the Debt Owner.
- Advising Departments on the status of outstanding debts and making recommendations on debt recovery/write off.
- Calculating the Provision for Doubtful Debts.
- Writing off debts in the financial systems after written approval has been received from the Debt Owner. Refer *Section 1.10* and *1.11*.

Review

This policy may be reviewed at any time by the Council to accommodate changes in legislation, regulations, policy gaps, new technology or systems, as well as remain consistent with industry best practice.

Related Policies

Benalla Rural City Council Financial Delegation of Procurement Authority