TEMORA SHIRE COUNCIL

DEBT RECOVERY & HARDSHIP ASSISTANCE POLICY

DRAFT

Review Details

ABOUT THIS RELEASE

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REVIEW

Revision Date	Revision Description	Revision No.	Date approved by Council	General Manager's Endorsement
December 2017	New Procedures	1		
July 2018	Revision	2	19 July 2018	Gary Lavelle
October 2022	Revision	3	20 October 2022	Gary Lavelle
August 2025	General review and expand hardship provisions	4	September 2025	Melissa Boxall

PLANNED REVIEW

Planned Review Date	Revision Description	Review by
2029	Revision	Director of Administration & Finance

Objectives

The objectives of this policy are to:

- provide a framework for the efficient and effective collection of outstanding debts balanced with a respectful and sensitive approach to ratepayers and other debtors suffering financial hardship;
- recover monies owing to Council in a timely and effective manner and ensure sound cash flow management that contributes to low levels of outstanding rates and charges; and
- provide a process that is ethical, transparent and compliant with legal obligations and legislation.

Council will treat all customers fairly and consistently in considering their circumstances. All matters will be treated confidentially under this policy.

POLICY

1. Recovery of Overdue Rates and Annual Charges

Rates and Charges include all amounts charged in accordance with Section 546 of the Local Government Act 1993 ("the Act").

Council rates and annual charges are due to be paid in full before 31 August, or by quarterly instalments due 31 August, 30 November, 28 February and 31 May each year in accordance with Section 562 of the LG Act.

Rates notices must be issued on or before 31 July each year.

Instalment notices must be issued to ratepayers paying by instalment one month prior to instalment due dates being 30 November, 28 February and 31 May.

Interest on overdue rates and annual charges will be charged daily in accordance with Section 566 of the LG Act and as listed in Council's Schedule of Fees and Charges.

Where payment is overdue and an appropriate payment arrangement has not been agreed, the following recovery actions will be undertaken.

1.1 Reminder Notice

A Reminder Notice will be issued within thirty days of the end of the second and fourth quarters, to all ratepayers who have rates and/or charges outstanding in excess of $100 <u>or</u> the balance due is more than two instalments, and will include the following information:

- the amount owing
- the rate of interest being charged
- advice that the ratepayer should contact Council to discuss an alternative payment arrangement if unable to pay the outstanding amount in full
- advice that the council officer will be respectful, courteous and discreet when working with the ratepayer to resolve the matter
- notification that all legal costs and expenses incurred in recovering rates will be charged against the property under the Act.
- Contact details of local support services, including free legal advice or financial counselling.

1.2 Final Notice

If the Reminder Notice does not result in payment in full or suitable payment arrangement being made within fourteen days of the date of the Reminder Notice, a Final Notice will be issued.

The Final Notice will include all the information included on the reminder letter and will also specify the amount of legal charges.

Where available and appropriate, additional channels of communication may be used to remind ratepayers of outstanding debts such as SMS reminders, telephone calls or emails.

1.3 Legal Recovery

If the above processes are unsuccessful in securing payment or a suitable payment arrangement within fourteen days, legal recovery action will commence.

A report will be prepared and submitted to the Director of Administration & Finance of all accounts with an outstanding balance greater than $1,000 for authorisation to proceed to legal action.

Legal recovery process may include the following:

- Letter of Demand / SMS / email
- Statement of Claim warning letter
- Statement of Claim
- Field Calls/Skip Tracing
- Judgment
- Garnishee
- Examination Notices/Summons
- Writ of Property
- Bankruptcy
- Late stage/intervention process

Council retains the discretion to apply the provision of the Act relating to sale of land for unpaid rates, charges and interest as stated in Sections 713-726 of the Act. Section 713 provides that Council, where rates and charges have been unpaid for more than five years, may sell the land to recover those outstanding amounts. Vacant land can be sold with only one year's rates and charges outstanding if it meets the specific conditions in the Act.

2. Recovery of Outstanding Sundry Debts (other than Rates & Charges)

2.1 Invoices

Invoices are raised as debtor information comes to hand and are issued as they are produced. The terms for payment of invoices are thirty days after the end of the month invoiced.

Statements are issued within seven days of the end of each month.

If an account is not paid by the due date, monthly statements will be forwarded as a reminder.

2.2 Exemption

This policy does not apply to the collection of debts from funeral services. This exemption is made to reflect the sensitive nature of the debt and the collection efforts of the funeral service. The funeral service arrangement provides that payment is made to Council when received by the funeral service provider.

2.3 Charge on Land

Where an account for compulsory contributions to footpaths, kerb and guttering and other works, constituting a charge on the land in accordance with the Roads Act, is not paid after ninety days, no further recovery action will occur. A statement will be sent every six months as a notification of the amount of the debt on the land. The sundry debtor will be linked to the relevant rates assessment and the outstanding debtor amount will be included on any Section 603 Certificate issued.

2.4 Final Notice

Once an account is overdue by ninety days or more and no appropriate payment arrangement has been agreed, the following recovery actions will be followed:

- Issue Final Notice
- Where available and appropriate, additional channels of communication may be used to inform debtors of outstanding amounts. This may include options such as SMS reminders, telephone calls and email communication.
- Where available, suspension of credit and/or service

2.5 Legal Recovery

If the above processes are unsuccessful, legal recovery action will commence. Legal recovery processes may include the following:

- Letter of Demand from Council's collection agency
- Statement of Claim warning letter
- Statement of Claim
- Field Calls/Skip Tracing
- Judgment
- Garnishee
- Examination Notices/Summons
- Writ on property
- Bankruptcy

All legal costs and other expenses incurred in debt recovery actions will be charged against the Sundry Debtor account.

3. Customer Contact

It is recognised that personal contact with customers to discuss outstanding accounts is a more amicable approach to debt recovery than legal action.

All customer contact will be made in accordance with the Office of Local Government's Best Practice procedures for contacting ratepayers which is available at the following URL. https://www.olg.nsw.gov.au/councils/council-finances/debt-management-and-hardship-guidelines/

Council will make every reasonable effort to contact a customer with an overdue account before instigating legal recovery action.

Contact efforts may include one or more of the following:

- using known address, telephone and email details as recorded in Council's billing system
- searching other Council databases for alternate contact details
- internet search to find contact details
- company search where appropriate

All contact attempts and search efforts to be recorded in notes against the respective account.

4. Hardship Assistance

This policy recognises that ratepayers and other debtors may at times encounter difficulty in the payment of rates and other charges. Council's intention is to offer ratepayers in these situations a suitable payment arrangement. Hardship can result from a number of factors including but not limited to:

- Loss of employment or a change in income
- Illness, incapacity, hospitalisation
- Family breakdown, family violence, a death in the family or other family crisis
- Natural disaster or emergency situation
- A change in circumstances resulting in temporary financial difficulty.

When applications will be considered

Council will only consider an application for rates and charges hardship relief where:

- The property is in the name of a person/s;

- The property is the owner's principal place of residence;
- The property is rated as residential or farmland; and
- There is overdue debt.

The above criteria exclude applications for hardship relief from being considered from companies or other entities, including trusts.

Unreasonable causes for financial difficulty or hardship, which may not be grounds for assistance include:

- Over commitment
- Long term/permanent cash flow problems caused by own decisions
- Imprisonment or payment of statutory fines
- Long term failure to pay rates.

For non-property related debt applications, hardship relief will not be considered where debts are not in the name of individuals and will be assessed on a case-by-case basis.

Set out below are the forms of assistance offered by Council to those experiencing hardship.

4.1 Arrangements

Council is empowered under Section 564 of the Act to enter into an agreement with a person to accept periodical payments of rates and charges which are due and payable. Alternative payment arrangements may be negotiated over the phone or in writing. Arrangements will be negotiated so that all arrears as well as any current rates and charges are cleared within a 12-month period. Arrangements for repayment periods greater than 12-months may be accepted on a case-by-case basis.

Written confirmation will be provided to the customer for agreed payment arrangements. The confirmation will include details of:

- The amount of overdue debt
- The duration of the payment plan
- The amount of each planned payment
- The due date of each planned payment
- Who to contact if the customer's circumstances change
- Details of interest charges that may accrue during the period of the payment arrangement.

Where the ratepayer/debtor fails to adhere to an agreed payment arrangement, an arrangement default notice will be issued within seven days.

Where a ratepayer fails to recommence their arrangement within 14 days recovery action will commence or recommence from the stage which had been reached prior to the last arrangement being negotiated.

Council offers direct debits on a weekly, fortnightly, monthly, quarterly and yearly basis. Council also offers Centrepay, allowing Centrelink customers to have their rates deducted from their Centrelink payments on a fortnightly basis. Applications for direct debits and Centrepay must be on the approved application forms.

A dishonour fee will be charged for each instance of funds returned unpaid for ratepayers who have an arrangement in place to pay by direct debit. After three separate instances of returned funds within a financial year an administration fee will be charged in accordance with Council's Schedule of Fees & Charges. On the fourth instance of funds returned unpaid the arrangement will be considered cancelled and full payment of the outstanding amount will be due immediately. Failure to pay will result in legal recovery action without further notification.

4.2 Accrued interest write off

Council is empowered under sections 564 and 567 of the Act to write off accrued interest on rates or charges in certain circumstances.

Where a person enters and complies with an arrangement to pay outstanding rates by periodical payments, Council may write off interest for the duration of the arrangement.

Council may also write off interest for the period of consideration of a hardship application.

4.3 Reductions for Eligible Pensioners

Council is enabled to reduce rates and charges of eligible pensioners under section 575 of the Act.

Subject to the meeting the conditions of the Act, Council will reduce rates and charges as follows:

- Ordinary rates and charges for domestic waste – up to $250
- Sewerage charges – up to $87.50

4.4 General Land Revaluation

Council recognises that a general land revaluation may result in individual ratepayers experiencing large variations in the value of rates payable. Section 601 of the Act provides that Council has the discretion to waive, reduce or defer the payment of the whole or part of the increase in the amount of rates payable if hardship is proven. Applications under this section are generally only for exceptional circumstances, limited to residential properties, need to be made in writing and evidence of hardship would need to be provided.

5. Hardship – Rate Relief Applications

A Hardship Rate Relief Application will be required for all types of assistance, except for Arrangements. All applications for hardship rate relief need to be lodged on the approved form together with reasonable proof of financial hardship including details of assets, liabilities, income and expenses and such other information required for Council to make an informed decision.

All applications for assistance will be treated confidentially.

Each individual case will be considered on its merits. The criteria for assessment will include, but not be limited to, the following:

- The amount of rate increases compared to the average rate increase for the rate category
- The amount of rates levied compared to the average rate of the rate category
- Income from all sources
- Assets
- Living expenses
- Number of dependents
- Reason for financial hardship
- Length of occupancy

Any assistance provided will be determined within the legal requirements of the Act. A debt recovery/hardship committee comprising a minimum of three Council officers from Finance/Governance will review the application and make recommendations to the General Manager. The General Manager will make the decision on the form and extent of assistance to be provided.

The ratepayer will be informed of the General Manager's decision in writing within 30 days of the application.

If not satisfied with the outcome, the applicant may appeal the decision. The request for appeal should be in writing addressed to the General Manager. The request will be considered by the elected Council at a closed (confidential) meeting of Council.

6. Supporting Documents

- Local Government Act 1993
- Local Government (General) Regulation 2021
- Civil Procedure Act 2005
- Office of Local Government, Debt Management and Hardship Guidelines (November 2018)
- NSW Government Revenue Raising Manual (2007)
- ACCC – Debt Collection Guideline: for collectors and creditors (2021)
- Temora Shire Council, Schedule of Fees & Charges.