

Debt Collection

Introduction

The Shire of Toodyay derives a large share of its revenue from property rates and charges and general fees and charges in order to meet the service provisions of the organisation. To enable the Shire to meet its service obligations, it must ensure that monies owing are collected in a timely, effective and efficient manner. It must also ensure that where revenue is not received in a timely manner, that appropriate measures are undertaken to recover outstanding amounts in accordance with the *Local Government Act 1995* (the Act).

Objective

The objective of this policy is to:

- Provide clear, accountable and transparent processes for the collection of any and all outstanding debts;
- Ensure that debt collection procedures are carried out in a fair and equitable manner;
- Make the process used to recover outstanding debts clear, simple to administer and cost effective; and
- Reduce the likelihood of debts for outstanding rates and service charges becoming unrecoverable, by closely monitoring and reviewing aged accounts.

Scope

This policy applies to the collection of all monies owed to the Shire, including rates and service charges; fines; prosecutions and infringements, and other general debts.

Definitions

Term	Definition
Act	<i>Local Government Act 1995.</i>
Authorised Person	A person or classes of persons appointed under the <i>Local Government Act 1995</i> section 9.10(2) to be an Authorised person for 1 or more specified laws or specified provisions of 1 or more specified laws.
CEO	Chief Executive Officer
Council	The local government, responsible for making decisions in formal meetings held under the auspices of Part 5 of the <i>Local Government Act 1995</i> and under the <i>Shire's Standing Orders Local Law 2008.</i>
Fines, Prosecutions and Infringements	Any sums of money owed to the Shire as the result of breaches of statutory requirements imposed by the Shire or a court of law and includes any costs awarded by the courts.

Term	Definition
Payment Agreement	An arrangement whereby the debtor pays amounts over a period, agreed to by the CEO, to pay the total amount outstanding. A payment agreement would normally require payments to be structured to clear the debt within a period of 12 months.
Rates And Service Charges Debtors	An individual, organisation or other party that has outstanding monies owed to the Shire for rates and/or service charge debts.
Rates Debt	Amounts due and payable to the Shire for rates and service charges levied by the Shire pursuant to the provisions of the Local Government Act 1995 and Local Government (Financial Management) Regulations 1996.
Regulations	<i>Local Government (Financial Management) Regulations 1996.</i>
Shire	The Shire of Toodyay.
Sundry Debtors	Individuals or organisations who receive goods or services from the Shire in credit or does not make the payment immediately and is liable to pay the Shire in the future.

Policy Statement

Council will exercise its debt recovery powers, as outlined in Part 6 of the *Local Government Act 1995* (the Act), in order to reduce the overall debt burden on ratepayers. It will be guided by the principles of equity, consistency and transparency, ensuring the following;

- efficient and effective methods are in place for the collection of outstanding debtors to optimise cashflow and minimise bad debts;
- individual circumstances are considered, and flexibility offered for those experiencing genuine hardship;
- all reasonable action is undertaken to recover revenue before the debt is written off; and
- ensuring the Shire is compliant with all regulatory obligations.

1. Guidelines - Sundry Debtors

- 1.1 Invoices are payable within 30 days of the issue date of the invoice.
- 1.2 Accounts unpaid after the due date will be issued with a Reminder Notice requesting payment within 14 days.
- 1.3 Where payment is not received within 14 days from the date of the reminder notice, and no alternative arrangements have been made, the debtor will be contacted via telephone requesting payment within 7 days.

- 1.4 A Final Demand Notice shall be issued for debts outstanding greater than 60 days requesting full payment within 7 days.
- 1.5 Accounts overdue at 90 days may be referred to the Shire's Debt Collection Agency for immediate action. Costs incurred for recovery may be on charged to the debtor.
- 1.6 Debtors with accounts outstanding for greater than 90 days will not be allowed to incur further debt with the Shire until the outstanding debt is cleared.

The CEO may allow persons experiencing financial difficulties to make suitable arrangements for payment of sundry debtor charges.

2. Guidelines - Fines, Prosecutions and Infringements

- 2.1 Fines, prosecutions and infringements are issued by an Authorised Person of the Shire and require payment within 28 days.
- 2.2 Where payment is not received within 28 days from the date of the infringement, a Final Demand Notice will be issued, with an applicable fee. The Final Demand Notice gives the customer a further 28 days to pay the infringement. Part payment is not permitted.
- 2.3 Should a debtor fail to pay an infringement within 28 days, the Shire shall lodge a notice with the Fines Enforcement Registry (FER). This carries further costs and may affect licences held in the debtor's name. The Shire will have no further involvement in the recovery of fines lodged with FER.
- 2.4 A debtor may seek a payment arrangement with the Fines Enforcement Registry.

3. Guidelines - Rates Debtors

- 3.1 Rates and other charges are due and payable within 35 days of the issue of a notice.
- 3.2 Amounts that remain outstanding after the due date will be followed up within 30 days with a final notice requiring the ratepayer to pay their balance in full within fourteen days. This notice will advise of the total amount outstanding including any penalty interest payable and that legal action may be taken without further notice.
- 3.3 Rates remaining unpaid after the expiry date for the Final Notice and not subject to an approved arrangement or an alternative course of recovery action will be the subject of the preparation and issue of a summons or writ, through the Shire's collection agency, to effect recovery.
- 3.4 Following the issue of a summons and addition of legal costs, a reasonable offer to the CEO to discharge a rates debtor account by alternative payment arrangement will not be refused.

Instalments

- 3.5 A person using the instalment payment method must make at least the first payment by the due date and will not have outstanding rates and charges from prior years on their account. The instalment payment plan is subject to an administration charge and instalment charge as set by Council for that year.

Should a person default on payment of instalments, legal proceedings may be instituted to recover any outstanding amount.

Alternative Payment Arrangements

- 3.6 Should a ratepayer be experiencing difficulty in paying their rates or find the instalment method not suitable, application can be made in writing clearly specifying the amount that can be paid and any reasons that would assist their application. This matter will then be referred to the CEO for determination.

Back Rates

- 3.7 Council may, under Section 6.39 of the Act, amend the rate record for the five years preceding the current financial year. Should the amount of back rates total less than \$10.00 in respect of one rating year, this charge will not be imposed. Service charges will be included in back rating.

Unpaid Rates

- 3.8 The CEO is authorised to recover unpaid rates and charges by engaging the services of a debt recovery service provider. The pre-legal stage of the debt recovery process involves letters of demand, issued on behalf of the Shire by its appointed service provider, along with telephone calls and/or emails.
- 3.9 If all pre-legal action is unsuccessful, in accordance with Section 6.56 of the *Local Government Act 1995*, the CEO is authorised to recover rates and service charges in a court of competent jurisdiction.
- 3.10 If a Property Seizure and Sale Order (PSSO) on goods is unsuccessful, the next step is to proceed with a PSSO against land.
- 3.11 If a property is leased, the Shire may recover outstanding rates and charges by collecting rent payments from the lessee under the provisions of Section 6.60 of the *Local Government Act 1995*. Notices must be given to the lessee and lessor.
- 3.12 Under the provisions of Section 6.64(3) of the *Local Government Act 1995*, the CEO is authorised to lodge caveats on land where rates and service charges are in arrears, and it is considered appropriate that the interest of the Council should be protected.
- 3.13 The CEO is authorised to withdraw caveats lodged on land where the owner has met his/her obligation in full in relation to the rates and charges outstanding.
- 3.14 Council will be consulted if debt collection action is proposed for the collection of amounts owed by pensioners.

Where Rates or Service Charges outstanding for three years or more

- 3.15 If all reasonable attempts outlined above result in no successful recovery and the rates and charges remain unpaid for three years or more, the CEO is authorised to take possession of the land to lease or sell the land; or transfer the land to the Crown or itself, in accordance with Section 6.64(1) of the *Local Government Act 1995*.
- 3.16 A report is to be presented to Council detailing the amount of rates and charges outstanding, the attempts to recover the debt and the recommended action.

3.17 The CEO is authorised to engage a debt recovery service provider to assist in administering the process and the Council approved action.

Reference Information

- [Register of Delegations](#) –
 - CS1 Payments from Municipal Fund or Trust Fund;
 - CS3 Amend Rate Record;
 - CS4 Approval of Payment arrangement for Payment of Rates and Service Charges;
 - CS5 Issue of Writ, Summons or Other Process;
 - CS6 Power to Defer, Grant Discounts, Waive or Write-off Debts;
- [Financial Hardship](#)
- What Debt Collectors Can and Cannot do
(refer to link: <https://www.accc.gov.au/consumers/dealing-with-debt-collectors/what-debt-collectors-can-cannot-do>)
- Possession of Land for Recovery of Rates and Service Charges
[Local Government Operational Guidelines - Number 22 – March 2012](#)
(dlgsc.wa.gov.au)

Legislation

- *Local Government Act 1995 (WA)*
- *Local Government (Financial Management) Regulations 1996*

Associated documents

Rates Payment Arrangement Application

Pensioner Application

Infringement Withdrawal Request

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