



3.11 – RATES AND CHARGES DEBT RECOVERY POLICY

1. INTRODUCTION

Council has a responsibility to recover monies owing to it in a timely, fair and effective manner to finance the delivery of its services and facilities and ensure effective financial management for ongoing financial sustainability.

The purpose of this policy is to provide guidance to management, staff and the community so as to ensure that rates and charges debt is collected in a consistent, transparent and equitable manner in accordance with relevant legislation.

This policy shall be applied when Council recovers rates and charges debt based on each parcel of rateable land.

This policy guides the administrative process that will be used in the collection of overdue rates and charges which may include payment arrangements and/or the selection of various recovery actions, including the sale of land in accordance with legislative requirements.

2. POLICY OBJECTIVE

The key objectives of this policy are to:

- Ensure a fair and equitable process in the timely collection of overdue rates and charges.
- Ensure both transparency and consistency in relation to the processes and procedures used to collect overdue rates and charges.
- Ensure ratepayers are given every opportunity to pay their rates and charges prior to debt recovery proceedings commencing.
- Ensure effective control over debts owed to Council thereby improving financial sustainability.
- Ensure that Council meets its legislative obligations under the applied local government legislation.

3. POLICY SCOPE

This policy relates to the collection of overdue rates and charges, as well as accrued interest and any amounts incurred by Council in the recovery of overdue debts (e.g. Court and professional costs).

This policy does not extend to the collection of other Council fees and charges which have legislated debt recovery requirements or existing policies in relation to debt recovery, for example: electricity and telecom.

This policy applies to all Council ratepayers, Councillors, staff and agents of Council, as well as any other entity involved in Council debt recovery.

4. DEFINITIONS

TERM	DEFINITION
Arrangement to pay	An agreement between Council and a ratepayer to pay rates and charges and interest outside of the normal instalment due dates.
Charges	Charges levied annually on the land shown on the annual Rates and Charges Notice. These may include waste management service charges and other annual charges.
Costs	Amounts incurred by Council in recovering overdue debt (for example Court, interest and professional costs) which can be legally recovered from the ratepayer.
Debt collection agent	An independent external agency collecting a debt on Council's behalf.
Debt recovery action	Any communication with the ratepayer in regard to their overdue rates and charges.
Hardship	Any situation where an individual is having difficulty paying legally owed debt. This can result from life changes (for example, because of illness, unemployment or changed financial circumstances) restricting the short-term capacity to pay.
Interest	Interest raised in accordance with the <i>Local Government Act 1993</i> (NSW)(NI) and as adopted by Council in its Revenue Policy.
Pensioner	An eligible pensioner as defined in clause 134 of the <i>Local Government (General) Regulation 2005</i> (NSW) (NI).
Rateable land	Land that is rateable to an ordinary rate or a special rate, or both
Ratepayer	The person or persons liable for payment of Rates and Charges levied on a property.
Rates	Council rates levied annually on the land shown on the annual Rates and Charges Notice. These may include Ordinary Rates and Special Rates.
Sale of Land	In accordance with section 713 of the <i>Local Government Act 1993</i> (NSW)(NI) a council has the authority to sell land which has any unpaid rates or charges for more than 5 years, or 1 year for vacant land, where the owing debt exceeds the land valuation.
The Act	<i>Local Government Act 1993</i> (NSW)(NI)
The Regulation	<i>Local Government (General) Regulation 2005</i> (NSW) (NI)
Write off	The accounting procedure for cancelling a debt that is no longer collectable resulting in its removal from the ratepayer's balance sheet account.

5. LEGAL AND POLICY FRAMEWORK

- *Local Government Act 1993* (NSW)(NI)
- *Local Government (General) Regulation 2005* (NSW) (NI)
- Office of Local Government, New South Wales – Debt Management and Hardship Guidelines November 2018
- Norfolk Island Regional Council Hardship Policy – Rates and Charges (3.02)

6. IMPLEMENTATION

6.1 Communication

This policy will be available on Council's website.

Internal communication of this policy to Council employees will be via email and, where required, in direct discussion with relevant staff.

6.2 Associated Documents

- 3.02 Hardship Policy – Rates and Charges
- Financial Hardship (Rate Relief) Application Form

7. POLICY

Rates and charges levied by Council provide a major source of revenue for Council and effective collection processes are vital to ensure the viability of Council.

Council requires payment of rates and charges within a specified time and will pursue the collection of overdue rates and charges diligently.

The non-payment of rates and charges by some ratepayers places an unfair burden on other ratepayers who meet their legal obligation in full.

When pursuing the collection of overdue rates and charges, Council will have due concern for any genuine financial hardship faced by ratepayers.

7.1 Annual Instalment Due Dates

The annual Rates and Charges notices are issued prior to 31 July each year. Notices can be paid in full by the end of the first instalment due date (31 August of that year) or four instalments due on 31 August, 30 November, 28 February and 31 May of that financial year.

Instalment reminder notices will be issued at least one month prior to the instalment due date in accordance with section 562 of the *Local Government Act 2003* (NSW) (NI) (the Act).

Any amount that is not paid by the instalment due date is an overdue amount.

Interest accrues on all overdue rates and charges.

7.2 Reminder and Final Notices for Overdue Rates and Charges

Reminder and Final Notices will be issued to ratepayers whose rates and charges remain outstanding after the due date and who have not entered into a payment arrangement:

- Reminder Notice: issued 14 days after the due date.
- Final Notice: issued 28 days after the due date.

The Reminder and Final Notices will advise:

- The amount of any overdue rates and charges.
- That interest charges are applying to the overdue amount (included as part of the overdue amount).
- That the ratepayer should contact Council prior to the date on the notice to make a payment arrangement if they are not in the position to pay all of the overdue rates and charges.

- Subject to the criteria set in this policy, debt recovery proceedings may be taken if a reasonable payment arrangement has not been entered into.

At this stage, no formal legal action has commenced, and no legal costs have been incurred by the ratepayer by receiving Reminder and Final Notices.

7.3 Debt Recovery Options

Where there is a failure to respond to the Final Notice for overdue rates and charges, and no arrangement to pay has been entered into, further recovery proceedings will commence based on an assessment applying the following criteria:

- Outstanding rates and charges are greater than \$500.00; or
- Any other amount that in the view of the General Manager requires collection action to mitigate the community's risk of lost revenue; and
- The amount has been overdue for more than 60 days.

Those accounts assessed as meeting the criteria will be forwarded to Council's debt collection agent for recovery action.

Those accounts where the ratepayer has not complied with agreed requirements of a Financial Hardship (Rate Relief) arrangement or defaulted on the agreed payment arrangements may also be forwarded to Council's debt collection agent for recovery action.

Debt recovery costs and fees (including listing fees and legal costs) payable by Council, will be passed on to the ratepayer and will subsequently remain a charge on the property until paid.

Recovery action may include: personal visits/service, written correspondence, reminder notices, telephone calls, Notices /Letters of Demand, Statement of Claim, Court Judgement, Summonses, Writs, Garnishee Orders, Warrant of Apprehension, notices to wind up a company, bankruptcy, and the sale of land for overdue rates under section 713 of the Act.

In order to proceed with the sale of land under section 713 of the Act, a resolution of Council must be passed authorising the General Manager to proceed. No sale of land can proceed without this authorisation.

7.4 Payment Arrangements

Where ratepayers are experiencing financial difficulties in meeting the payment of rates and charges, they are requested to contact Council with a view to making a suitable payment arrangement. Refer to Council's Hardship Policy – Rates and Charges (3.02) for details.

Council has the authority to accept payment arrangements of rates and charges due and payable in accordance with an arrangement made with the ratepayer (section 564 of the Act).

It is Council's intention to have outstanding balances paid within three months of an arrangement being made. However, Council is sympathetic to ratepayers with special circumstances and may consider the payment of outstanding amounts with the intention to be settled within 12 months from the date the arrangement is made (including current and future instalments that fall due within that period).

In the case where the hardship still persists beyond the term of the agreement, then the ratepayer will need to reapply by submitting a new application.

All approved hardship applications will be reviewed at least annually, or at any other time the Council deems necessary, to ensure the circumstances in which the original application was approved remains relevant.

Where a payment arrangement has expired and an overdue balance still exists, debt recovery proceedings will recommence at the stage where it has ceased.

Interest shall be charged on amounts outstanding as required by the Act.

The onus is on the ratepayer to ensure that their rates and charges are paid in a timely manner in accordance with due dates.

7.5 Pensioners

Statutory Pensioner Rebates

Eligible pensioners are required to pay the amounts of rates and charges remaining following any statutory reduction in rates as required under section 575 of the Act. Such amounts shall be paid by the due date.

All conditions of this policy, including in relation to interest on unpaid rates and charges and writing off outstanding amounts apply to pensioners as they do to other ratepayers.

Recovery of amounts owed by pensioners

Council encourages eligible pensioners to meet their rates and charges commitments as they fall due. Where an eligible pensioner is in financial difficulty, Council officers shall consider the limited income of eligible pensioners and may enter into an agreement with them for the payment of rates and charges (and accrued interest) by arrangement.

7.6 Write Off of Accrued Interest

Overdue rates will be increased at the adopted rate of interest in accordance with the Act. Accrued interest will not be written off except in accordance with this policy following hardship assessment.

Ratepayers who are unable to pay accrued interest on rates and charges for reasons beyond their control, or because payment of the accrued interest would cause them hardship, may apply to have the accrued interest written off.

Ratepayers who have complied with the conditions of an arrangement to pay and who are unable to pay accrued interest for the reasons stated above, may apply to have the accrued interest written off on the basis of hardship.

Applications for writing off accrued interest under hardship provisions shall be determined on the merits of each individual case. Refer to Council's Hardship Policy – Rates and Charges (3.02) for further information regarding the process and making an application by completing the Financial Hardship (Rate Relief) Application Form.

7.7 Writing Off Rates and Charges

Rates and charges may be written off where:

- There is an error in the assessment.
- The amount is not lawfully recoverable.
- A decision of a court requires the rates and charges to be written off.
- Council or the General Manager consider on reasonable grounds that the recovery action would not be cost effective.

Approval for writing off rates or charges (including accrued interest) must be obtained in one of the following ways:

- The General Manager or delegated officers have the authority to write off amounts under \$1,000.00 where all practical means to recover the debt have been exhausted and proceeding with legal action is unlikely to recover the debt.
- Outstanding debt of \$1,000.00 or more will be written off only by the resolution of Council.

A resolution or order writing off an amount of rates or charges must:

- Specify the name of the person whose debt is being written off.
- Identify the account concerned.
- Specify the amount written off.

The fact that an amount of rates or charges is written off does not prevent the Council from taking legal proceedings to recover the amount.

The General Manager must advise the Council of rates and charges written off by written order of the General Manager or delegated officers during the year.

The Council's Annual Report must include the amount of rates and charges written off during the year.

7.8 Accruing Debt Against the Land (Pensioners)

Where the payment of rates and charges is likely to cause extreme hardship to an eligible pensioner, the General Manager may allow rates, charges and interest to accrue as a charge on the land. Recovery of the debt will occur either from the estate of the eligible pensioner or the sale of the property, whichever comes first.

An application for approval to accrue rates and charges against a property must include all relevant financial and other details which demonstrate that the payment of rates, charges and interest would cause extreme hardship. Refer to Council's Hardship Policy – Rates and Charges (3.02) for further information regarding the process and making an application by completing the Financial Hardship (Rate Relief) Application Form.

Where rates, charges and interest have accrued against a property, the accrued interest shall not be written off.

7.9 Reporting to Council

A report is to be presented to Council at the end of each quarter in respect of those ratepayers with outstanding arrears over \$500.00. The report will contain details of the action which has been taken by Council to recover those debts and the annual rates and charges applicable (based on the current year in which the report is produced).

8. REVIEW AND VERSION CONTROL

Policy Number	3.11		Responsible Officer	Manager Corporate and Finance
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Version Number	Version	Resolution No.	Effective Date	Version description
	V1	2019/133	17 July 2019	Adopted
	V2	2022/132	16 November 2022	Adopted