

# Debt Management Policy

<b>Policy Owner</b>	Finance and Assets Governance and Corporate Performance
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## **Purpose**

This internal policy document is intended to provide a rationale and guide for the way that Mitchell Shire manages the collection of overdue fees. Mitchell Shire acknowledges that circumstances are different for everybody and provides a range of options to assist with and address any overdue charges.

Council makes a commitment to ensure that all debtors are treated equally and given equal opportunities to address and correct any outstanding amounts. Whilst opportunities are given to clear their outstanding fees, Council will initiate legal action when attempts to collect outstanding charges by other means have not been successful.

## **Scope**

This policy covers the collection of outstanding Municipal Rates and Charges and Sundry Debtor Accounts.

## **Municipal Rates & Charges**

Rates & Charges make up a significant portion of Council's annual revenue and the timely collection of these charges are critical to the ongoing provision of services by Mitchell Shire.

Council raises and collects rates & charges in accordance with the *Local Government Act 1989 (the Act)*.

Council will make all practical attempts to contact a ratepayer directly or through an external debt recovery agency requesting payment of any outstanding rates and charges amount. Requests will be made in writing and issued to the address for service as recorded on Council's property database.

It is not practical for Council Officers to make personal contact with all ratepayers with outstanding rates & charges. Where available and possible, Council or an external agency may use other forms of contact eg. SMS or email to contact a ratepayer regarding any overdue amount. In circumstances where a ratepayer is not demonstrating any reasonable effort to make regular payments and no formal payment arrangements have been put in place, Council will make an attempt to contact the ratepayer by phone prior to initiating legal proceedings where these contact details are available.

Council acknowledges that at times, ratepayers may find themselves in a position where the payment of their rates & charges may not be possible. Council can offer

assistance to ratepayers who are unable to meet their rates obligations. Assistance can be in the form of;

- Municipal Rates & Charges Pension Concession
- Payment due date extensions
- Payment arrangements
- Financial Hardship consideration

When discussing outstanding amounts with ratepayers, Revenue Services team members will identify and suggest the most appropriate action. Applications for financial hardship consideration will be processed inline with Councils Financial Hardship Policy. Where assistance is approved under the Financial Hardship Policy, a waiver of penalty interest or legal fees that have been incurred may be provided.

### **Municipal Rates & Charges - Debt Recovery Action**

Any amount that is overdue may be subject to penalty interest charges as per Section 172 of the Act.

Where amounts due have not been paid by their due dates or a suitable arrangement made, Council may refer the debt to a debt recovery agency. The agency may, under instruction from Council issue further requests or demands for payment.

Should payments remain outstanding, Council may instruct the debt recovery agency to commence legal proceedings to recover any outstanding balances. Legal action will be taken as allowed under Section 180 of the Act with consideration to the amount of the debt, potential legal costs incurred and with regard to any other requirements that are made by the relevant Court. Council will ensure that no fewer than 4 requests for payment have been issued to the ratepayer before commencing legal proceedings. These requests include Annual/Instalment Reminder Notices, Reminder Letters, Demand Letters, telephone calls and sms/e-mail requests .

The type of legal action that is taken for each debt will be determined based on the informed opinions of the collection agency and Senior Revenue Services team members in line with Council procedures and the requirements of the relevant Court.

Council may also choose to take or to instruct the collection agency to take any other action as allowed under the Act. Where this recommendation is to sell land for unpaid rates, Council officers will first refer this recommendation to Council for approval.

In addition to the processes available through the relevant Court, should a ratepayer wish to dispute any legal action that has been taken, they may submit their request in writing to Council's Manager Finance & Assets for review. Decisions to grant any

waiver of legal fees and/or interest will be made on a case by case basis with consideration to any information that has been provided in the request. Any appeals of this decision can be made to the Director Governance and Corporate Performance.

Where a default judgment has impacted a ratepayers credit rating/history, Council may consent to the judgment being set aside only when the ratepayer has no other overdue debts with Council.

### **Sundry Debtors**

Sundry Debtors include all revenue raised and due outside of Municipal Rates and Charges. Sundry debtors accounts include but are not limited to commercial waste, early education and facility hire. Sundry debtors represent money earned / due to Council that will be paid following the raising of an Invoice and do not include payments made at point of service. The timely collection of these fees and charges are important to the ongoing provision of services by Mitchell Shire as requests for payment for these accounts are generally made after the service has already been provided.

Council will make all practical attempts directly or through an external recovery agency to contact a debtor requesting payment of any outstanding fees and charges amounts. Requests will be made in writing and issued to the address for service as recorded on Council's debtor database.

Council acknowledges that at times, particular debtors may find themselves in a position where the payment of their fees and charges may not be possible. Assistance can be in the form of;

- Concessions (Kindergarten Fees only)
- Payment due date extensions
- Payment arrangements
- Financial hardship consideration (where applicable)

On receiving a request for assistance from a debtor, the Revenue Services team will identify and suggest the most appropriate action directly to the Debtor or to the internal team managing the debt.

### **Sundry Debtors - Debt Recovery Action**

Where amounts due have not been paid by their due dates or suitable alternative arrangements made, Council may refer the debt to a debt recovery agency. The agency may, under instruction from Council issue further requests or demands for payment.

Council may apply an administrative fee per month on any overdue sundry debtor account. This fee will be charged in accordance with Council's adopted fees and

charges and the accumulative fee balance will be capped at a maximum of 50% of the initial amount due.

Should payments remain outstanding, Council may instruct the debt recovery agency to commence legal proceedings to recover any outstanding balances with consideration to the amount of the debt, potential legal costs incurred and with regard to any other requirements that are made by the relevant Court. Council will apply for orders with the relevant Court to secure any incurred legal fees against the debtor.

Where payments are outstanding on any ongoing Council service and no ongoing payment arrangement or hardship application has been made, the Revenue Department will notify the relevant department manager to ensure that service provision is suspended until such time as all overdue amounts are paid or an acceptable payment arrangement entered. Service suspension will occur where accounts are 30 days past the due date or 7 days where the debtor has a history of late/non payment.

Service suspension will not be applicable to the provision of kindergarten services. However all other recovery actions for kindergarten services will be consistent with this policy.

In addition to the processes available through the relevant Court, should an account holder wish to dispute any legal action that has been taken, they may submit their request in writing to Council's Manager Finance & Assets for review. Decisions to waiver legal fees and/or interest will be made on a case by case basis with consideration to any information that has been provided in the request.

An appeal of any decision made can be made to the Director Governance and Corporate Performance.

Where a default judgment has impacted an account holder's credit rating/history, Council may consent to the judgment being set aside only when the account holder has no other overdue debts with Council.

Where attempts to collect a sundry debtor account are unsuccessful, the debtor is unlikely to require future services and the debt recovery agency advise future collection activity is unlikely to succeed, the Revenue Services team may recommend to the Manager Finance & Assets that the debt be written off. Where a debtor has had any amount written off for the above reason, no future access to services are to be provided until payment in full of all previously due amounts are received in advance of the service being granted. However, an application for hardship or a payment arrangement may be entered for these historical amounts.

**Responsibilities**

The Revenue Services Coordinator has responsibility for maintaining and ensuring compliance with this policy.

**Related Documents**

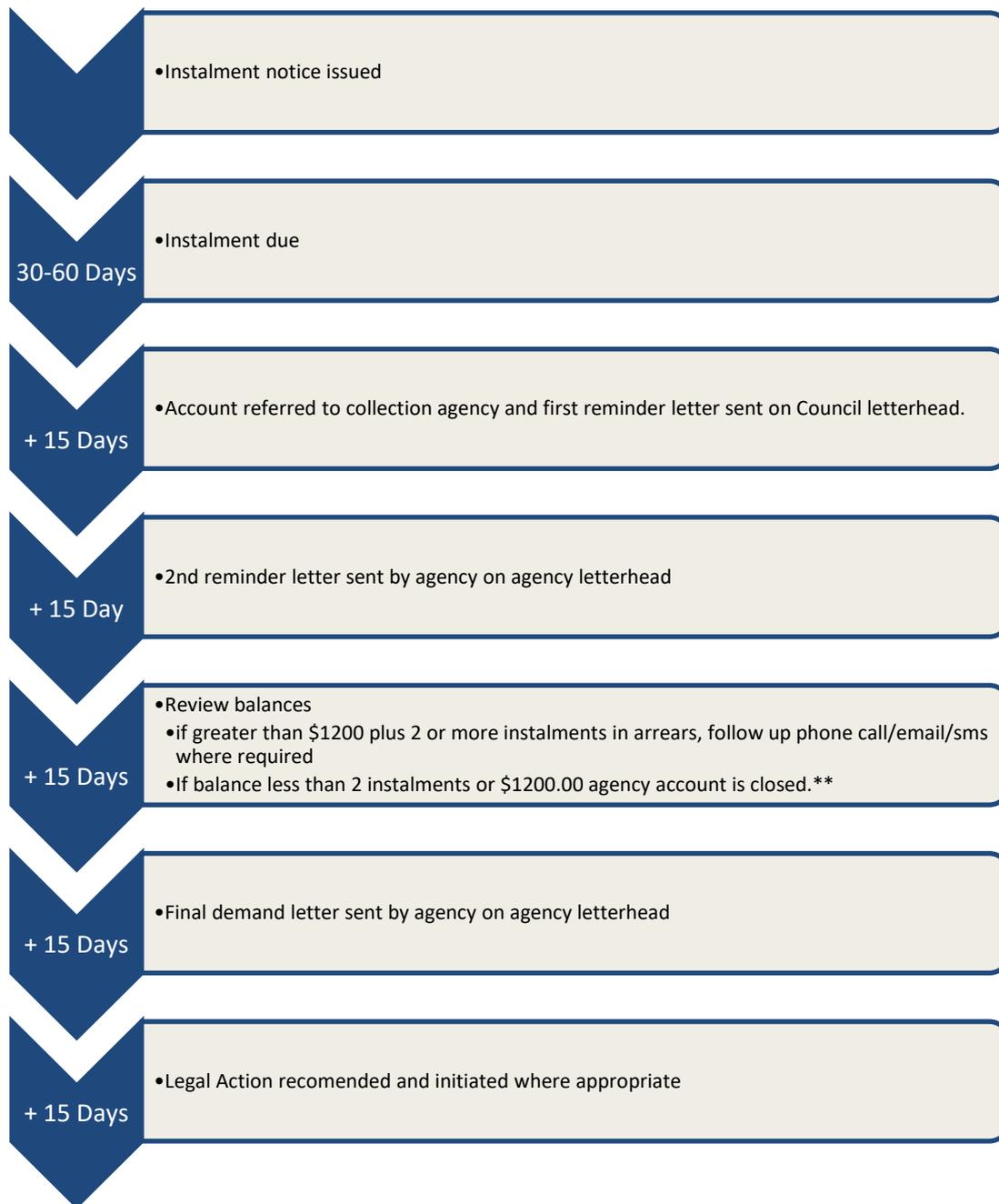
*Financial Hardship Policy*

*Local Government Act 1989*

**Policy Review**

This policy will be reviewed every 4 years or earlier as required.

## Appendix 1 – Rates Debt Recovery Process



\*\* ACCC rulings mean that Council should not issue a demand letter warning of legal action unless the action is likely to be taken. Magistrates' Court requirements mean that Council should consider and ensure that the cost of legal action is appropriate to the amount of the potential costs. In this regard, Council has a \$1200 minimum outstanding balance before taking legal proceedings. For these reasons, accounts with balances less than \$1200 are closed after the 2<sup>nd</sup> reminder letter is issued. If they remain unpaid, they go through the process again after the next instalment is due.

## Appendix 2 – Sundry Debtor Recovery Process

