



## FP2 – DEBT RECOVERY POLICY

### MANAGEMENT PRACTICE:

#### DELEGATION:

**Delegation 1.2.2 – Agreement to Payment of Rates and Service Charges**

**Delegation 1.2.4 – Recovery of Rates or Service Charges**

**Delegation 1.2.5 – Recovery of Rates Debts – Require Lessee to Pay Rent**

**Delegation 1.2.6 – Recovery of Rates Debts – Actions to Take Possession of the Land**

#### OBJECTIVE

The Shire of Jerramungup will actively pursue all outstanding rates and sundry debtors in accordance with the *Local Government Act 1995* and associated regulations.

The purpose of this policy is to provide Council staff with efficient and effective guidelines for the recovery of outstanding debts owed to Council while maintaining quality customer service.

#### SCOPE

This policy applies to all employees of the Shire and agents authorised to perform debt recovery services on behalf of the Shire of Jerramungup:

- To provide consistency and equal treatment in the collection of outstanding rates and sundry debtors.
- To provide the community with information on how Council staff are instructed to collect outstanding rates and sundry debtors.
- To formalise the process for entering into a payment arrangement for outstanding debts owing to Council.

#### DEFINITIONS

**'The Act'** means the *Local Government Act 1995*.

**'The Regulation'** means the *Local Government (Financial Management) Regulations 1996*.

**'Debt'** means an amount of money owed to the Shire by a debtor because of a transaction or rates and service charges (including emergency services levy) levied by the Shire.

**'Debtor'** means any individual, corporation, organisation or other entity owing money to the Shire.

**'Risk'** means the possibility of non-payment of a debt by the debtor when the amount is due. The likelihood of non-payment increases with the age of the debt.

**'Write Off'** means the accounting procedure for cancelling a debt that is no longer collectible resulting in its removal by Council from the Shire's statement of financial position (balance sheet).

**'Rates and Service Charges'** are a charge on land imposed under the Act.

**'Alternative Payment Arrangement'** an agreement made between the ratepayer and the Shire to pay rates or service charges at a timing and frequency other than the prescribed instalment due dates. Alternate payments frequencies can only be weekly, fortnightly or monthly. Payment arrangement requests shall be made in writing directly to the local government.

**‘General Procedure Claim (GPC)’** a GPC is issued through the Magistrates Court for debts up to an amount determined by the Chief Executive Officer (CEO).

**‘Property Sales and Seizure Order (PSSO)’** a PSSO authorises a bailiff to seize and sell as much of the judgment debtor’s real or personal property as necessary to satisfy the judgment debt wholly or partially.

**‘Real Property (Land)’** assets that are fixed permanently in one location such as land and/or buildings.

**‘Personal Property (Goods)’** assets that are movable and not fixed permanently in one location such as vehicles and other possessions.

## **POLICY STATEMENT**

The Shire is committed to the collection of overdue debt in a fair, equitable and timely manner. The Shire will show due diligence in the application of administrative processes relating to payment arrangements and the selection of various actions for the effective recovery of overdue debts.

The following principles provide high-level direction for the ethical and effective management of the Shire’s debt:

- Management is to establish and maintain appropriate controls in order to ensure the risk of financial loss is properly managed.
- Debts are to be pursued within the relevant statutory limitation periods to maximise recoverability.
- Debt collection process to ensure the Shire is reasonable, fair and utilises best practices in its approach to debt recovery.
- Debt collection activities against individual debtors should be in accord with the Australian Competition and Consumer Commission and Australian Securities and Investments Commission (ACCC-ASIC) Debt Collection Guideline for Collectors and Creditors.
- Debt is monitored regularly and necessary regular provisions made to recognise unrecoverable debt.
- Action for the writing off of bad debts (other than rates and services charges) should only take place where all avenues for recovery have been exhausted or it becomes unviable to keep pursuing the debt.

The Shire will implement all reasonable measures to ensure the objectives of this Policy are delivered with procedural fairness to those subject to debt collection processes.

Where a debtor is experiencing financial hardship, Policy FP8 – Financial Hardship applies.

### **Policy Principal Application**

The Shire will apply the following fundamental guidelines in facilitating the appropriate establishment and management of its debt collection practices, including the conduct of officers and contracted agents in giving effect to this Policy.

#### *Provision of information and payment terms*

The Shire will promptly provide targeted and consistent information, payment terms and advice for the type of service being charged.

#### *Payment options*

Where practicable, the Shire will provide consistent payment options across its full range of services.

#### *Information readily available*

All information relating to the debt to be accurate and readily available.

#### *Financial hardship*

The Shire will recognise and assist those experiencing financial hardship, and provide appropriate assistance in a fair and equitable manner in accordance with Policy FP8 – Financial Hardship.

### *Debt dispute resolution*

A clear and transparent dispute resolution process will be made available to those disputing any debt or charge owed the Shire.

### *Formal debt collection and legal action*

The Shire will be firm but fair in applying best practice methods for the recovery of debt, including exhausting all reasonable avenues to prevent matters from proceeding to Court or other formal action.

### **Recovery of Outstanding Rates and Service Charges**

Subject to Policy FP8 – Financial Hardship, should a debtor fail to pay within the initial 35 day period (or failure to choose to pay by instalments or enter into a negotiated payment arrangement) the following debt collection process is followed (for non-pensioner rates and service charges);

- a. Final notice – is forwarded via post and email (if appropriate) outlining payment within 7 days or debt collection/legal action may occur as well as additional costs.
- b. Attempts to contact the debtor are made through any other communication channels available (phone and email).
- c. Intention to Summons – Failure to contact the debtor then results in a letter of demand being issued (Intention to Summons) outlining that failure to make payment within 7 days will result in recovery action with additional costs and interest.
- d. General Procedure Claim (GPC) – failure to make any appropriate arrangements for payment will result in the processing of a GPC. This is a court document to initiate legal action for collection of the unpaid debt. If the property is rented, the option to collect landlord rent for rates as per the *Local Government Act 1995*, section 6.60 and 6.61 may be actioned.
- e. Procession, Seizure and Sales Order (PSSO) or Means Enquiry Summons (MES) - If the GPC has been served and no arrangement to pay or payment in full has been received, the rates department will explore options for collection through;
  - i. PSSO – This court document allows the Shire to seize goods and/or property/land for the collection of the outstanding debt
  - ii. MES – This court document allows the Shire to nominate a debtor to attend court and provide all financial records in order for the court to make a decision on their ability to pay.

Arrangements are then made for collection based on the outcome.

Property and Land sale – after three years, if all available collection options have been exhausted and rates/service charges remain in arrears the Shire may in accordance with section 6.64 of the *Local Government Act 1995* take possession of the land and hold the land as against a person having an estate or interest in the land and

- i. from time to time lease the land; or
- ii. sell the land; or
- iii. cause the land to be transferred to the Crown; or
- iv. cause the land to be transferred to itself.

## Recovery of Outstanding Debt – All Other Sundry Debtors

Should a debtor fail to pay within the initial 14 day period the following debt collection process is followed;

- a. Debt outstanding – 30 days: A statement is forwarded to the debtor with a reminder and alerting them to their unpaid invoice.
- b. Debt outstanding – 60 days: A friendly reminder by way of email and phone calls.
- c. Debt outstanding – 90 days: An urgent action letter is sent (and emailed if appropriate) requesting immediate payment as well as a phone call. Assistance can also be requested from the relevant service area to communicate with the debtor.
- d. Debt outstanding – 90 + Days: A final notice is forwarded outlining payment within 7 days or debt collection action will occur.
- e. Non-payment within 7 days – case is forwarded to the Shire’s debt collection agency.
  - i. Ongoing communication occurs between the Shire and the debt collection agency relating to the collection.
  - ii. Continued failure to pay or respond to debt collection results in legal action (dependant on circumstances and cost benefit to the Shire).

## Recovery of Outstanding Debt – Fines, Prosecutions and Infringements

Should a debtor fail to pay within the initial 28 day period the following debt collection process is followed;

- a. The debtor’s information is collected through Department of Transport and a reminder notice is issued allowing a further 28 days to pay.
- b. A final demand is issue along with an additional late fee. The Shire allows a further 28 days to pay.
- c. Failure to pay results in the infringement being forward to Fines Enforcement Registry (FER) for collection along with an additional collection fee.

<b>Relevant Legislation:</b>	<i>Local Government Act 1995</i> <i>Local Government (Financial Management) Regulations 1996</i> <i>Rates and Charges (Rebates and Deferments) Act 1992</i>
<b>Related Documents:</b>	
<b>Related Local Law:</b>	N/A
<b>Related Policies:</b>	FP8 – Financial Hardship Policy FP11 – Financial Harship During Declared State of Emergency
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