

1. Policy Statement

The objective of this policy is to maximise rate recovery within the rating period and to instigate appropriate and timely recovery processes to recover overdue rates and charges.

2. Scope

This policy applies to all ratepayers with overdue rates and charges levied by Council.

3. Responsibility

The Chief Financial Officer is responsible for the implementation and maintenance of this Policy.

4. Definitions

Rates and charges are as defined in S91 of the *Local Government Act 2009*. Without limiting the detail of the legislation, in general rates and charges are levies that a local government imposes on land and for a service, facility or activity that is supplied or undertaken by the local government or someone on behalf of the local government.

Overdue rates and charges are defined in S132 of the *Local Government Regulation 2012*. Without limiting the detail of the legislation, in general overdue rates and charges are rates and charges that are not paid by the due date for payment stated in the rate notice. The rates or charges become overdue on the day after the due date for payment of the rates or charges.

5. Policy

5.1 SAFEGUARDING COUNCIL'S AND COMMUNITY'S INTERESTS

The Chief Executive Officer or delegate may direct that recovery action for any debt be conducted in a way that differs from the processes set out in this Policy when that is considered to be in the Council's or the community's best interest.

Nothing in this policy binds the Council to precisely follow any process set out in this policy, and a failure to follow any process does not change or relieve a debtor's obligation to pay a debt when due.

5.2 RATES AND CHARGES

Legal action for the recovery of outstanding rates and charges may commence any time the rate or charge becomes overdue. Unless there are special circumstances which justify taking an alternative course of action, the Council's usual process to recover overdue rates or charges is set out in this section.

STEPS

OVERDUE REMINDER LETTER

Council will issue an overdue reminder letter if:

- 7 days after the due date on the rates notice the ratepayer has \$20.00 or more in rates or charges owing to Council; and
- a current payment plan has not been entered into; and
- no other recovery action has been commenced.

OVERDUE REMINDER PHONE CALL

Council Finance and Administration Staff will attempt to make one overdue reminder phone call if:

- A phone number for the ratepayer is held on file;
- Seven days after the due date on the overdue reminder letter the ratepayer has \$1,000.00 or more in rates or charges owing to Council;
- A current payment plan has not been entered into; and
- No other recovery action has been commenced.

DEMAND LETTER

Demand letters are issued via Debt Collection Agency in consultation with Hinchinbrook Shire Council Management Staff to those accounts who fail to either respond to the reminder notice or reminder phone call, and/or fail to abide by a payment commitment from a reminder notice. Council will issue a demand letter if:

- Seven days after overdue reminder phone call the ratepayer has \$1,000.00 or more in rates or charges owing to Council;
- A current payment plan has not been entered into; and
- No other recovery action has been commenced.

CLAIM AND STATEMENT OF CLAIM

The usual practice of Council is that legal action will be commenced if:

- 7 days after expiry of the demand letter, the amount referred to in the letter has not been paid;
- the ratepayer has \$1000.00 or more in rates or charges owing to Council; and
- there is no current payment plan to pay the outstanding rates, or the payment plan has not been adhered to.

Once the Statement of Claim is served, Council must wait 28 days for the defendant to pay the account or enter into a payment commitment.

PRE JUDGEMENT LETTER

Pre Judgement Letters are issued to those accounts that have had a Claim issued and served upon them and either:

- have made no contact or failed to abide by a payment commitment after being served with the Claim; and/or
- 7 days have passed after the 28 day waiting period after service of claim has expired.

DEFAULT JUDGEMENT

Default judgements are issued in Court against those ratepayers who have not responded to the pre judgement warning letter or have failed to abide by payment commitments from the pre judgement warning letter.

POST JUDGEMENT WARNING LETTER

Post Judgement Warning Letters are issued to rate payers automatically after default judgment orders are received back from the court. The rate payer is provided with 14 days to either pay the judgement amount or contact the debt collection office for a payment commitment.

ENFORCEMENT OF DEFAULT JUDGEMENT

Council can elect to enforce the judgement debt through the bailiff or court examination of the rate payer or elect to hold account until 3 years to proceed to sale of residential property, or until 1 year to proceed to sale of vacant land or land used solely for commercial purposes.

PROPERTIES WITH A PAYMENT PLAN

If there is a current payment plan in place, Council will commence legal action if:-

- the ratepayer has not fully complied with the terms of the agreed payment plan; and
- the ratepayer has \$1000.00 or more in rates (or charges) owing to Council.

Legal action may be temporarily suspended if the debtor enters into a payment plan satisfactory to Council, which includes the provision for the payment of legal costs.

SALE OF LAND – RESIDENTIAL

Where rates and charges remain unpaid for 3 years and no approved payment plan exists, Council may, by resolution, commence proceedings to sell the property subject to and by virtue of its powers under the Local Government Act 2009 and Regulations.

SALE OF LAND – VACANT LAND AND COMMERCIAL PROPERTY

Where rates and charges remain unpaid on vacant land or land used solely for commercial purpose for 1 year or more and no approved payment plan exists and judgment has been obtained, Council may, upon resolution, and by virtue of its powers under the Local Government Act 2009 and Regulations, commence proceedings to sell the property.

In recognition of individual privacy and to ensure all ratepayers are treated consistently, the list of properties on which Council is required to resolve to commence land sale for rates and/or charges recovery in accordance with this policy is to be presented identifying the property number, property location, and real property description only.

5.3 COSTS

Council will attempt to recover all legal costs incurred with the recovery action of rates and charges from the ratepayer which, may if required, include Council making an application to the court to formalise a costs order.

Once formal recovery action has been commenced it will not be discontinued until the amount of the claim and any further interest levied in accordance with the Local Government Act 2009 has been paid in full.

Legal action may be temporarily suspended if the debtor enters into a payment plan satisfactory to Council which includes the provision for the payment of legal costs.

5.4 AGREED PAYMENT PLAN

Council may grant a payment plan for the payment of rates and charges. There is no limitation of the scope of the payment plan that can be provided by the Act. However, due to practical and economic reasons, Council has determined that the arrears, including any additional charges applied in return for Council agreeing to defer payment of rates or charges, should be sufficient to service rates arising in the current financial period, plus a minimum of 20% of the rates in arrears. A financial period represents a half year from 1/7/19 – 31/12/19 or 1/1/20 – 30/06/20.

All payment plans will be confirmed in writing. Failure to meet the agreed payments will result in the cancellation of the payment plan. A broken payment plan letter will be forwarded to the ratepayer upon cancellation of the agreed payment plan. The broken payment plan letter should allow the ratepayer at least 7 days in which to bring the payment plan back into order. In particular circumstances, legal recovery action may commence immediately in the event of default by the ratepayer.

5.5 PENSIONERS


Council recognises that Pensioners as a class may face financial difficulties in meeting their obligations, however, as specific concessions are provided to them, pensioners with arrears are encouraged to take advantage of payment schedules that will ensure that the balance in arrears does not escalate beyond their means. As such, all pensioners who fall into arrears will be subject to Council's usual recovery action for overdue rates, in accordance with this policy.

6. Legal Parameters

Local Government Act 2009
Local Government Regulations 2012
Magistrates Courts Act 1921

7. Associated Documents

Revenue Statement

DOCUMENT HISTORY AND STATUS					
Action	Name		Position	Signed	Date
Approved by Council	Alan Rayment		CEO		25/09/2019
Policy Version	10.0	Initial Version Adopted	10/08/2009	Current Version Adopted	24/09/2019
Maintained By	Corporate Services		Next Review Date		30/06/2020
File Location	E:\Shared Data\Administration\Change\Policies, Procedures & Forms\02. Current Documents				