

### **4.3 DEBT RECOVERY OF FINES, COSTS AND RATES**

**COUNCIL MEETING HELD: 25 MAY 2023**

**DATE TO BE REVIEWED: MAY 2025**

---

#### **1. Introduction**

This policy is intended to provide guidelines for the timely collection of money owed to the Shire of Sandstone.

#### **Application**

This policy applies to all Shire debtors.

#### **2. Policy Intent**

Council will exercise its debt recovery powers, as outlined in Part 6 of the *Local Government Act 1995*, in order to reduce the overall debt burden on ratepayers. It will be guided by the principles of:

- Providing the Shire with a more effective method over the collection of outstanding debtors;
- Ensuring that debt collection procedures are carried out in a fair and equitable manner;
- Making the processes used to recover outstanding debt clear, simple to administer and cost effective;
- Transparency by making clear the obligations of its ratepayers and sundry debtors to the processes used by Council in ensuring that they meet their financial obligations;
- Equity by having regard to providing the same treatment for ratepayers and sundry debtors with similar circumstances;
- Flexibility by responding where necessary to changes in the local economy;
- Ensuring the Shire of Sandstone is compliant with all regulatory obligations;
- Promoting effective governance and definition of roles and responsibilities;
- Upholding recognition from the public and industry for the Shire's collection practices that withstand probity.

### **3. Sundry Debtors**

Council provides trade debtors and miscellaneous debtors 30 days from invoice date to settle any outstanding accounts.

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

Where no alternative arrangements have been made, the following actions are to occur:

- (a) After 30 days has expired, contact is to be made by telephone to the sundry debtor seeking a commitment to pay the outstanding debt and a memo to this affect entered on the debtor's record.
- (b) If the debt is still outstanding after a further week, then a letter is to be sent requesting payment of the outstanding balance within seven days of receipt of the letter.
- (c) Where the debt is still not paid, then a final notice letter demanding payment within seven days is to be sent stating that failure to pay will result in the matter being placed in the hands of the Shire's debt collection agency.
- (d) Debtors remaining unpaid after the expiry date for the final notice letter 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 Council's debt collection agency, to effect recovery.  
The debtor will also cease to have a credit rating with Council and will not be allowed to incur any further debt with Council.
- (e) Where a summons has been issued and remains unsatisfied, action will be taken to pursue that summons by whatever means possible, through Council's solicitors or debt collection agency as the case may be to secure satisfaction of the debt.
- (f) Following the issue of a summons and addition of legal costs, a reasonable offer to the Chief Executive Officer to discharge a debtor account by payment arrangement will not be refused.

### **4. Rates Debtors**

#### **4.1. Issue of Notices**

Rate Notices will be issued as soon as practicable after raising rates, as per Section 6.41 of *the Local Government Act 1995* and will advise the ratepayer of the due date, being not earlier than 35 days after issue of notice.

#### 4.2. Final Notice

Should rates remain outstanding 14 days after the due date and the ratepayer has made no payment or insufficient payment to cover the first instalment, a Final Notice will be issued. This Notice will advise of the total amount outstanding including any penalty interest payable and that legal action may be taken without further notice with all legal costs incurred being added to the ratepayer's account.

#### 4.3 Collection Steps

- (a) Rates Debtors remaining unpaid 14 days after Notice of Intended Legal Action letter date, sent 14 days after 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 Council's collection agency, to effect recovery.
- (b) Following the issue of a summons and addition of legal costs, a reasonable offer to the Chief Executive Officer to discharge a rates debtor account by alternative payment arrangement will not be refused.

#### 4.4. Instalments

A person wishing to participate in the instalment payment method must make at least the first instalment payment in full by the due date and should not have any outstanding rates and / or charges on their account. The instalment payment plan is subject to an administration charge and instalment surcharge 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.

#### 4.5. Alternative Payment Arrangements

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

#### 4.6. Back Rates

Council may, under *Section 6.39 of the Local Government Act 1995*, 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.

#### 4.7. Unpaid Rates

Where amounts remain outstanding, a Notice of Intended Legal Action letter will be sent.

Rates remaining unpaid after 14 days from the date the letter was sent and not subject to an approved arrangement or an alternative course of recovery action will be pursued through Council's solicitors or collection agency, as the case may be, to secure satisfaction of the debt.

Council will be consulted if this action is proposed for the collection of amounts owed by known pensioners.

Following the issue of a summons and addition of legal costs, a reasonable offer to the Chief Executive Officer to discharge a rate account by alternative payment arrangement will not be refused:

- (a) Where the owner is resident on the property in a domestic situation, alternative payment arrangements may be available after approval by the Chief Executive Officer (see alternative payment arrangements).
- (b) Where the owner is a non-resident or a company i.e. the property is an investment property, the maximum period over which repayment will be permitted will be three months.

Legal proceeding will continue until payment of rates imposed is secured. This includes the issue of a Warrant of Execution against goods and land if necessary to collect outstanding amounts in respect of all properties without a requirement that these be referred to Council.

In cases where the owner of a leased or rented property on which Municipal Rates are outstanding cannot be located or refuses to settle rates owed, notices may be served on the lessee or tenant under the provisions of *Section 6.60 of the Local Government Act 1995*, requiring the lessee or tenant to pay to the Council the rent due under the lease/tenancy agreement as it becomes due until the amount in arrears has been paid.

#### 4.8. Where Rates or Service Charges Remain Unpaid

Where rates remain outstanding for a period in excess of one year and all attempts to recover the debt have failed then a caveat will be lodged to preclude dealings in respect of the land to protect Council's interest.

Where previous actions to collect outstanding rates and service charges have not been successful and the rates and/or service charges remain unpaid for at least three years, Council will in accordance with *S6.64 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:

- (a) From time to time lease the land; or
- (b) Sell the land; or
- (c) Cause the land to be transferred to the Crown; or
- (d) Cause the land to be transferred to itself.

The above actions will be reported on a confidential basis to the Council for approval.