

**ANNEXURE G:
HARDSHIP POLICY**



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RATES AND CHARGES HARDSHIP ASSISTANCE POLICY

PO Box 240, BURWOOD NSW 1805
Suite 1, Level 2, 1-17 Elsie Street, BURWOOD NSW 2134
Phone: 9911-9911 Fax: 9911-9900
Email: council@burwood.nsw.gov.au
Website: www.burwood.nsw.gov.au

Public Document
Adopted by Council: 27 November 2018 (Min. No. 157/18)
Ref No: 2018/46765
Version No. 3
Ownership: Finance

Purpose

To provide a framework for determining assistance to ratepayers of Residential Rating Categories who are suffering genuine financial hardship with the payment of rates and charges, including pensioners.

Scope

Burwood Local Government Area ratepayers who meet the criteria for genuine hardship and eligible pensioners.

Principles

Council is committed to the following principles when considering an application of financial hardship with regard to the payment of rates and charges:

- Application of the principles of social justice, fairness and integrity
- Compliance with relevant statutory legislation
- Respect for the privacy of individuals

Definitions

Interest – a charge raised in relation to unpaid rates and charges in accordance with Section 566 of the Act

Pensioner – person solely liable, or a person jointly liable with one or more other persons, for a rate or charge levied on land (that is their principal or sole place of residence) who is in receipt of a pension, benefit or allowance under the *Social Security Act 1991* or the *Veterans' Entitlement Act 1986* who are entitled to a pensioner concession card

Deferment – the deferral of payment of the rates and charges for no more than 15 years from the original year of levy

Eligibility for Hardship Assistance

A ratepayer may be eligible for consideration for Hardship Assistance in the payment of overdue rates, annual charges, interest, and fees, where:

- the person is unable to pay due rates and charges or accrued interest when due and payable for reasons beyond the person's control
- payment when due would cause the person hardship

In determining eligibility, Council will use the information that is provided in the application form found at Appendix 1.

The applicant or Council staff may request an interview to assist in the understanding of the issues causing hardship.

Available Assistance

General:

Council recognises that ratepayers may experience hardship in some circumstances in paying rates and annual charges. The *Local Government Act 1993* (the Act) provides for the following assistance to ratepayers:

- Periodical payment arrangements for overdue rates and charges (Section 564)
- Writing off or reducing interest accrued on rates or charges (Section 564 and 567)
- Waiving, reducing or deferring the payment of the increase in the amount of rate payable because of hardship resulting from general revaluation of land in the Local Government Area (Section 601). This assistance is only available in the first year that the new valuations are used to levy rates
- Waiving, or reducing rates, charges and interest of eligible pensioners (Section 575 and 582)

Assistance to eligible pensioners:

Council recognises the number of pensioner ratepayers in the community, and is concerned with the difficulties some eligible pensioner ratepayers may have in meeting their rate payments.

Section 712 of the Act provides that proceedings for recovery of a rate or charge may be commenced at any time within 20 years from the date when the rate or charge became due and payable. The Office of Local Government Rating and Revenue Manual advises that councils have discretion to accrue rates, charges and applicable interest against a pensioner's estate. The Office of Local Government advises if councils wish to utilise this discretion, an agreement is required from the pensioner ratepayer.

Where the eligible pensioner requests a delay in recovery action to allow outstanding rates and charges, and interest to accrue against their estate, and is willing to enter into an agreement, Council will:

- Provide the eligible applicant pensioner ratepayer with a copy of the Hardship Rate Relief Application Form (refer Appendix 1) that will require the disclosure of relevant financial information. The ratepayer must complete the application in order to prevent proceedings commencing.
- Provide an annual rates notice of all outstanding rates and charges, and interest as well as appropriate instalment reminders.
- Not commence recovery action until there is a change in ownership of the property, either or both ratepayers leave the property (except where the pensioner is in a care facility on a temporary basis being less than 12 months) or either or both become ineligible for a concession. Should any of these events occur, rates and charges will become due and payable.
- However, given the constraints as set out in section 712 of the Act, Council will require pensioners to commence the payment of overdue rates and charges, such that their total debt to Council does not exceed 15 years.
- Should the pensioner be unable to adhere to the above, Council may commence recovery proceedings for any debt in excess of 15 years.

The following conditions will apply to Burwood Council's agreement to defer recovery action:

- Interest on overdue rates and charges continues to accrue and the interest rate may vary from year to year in accordance with the Minister for Local Government's determination.
- The application to allow accrual of rates against future estate or sale of the property must be in writing, signed by each owner or person having an interest in that land. A letter of confirmation is to be provided each financial year to ensure the ongoing agreement between the ratepayer(s) and the Council.
- An eligible pensioner ratepayer must notify Council if the pensioner no longer uses it as his/her principal place of living or rents it out. Notification must be provided by the pensioner within 30 days of vacating the premises.
- Deferment of rates and charges under this policy will be for no more than 15 years. Prior to the commencement of the 15th year periodic instalments are to be made to ensure that no more than 15 years remain outstanding at any one time. Council Officers will contact the ratepayer to arrange a satisfactory payment arrangement.

Appendix 1



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HARDSHIP RATE RELIEF APPLICATION FORM

APPLICATION FOR HARDSHIP RATE RELIEF FOR THE WHOLE OR PART OF THE YEAR COMMENCING 1 JULY 20__

*please answer all questions relevant to you using block letters and ticking appropriate boxes.

Applicant Details

I, (full name)

Of (residential address)

Apply for concessional rate arrangement on the following grounds:-

.....
.....
.....

Amount Owing: \$

Property Rates Assessment Number:

For the purposes of this application, I give the following information, and that contained in the attached Statement of Position, which I believe to be correct.

1) Do you receive any pensions or benefits? ☐ Yes ☐ No

If No, proceed to Question 4.

If Yes, please provide type of pension and amount received per fortnight.

Pension: _____ Amount: \$ _____

2) Do you have a current Pensioner Concession Card issued by the Commonwealth Government?

PCC No. _____ Date Granted: _____

3) Have you claimed a pensioner concession on any other property this year:

If Yes, state the address of the property _____

- Approved applicant(s) agree that all rates and charges will accrue against the estate and are to be paid in full upon finalisation of the estate.
- The rates and charges outstanding must be paid in full on settlement on the sale of the property.
- If the owner ceases to be an eligible pensioner at any time the rates and charges are required to be paid in full.

Process for Rate Relief

Criteria

- A pensioner must hold a concession card issued under the *Social Security Act 1991* or the *Veterans' Entitlement Act 1986*.
- The applicant(s) must have owned the applicable property for five years or more.
- Properties that are subject to a mixed development apportionment factor are not eligible.

Requirements

- Applications must be made on the Hardship Rate Relief Application Form and lodged with Council (refer Appendix 1).
- The pensioner must grant permission to Council Officers to confirm with Centrelink or Veterans' Affairs their pensioner eligibility.
- Council Officers must sight the original pension card.

Approval Process

- All applications received will be reported to Council in closed session for determination under Section 10A(2)(b) personal hardship of any resident or ratepayer of the Act.
- A copy of the application form is to be attached to the Council report.
- Applications that have been approved, will require the Pensioner to complete the Rates and Charges to Accrue to the Estate Settlement on Sale of the Property Form (refer Appendix 2).
- At each rate levy the Pensioner will be advised of the rates outstanding via a Council Rate Notice with a covering letter reaffirming that they are not payable until the 15th year, including the interest rate chargeable for the current year highlighted.
- No reminder notices or letters of demand will be sent to the Pensioner during the financial year.
- Applications that have not been approved will be advised accordingly and reasons provided.

Related Information

- *NSW Local Government Act 1993*
- Local Government (General) Regulation 2005
- *Social Security Act 1991*
- *Veterans' Entitlement Act 1986*
- *Privacy and Personal Information Protection Act 1998*
- *Environmental Protection & Assessment Act 1979*
- *Health Records and Information Privacy Act 2002*
- Burwood Council's Privacy Management Plan

Review

This policy will be reviewed every four years.

Contact

Financial Operations Accountant on 9911 9836

- 4) Is this property your sole or principal place of living? ☐ **Yes** ☐ **No**

The property for which I am claiming has been my sole/principal place of living since _____

- 5) I am liable for the payment of rates and charges on this property, together with others as listed below. **(If no others, write "SOLE OWNER")** _____

Please provide details of all "other" persons indicated in Question 5. **(ALL OWNERS other than the applicant should be listed, including your spouse):**

Name Pension Type Pension

Name	Pension	Pension No	Date of Grant	Share (%) Ownership*

Evidence of joint ownership is attached/has been provided to council previously (circle whichever is applicable).

- 6) Is the property owned as shares in a company title? ☐ **Yes** ☐ **No**
If you do not own or rent the property, please explain why you are liable to pay the rates

- 7) Are there people living at the property other than those listed at Question 5? ☐ **Yes** ☐ **No**

- 8) Please indicate who these people are?

- ☐ Self
☐ Spouse
☐ Children (State ages _____)
☐ Boarders
☐ Relatives
☐ Other (please specify)

- 9) Do you own (either fully or partially) any other land or buildings? ☐ **Yes** ☐ **No**
If yes, list addresses.

- 10) How many children do you support? _____ State ages _____

11) What is the cause of financial hardship?

12) How long have you been experiencing hardship? _____

13) Please state gross weekly amount received in dollars and cents from the following sources of income:

a) Salary and Wages (after tax) \$ _____

b) Pensions and benefits \$ _____

c) Compensation, superannuation insurance
or retirement benefits \$ _____

d) Spouse's income \$ _____

e) Income of other residents of the property \$ _____

f) Casual/part-time employment \$ _____

g) Family allowance \$ _____

h) Interest from banks/credit unions/building
societies \$ _____

14) Please provide name and current balance of all bank, credit union or building
society accounts held by you.

15) Please state details of fortnightly outgoings.

Outgoing Owed to Amount

- Rent/Home Loan \$ _____
- Other mortgages \$ _____
- Personal loans/Hire purchase \$ _____
- Health Costs \$ _____
- Council rates and other Service charges \$ _____

Please attach a separate page with any other relevant information you feel may assist your application.

I hereby declare that the information provided is true and correct. **If you make a false statement in an application you may be guilty of an offence and fined up to \$2,200.**

Signature: _____ Date: _____

CUSTOMER CONSENT

For the sole purpose of authorising the council to confirm with Centrelink whether or not the detail I have provided to the council matches Centrelink or other Commonwealth portfolio department or agency records in relation to the current status of my Commonwealth Benefit:

I authorise the council to confirm with Centrelink the following details:

- Pension No.
- Name
- Address
- Postcode, and
- That I am a valid concessional card holder

I agree that, unless I revoke my consent, this Customer Consent record is a permanent consent, and may be relied on by the council until such time as I revoke it.

I may revoke this Customer Consent record at any time by giving the council **written** notice that my consent is revoked. I understand if I revoke this consent, I may not be eligible for the concession given by the council.

I acknowledge I have read and understood this Customer Consent record.

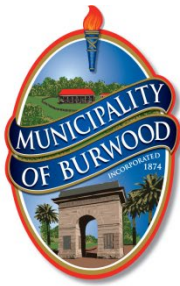
Signature: _____ Date: _____

PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998 Compliance with Section 10

The information contained in this application form and any information requested for the purpose of assessing eligibility for a pensioner concession is required under the *Local Government Act 1993* and the *Local Government (Rates and Charges) Regulation 2005*. This information is required before your application for a pensioner concession can be processed. The information is private and confidential and council must not disclose the information to any person or body if it is not directly related to the purpose for which the information was collected.

If you have a complaint about the use of your personal information, contact the council's Public Officer. The information contained or referred to in this application form may be corrected and updated by you, by contacting the council.

Appendix 2



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RATES & CHARGES TO ACCRUE TO THE ESTATE – SETTLEMENT ON SALE OF PROPERTY - AGREEMENT

I/We: _____
(name/s)

Of: _____
(residential address)

Assessment Number: _____
(assessment number)

I/We understand that:

1. all rates and charges for the abovementioned property will accrue against my estate
2. the outstanding rates and charges are subject to interest in accordance with the *Local Government Act 1993* and may vary from year to year
3. upon transfer or sale of the above mentioned property the outstanding rates and charges will be paid to Council
4. if any rates and charges remain unpaid for a period of 15 years then I will commence payment of rates and charges by periodic instalments to ensure that no more than fifteen years rates and charges are outstanding at any one time
5. upon my death the outstanding rates and charges accrued to my Estate will be paid to Council upon finalisation of the Estate
6. if I/we cease to be an eligible pensioner the rates and charges are required to be paid in full

Signature of Applicant/s _____
(signature of applicant/s)

Dated this _____ day of _____ 20____

Signature of Applicant/s taken and declared at in the State of New South Wales

Justice of the Peace _____ JP number _____

Dated this _____ day of _____ 20____



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HARDSHIP RESULTING FROM CERTAIN VALUATION CHANGES – SECTION 601 POLICY

PO Box 240, BURWOOD NSW 1805
Suite 1, Level 2, 1-17 Elsie Street, BURWOOD NSW 2134
Phone: 9911-9911 Fax: 9911-9900
Email: council@burwood.nsw.gov.au
Website: www.burwood.nsw.gov.au

Public Document
Adopted by Council: 25 September 2018 (Min. No. 116/18)
Document No: 18/37375
Version No. 2
Ownership: Finance

Purpose

To provide a framework for determining assistance for residential ratepayers who have suffered substantial financial hardship from a revaluation or a valuation change under Section 601 of the *Local Government Act 1993* (the Act).

Scope

Owner occupiers of residential property within the Burwood Council Local Government Area who wish to apply for rate relief due to valuation changes in residential land values. The rate relief is for a period of one year only.

Definitions

Interest – a charge raised in relation to unpaid or deferred rates and charges in accordance with Section 566 of the Act

Principal place of residency – the property is the applicant's primary or sole place of habitation

Relief – for the purposes of this policy, relief refers to the deferral of rates payable for the first year only on which the new valuation is applied

Residential – land rated as such pursuant to Section 516 of the Act

Substantial hardship – excessive rates payment burden determined on the basis of the information returned in the Hardship Rates Relief form

Mixed Development – a valuation where the NSW Valuer General has assigned a mixed development apportionment factor percentage

Deferral – does not mean a write-off of an amount, eventual future payment is required and interest will be applied

Eligibility

Burwood Council recognises that properties may be subject to significant variations in land rates, compared to the previous year's land rates, due to the NSW Valuer General's revaluation of land.

If a ratepayer believes they would suffer substantial hardship as a result of paying rates, based on the new land value, as they would normally fall due and payable, they may make an application (refer appendix A) to Council. The following selection criteria/conditions apply:

- Application must be in respect to land that is the principal place of residency
- The applicant(s) must have owned the applicable property for five years or more
- Properties that are subject to mixed development apportionment factor will not be considered
- An application for an assessment with carried-forward arrears, with no appropriate arrangement in place to repay current arrears, will not be considered

Assessment

Rate relief in the form of deferral will only be applicable to the rates payable for the first year on which the new valuation is applied.

Deferral will be in the form of the difference between the rates applicable on the new valuation and the rates applicable for the previous valuation. The ratepayer will be required to pay the previous year rates plus the current rate pegging in the rating year of the new valuation. The difference

between the new rates and previous years rates as a result of the valuation will be carried forward to the next rating year and accrue interest changes in accordance with Section 566 of the Act.

Ratepayers who apply for the deferral of rates under Section 601 of the Act will be notified of the determination within 10 working days of receipt of the completed application.

Related Information

Local Government Act 1993

Burwood Council Statement of Revenue Policy

Council Rating & Revenue Raising Manual – NSW Office of Local Government

Privacy and Personal Information Protection Act 1998

Rates and Charges Hardship Assistance Policy

Review

This policy will be reviewed every four years.

Contact

Financial Operations Accountant - 9911 9836

Appendix A



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APPLICATION FORM - HARDSHIP RATE RELIEF UNDER SECTION 601 OF THE LOCAL GOVERNMENT ACT 1993

Note: Pensioners are to complete the Hardship Rate Relief Application Form

APPLICATION FOR HARDSHIP RATE RELIEF FOR THE WHOLE OR PART OF THE YEAR COMMENCING 1 JULY 20__

*please answer all questions relevant to you using block letters and ticking appropriate boxes.

Applicant Details

I, _____
(Full name in block letters)

of _____
(Residential address)

Telephone number _____ apply for concession on the basis of financial hardship.

Property Rates Assessment Number _____

For the purposes of this application, I give the following information, and that contained in the attached Statement of Position, which I believe to be correct.

PRIVACY

The information in your application and any information the Council obtains confirming your eligibility for hardship rate relief is private and confidential. Council employees and any other people dealing with this document are instructed to keep it confidential. If they do not, they may be guilty of an offence under the *Privacy and Personal Information Protection Act 1998*.

1. Do you receive any pensions or benefits? ☐ Yes ☐ No

If Yes, please provide type of pension and amount received per fortnight.

Pension: _____ Amount: \$ _____

2. Do you have a current Pensioner Concession Card issued by the Commonwealth Government?

PCC No. _____ Date Granted: _____

IF NOT, PLEASE CONTINUE

3. Is this property your sole or principal place of residency? ☐ Yes ☐ No

The property for which I am claiming has been my sole/principal place of residency since _____

4. I am liable for the payment of rates and charges on this property, together with others as listed below. **(If no others, write "SOLE OWNER")** _____

Please provide details of all "other" persons indicated in Question 4. **(ALL OWNERS other than the applicant should be listed, including your spouse):**

Evidence of joint ownership is attached/has been provided to council previously (circle whichever is applicable).

5. Is the property owned as shares in a company title? ☐ Yes ☐ No
If you do not own or rent the property, please explain why you are liable to pay the rates

6. Are there people living at the property other than those listed at Question 4? ☐ Yes ☐ No

7. Please indicate who these people are?

- ☐ Self
☐ Spouse
☐ Children (State ages _____)
☐ Boarders
☐ Relatives
☐ Other (please specify) _____

8. Do you own (either fully or partially) any other land or buildings? ☐ Yes ☐ No
If yes, list addresses.

9. How many children do you support? _____ State ages _____

10. What is the cause of financial hardship?

11. How long have you been experiencing hardship? _____

12. Please state gross weekly amount received in dollars and cents from the following sources of income:

- | | |
|--|----------|
| a) Pensions and benefits | \$ _____ |
| b) Compensation, superannuation insurance or retirement benefits | \$ _____ |
| c) Spouse's income | \$ _____ |
| d) Income of other residents of the property | \$ _____ |
| e) Casual/part-time employment | \$ _____ |
| f) Family allowance | \$ _____ |
| g) Interest from banks/credit unions/building societies | \$ _____ |

13. Please provide name and current balance of all bank, credit union or building society accounts held by you.

14. Please state details of fortnightly outgoings.

Outgoings Owed to Amount	
Rent/Home Loan	\$ _____
Other mortgages	\$ _____
Personal loans/Hire purchases	\$ _____
Health Costs	\$ _____
Council rates and other service charges	\$ _____

Please attach a separate page with any other relevant information you feel may assist your application.

I hereby declare that the information provided is true and correct. **If you make a false statement in an application you may be guilty of an offence and fined up to \$2,200.**

Signature: _____ Date: _____



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DEBT RECOVERY POLICY

PO Box 240, BURWOOD NSW 1805
Suite 1, Level 2, 1-17 Elsie Street, BURWOOD NSW 2134
Phone: 9911-9911 Fax: 9911-9900
Email: council@burwood.nsw.gov.au
Website: www.burwood.nsw.gov.au

Corporate Document
Adopted by Council: 21 August 2018 (Min. No. 100/18)
Trim No: 18/34145
Version No. 2
Ownership: Finance

Purpose

The objectives of this policy are to:

- ensure effective recovery of overdue rates and annual charges and miscellaneous sundry debts owed to Burwood Council
- ensure a consistent approach to Burwood Council's debt management and collection practices
- be empathetic to ratepayers and sundry debtors that can demonstrate genuine financial hardship
- work within the statutory requirements of the *Local Government Act 1993* (the Act), inter alia, in relation to the recovery of rates and annual charges and miscellaneous sundry debts
- to meet, or better, the debt recovery financial benchmarks set by the NSW Office of Local Government

Scope

Applies to all rates and annual charges levied, and miscellaneous sundry debts duly owed to Burwood Council.

Dictionary

- **Rates and charges** – all balances listed on a rates and annual charges notice or legal notice
- **Miscellaneous sundry debts** – non rates and charges debts listed in Council's accounts receivable ledger
- **Financial Hardship** – demonstrable personal circumstances that indicate an inability to pay
- **Financial Benchmarks** – NSW Local Government industry standard benchmarks or performance indicators
- **Key Performance Indicator** – Council's internal rates and annual charges outstanding ratio limit
- **Debt Recovery Procedure** – procedure to follow in order to meet the objectives of this policy

Debt Recovery Standards

Rates and Charges

1. The recovery of rates and annual charges outstanding percentage at the end of each financial year will be not more than 5%
2. Ratepayers that can demonstrate genuine financial hardship and enter into, and execute, an acceptable payment arrangement, will not be subject to a final notice
3. Debt recovery will commence when either four instalments are overdue or the outstanding balance on the property is \$1,300 or more
4. Where a ratepayer fails to meet the payment arrangement, recovery action shall (re)commence in accordance with the Debt Recovery Procedure

Miscellaneous Sundry Debts

1. A sundry debt that is more than \$400 or 90 days overdue will be referred to Council's Debt Recovery Agency for collection – unless otherwise provided for under the Debt Recovery Procedure

Debt Recovery Options

1. Garnishee of salary or wages or rent (Section 569 Notice of the Act)
2. Writ of Execution and have the NSW Sheriff levy goods
3. Examination Summons

4. Warrant of Apprehension
5. Wind-Up or Bankruptcy proceedings
6. NSW Sheriff Writ on Land Title
7. Sale of Land due to Overdue Rates proceedings (Section 713 of the Act)

Related Information

- *NSW Local Government Act 1993*
- Financial Benchmarks – NSW Office of Local Government
- Debt Recovery Procedure
- Rates and Charges Hardship Assistance Policy
- Hardship Resulting from Certain Valuation Changes – Section 601
- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*

Review

This policy will be reviewed every four years

Contact

Financial Operations Accountant on 9911 9836



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DEBT RECOVERY PROCEDURE

PO Box 240, BURWOOD NSW 1805
Suite 1, Level 2, 1-17 Elsie Street, BURWOOD NSW 2134
Phone: 9911-9911 Fax: 9911-9900
Email: council@burwood.nsw.gov.au
Website: www.burwood.nsw.gov.au

Corporate Document
Approved by General Manager: 6 July 2018
Trim No: 18/25859
Version No. 3
Ownership: Finance - Revenue

Purpose

To document debt recovery procedural practices that Council Officers will follow in the recovery of outstanding Rates and Annual Charges and Miscellaneous Sundry Debts.

Scope

Applies to Council Officers who are authorised to carry out all legal proceedings to recover outstanding debts within the guidelines of this document.

Authorised Officers

Authorised Officers are:

1. Chief Finance Officer
2. Financial Operations Accountant
3. Accountant
4. Financial Operations Officer

Rates and Annual Charges

Council's rates and annual charges can be paid in a single instalment or by quarterly instalments. If a payment is made by a single instalment it is due for payment on 31 August, if elected to be paid by quarterly instalments the due dates are 31 August, 30 November, 28 February and 31 May.

On or before 31 October, 31 January and 30 April, Council will send quarterly instalment reminder notices (separately from the rates and annual charges notice) to each ratepayer who elected to pay by quarterly instalments in accordance with Section 562 of the *Local Government Act 1993* (the Act).

Throughout the year overdue notices are forwarded to ratepayers who have missed paying their instalments by the due date. These notices are sent by the end of the third week after each instalment due date in September, December, March and June.

Ratepayers who are Pensioners and have received a Pensioner Rebate will also be sent instalment and reminder notices throughout the year but will not be referred to Council's Debt Recovery Agency for unpaid Rates and Annual Charges (refer Rates Hardship Assistance Policy).

Extra Charges

Overdue rates and charges remain liable for interest charges in accordance with Section 566 of the Act. All legal costs incurred by Council in the recovery of outstanding rates and charges will be added to the outstanding debt.

Debt Collection Steps

The debt collection process commences where the rates and annual charges on any one given property are either four instalments overdue or if the outstanding balance on the property is \$1,300 or more, whichever occurs first.

However, if any ratepayer contacts Council regarding their outstanding balance and can demonstrate financial hardship Council will allow the ratepayer to enter into an instalment plan in accordance with Council's Rates Hardship Assistance Policy.

If the ratepayer's balance remains unpaid or an agreed instalment plan is not kept the following will occur:

1. A courtesy phone call or an SMS Reminder may be made/sent to the ratepayer will be made to remind them that their rates and annual charges are outstanding or their instalment plan is not being adhered to. The ratepayer's phone number will be sourced from either Council's Name and Address database, TRIM records, or www.whitepages.com.au
2. If the ratepayer's account still remains outstanding after a phone call or the instalment plan is not being adhered to, the matter is then referred to Council's Debt Collection Agency and a 14 day Letter of Demand on agency letterhead is mailed to the ratepayer(s). Another Letter of Demand may be mailed if an alternate address may be more appropriate – this gives the ratepayer(s) another opportunity to make payment or enter is appropriate payment arrangement before incurring legal costs. A courtesy phone call reminder or an SMS Reminder may be made/sent to the ratepayer prior to the next step.
3. At the expiration of the Letter of Demand period the debt collection agency is requested to lodge a Statement of Claim in the Civil Claims Court. When the Statement of Claim is issued by the Court it will be served in person on the ratepayer(s).
4. At the expiry of the Statement of Claim the debt collection agency is requested to lodge an application for default Judgement in the Civil Claims Court.
5. When the Judgement is granted by the Court and the payment is not made the debt collection agency is requested to lodge an application for Garnishee in the Civil Claims Court.

If the garnishee is not successful in settling the debt Council will use other measures as follows:

1. Incur Skip Tracing costs to be able to direct process server or Sheriff to debtors; or
2. Apply for a Writ of Execution and have the sheriff levy goods; and if no goods of value; or
3. Serve an Examination Summons; and if the ratepayer/debtor does not appear in Court apply to the Civil Claims Court for a Warrant of apprehension; or
4. Apply for a NSW Sheriff Write on Title; or
5. Commence Wind-Up or Bankruptcy proceedings in the NSW Supreme Court; or

During any point in time if the ratepayer pays or enters into an agreement with Council to pay by instalments all debt recovery action will cease. If, however the ratepayer defaults on the agreed instalment plan or their rates and annual charges exceed the threshold \$1,300 or four instalments then debt recovery action will commence again.

In the event that the debt remains unpaid after Council has exhausted all legal options as outlined above the only recourse is for Council to sell the property for outstanding rates and annual charges after five years in accordance with Sections 713 – 726 of the Act and Council's Debt Recovery Policy.

Sale of Land for Unpaid Rates and Annual Charges

Council has the option to sell Land for the recovery of unpaid Rates, Annual Charges and Interest under Sections 713 - 726 of the *Local Government Act 1993*.

Section 713 provides that in the case of any land (excluding vacant land which can be sold with only one year's rates and annual charges overdue), where any rate and annual charge has been unpaid for more than five years, the Council may sell the land, subject to the conditions specified in Section 713. In the case of vacant land where rates and charges have been unpaid for more than

one year but not more than five years, Council may sell the land subject to the conditions specified in Section 713 of the Act.

Prior to the commencement of any action the General Manager and Deputy General Manager, Corporate, Governance and Community will be briefed and appropriate documentary evidence provided that all other legal avenues have been pursued in the recovery process. Once the General Manager is briefed and all documentation provided a report will be referred to Council for approval to commence the selling of the property for unpaid rates and annual charges.

The proceeds of the sale, after Council is reimbursed including payment of all outstanding rates and annual charges, the balance is paid to the debtor and if the owner is unknown the balance is paid into a trust account which Council administers.

Miscellaneous Sundry Debts

Council produces the following two types of Miscellaneous Sundry Debtors:

- Invoices generated through Authority Registers these are produced by Land, Infrastructure and Environmental Council Officers electronically which are then printed from the Authority Sundry Debtor system by a Finance Officer.
- Invoices raised manually through the Authority system via information supplied by Council Officers in the form of a paper base or email notification information supplied to Finance includes name, address and contact details of person or company the account is to be made out to, description or details relating to the debt, amount to be raised, income code and if GST is applicable.

Once the details have been supplied to Finance a Tax Invoice is produced, then mailed, faxed or emailed to the debtor or in some instances hand delivered. All mailing details are kept on file for future reference.

At the end of each month Statements of all outstanding accounts are printed then mailed, faxed or emailed to the debtor. The statement shows all invoices outstanding and/or any payments made. This ensures the debtor is kept informed of their liability to Council.

Statements are graded for aged balances with appropriate stickers affixed to further explain the nature of the debt and/or the (statutory) requirement to pay the debt.

Debt collection procedures commences where the Miscellaneous Sundry Debtors outstanding amounts are over **\$400** or **60** days outstanding.

Extra Charges

All legal costs incurred by Council in the recovery of outstanding miscellaneous sundry debts will be added to the outstanding debt.

Debt Collection Steps

Council recognises that there may be some delay in payment of accounts and every effort is afforded to the debtor to come to a suitable payment arrangement to avoid legal action for the recovery of the debt.

If the debtor account remains outstanding for 60 days or accumulates to the threshold of \$400 the following measures are implemented.

1. A courtesy phone call or an SMS Reminder may be made/sent to the debtor will be made to remind them that a debt is owed to Council and to arrange a date for payment. The debtor's

phone number will be sourced from either Council's Name and Address database, TRIM Records or www.whitepages.com.au

2. If the account remains outstanding after a phone call or an arranged date for payment, the matter is then referred to Council's debt collection agency and a 7 day Letter of Demand on agency letterhead is mailed to the debtor
3. At the expiry of the first Letter of Demand another Letter of Demand may be mailed if an alternate address can be found or may be more appropriate (the method used in this process is called Skip Tracing, this is an additional cost which Council bears). This affords the Debtor another opportunity to make payment or enter into an appropriate payment arrangement *before* incurring legal costs
4. At the expiration of the second Letter of Demand period the debt collection agency is requested to lodge a Statement of Claim in the Civil Claims Court. When the Statement of Claim is issued by the Court it will be served in person on the debtor at the person(s), proprietor(s) or registered company address
5. At the expiration of the Statement of Claim the debt collection agency is requested to lodge an application for default Judgement in the Civil Claims Court
6. When the Judgement is granted by the Court the debt collection agency is requested to lodge an application for Garnishee in the Civil Claims Court

If the garnishee is not successful in settling the debt Council has several options:

1. Incur Skip Tracing costs to be able to direct process server or Sheriff to debtors; or
2. Apply for a Writ of Execution and have the sheriff levy goods; and if no goods of value; or
3. Serve an Examination Summons; and if the ratepayer/debtor does not appear in Court apply to the Civil Claims Court for a Warrant of Apprehension; or
4. Commence Wind-Up or Bankruptcy proceedings in NSW Supreme Court

During any point in time if the debtor pays or enters into an agreement with Council to pay by instalments all debt recovery action will cease. If, however the debtor defaults on the agreed instalment plan or the debt exceeds the threshold \$400 then debt recovery action will recommence.

In the event that the debt remains unpaid after Council has exhausted all legal options as outlined above the only recourse is for Council to write-off the debt. The write off of Miscellaneous Sundry Debts requires a Briefing Memorandum to the General Manager outlining the nature of the debt and steps which have occurred in trying to recover the debt. If the debt unrecoverable and is more than \$5,000 the debt is required to be reported to Council for write off approval.

Miscellaneous Sundry Debts – Additional Requirements and Processes

(Note: Miscellaneous Sundry Debts may be forwarded to Revenue NSW for printing, mailing and payment collection. Debt recovery will be made pursuant to *State Debt Recovery Act 2018*)

Road Opening Permits - Category 36

Council's Restoration Team is to be contacted to discuss whether any special circumstances have been negotiated that has delayed payment or to ascertain whether the restoration works have been completed by Council as an invoice cannot be raised and issued until the restoration works have been completed by Council.

Burwood Festival or Other Events - Category 40

All invoices issued must be paid in full with cleared funds prior to the event. The Events Co-ordinator is to be contacted as to which account is outstanding before any recovery action is taken.

Health Inspections - Category 45

Health Inspection invoices are mailed to the registered office address, available from the shop registration form or ABR enquiry.

A copy of the invoice may be printed and collection sticker or sticker explaining the fee and hand-delivered to a shop (postage paid envelopes must be crossed with the words 'Delivered By Hand' written in place).

If an invoice/statement is mailed to a shop in Westfield Burwood Council must determine the registered office address or confirm with Westfield Centre Management that the shop has a post box with Westfield.

Annual Administration Fee - Category 46

Council's Health Inspectors are to be contacted to ensure that an inspection has taken place pursuant to the fee before the debt collection process commences.

Boarding Houses - Category 47

Council's Health Inspectors are to be contacted to ensure that an inspection has taken place or that the account is not on-hold before the debt collection process commences.

Miscellaneous Debtors - Category 53

Each debtor in this category is to be reviewed on a case-by-case basis as the circumstances are different for each account.

Green Waste Fees - Category 54

Accounts in this category are usually under special arrangement where the outstanding balance will be paid on property transfer. There is no debt collection on these accounts. Where the circumstances change the matter must be referred to the Financial Operations Accountant.

Trade Waste Fees - Category 55

In managing the outstanding balances an overdue listing is compiled one week prior to the end of the calendar month and circulated to the Deputy General Manager – Land Infrastructure and Environment, (Acting Director – Engineering & Operational Services), Manager Civil Construction & Operations, Manager Environment and Health, Health Administration Assistant and the Chief Finance Officer. Bins are either removed by the Waste and Street Cleaning Co-ordinator or a letter is delivered to the business informing the account is overdue.

Debt collection commences immediately after the bin/s have been collected due to non-payment and the trade waste customer makes no attempt to pay the outstanding fees, or cancels the service leaving an outstanding balance.

Trade Waste accounts payment terms are strictly 7 days from invoice date – for the next service month. A courtesy phone call or an SMS Reminder **may** be made/sent to the debtor to remind them that a debt is owed to Council and to arrange immediate payments.

If no payment is made, a Request for Outstanding Payment slip is delivered to the business. Bins are removed by the Waste and Street Cleaning Co-ordinator if the account remains unpaid.

Enfield Aquatic Centre - Category 56

School/colleges and approved Commercial lane hirers are invoiced all other attendees wishing to hire pool lanes or facilities need to pay upon entry.

Outstanding Commercial lane hirers' balances will be followed up by Manager Enfield Aquatic Centre each month for consideration.

Park Hire - Category 58

For non-school/college invoices, all park hire must be settled with cleared funds before the use of the park.

Seasonal bookings must be paid within three months of the season commencing, unless other arrangements have been entered into with Council.

Casual bookings are subject to pre-payment. Payment must be received at least five working days prior to date of use. Failure to pay will result in use being denied by Council's Law Enforcement Officers.

Restorations - Category 59

Only the creditworthy utilities, including but not limited to, Telstra, Sydney Water, Ausgrid, Jemena, Roads and Maritime Services are invoiced. Companies carrying-out work under the Telecommunications Act are also invoiced.

Given their credit worthiness it is acceptable to allow some delay in payment however an email to the utility requesting payment should be attempted.

All other companies require payment prior to works commencing.

Outdoor Eating Area Licence - Category 60

The General Manager has approved that Outdoor Eating Licences may be paid by (quarterly) instalments in-advance of the payment period – i.e. quarterly in-advance.

Rentals - Category 61

All overdue balances for Residential and Commercial rentals are, in the first instance, referred to the Property Management Co-ordinator for follow-up.

Related Information

- *Local Government Act 1993*
- *Financial Management (General) Regulations 2005*
- *State Debt Recovery Act 2018*
- Financial Benchmarks – NSW Office of Local Government
- Debt Recovery Policy
- Rates and Charges Hardship Assistance Policy
- Hardship Resulting from Certain Valuation Changes – Section 601

- Debt Recovery Policy

Review

This procedure will be reviewed every four years

Contact

Financial Operations Accountant on 9911 9836