

Rate Debt Management Policy

Policy – CP062

| Prepared | Reviewed | Approved | Date | Council Minute No. |
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| MCA | ELT | Council | 27 February 2019 | 2019/0028 |
| EDMS File: 18/02/01 | | | To be reviewed: February 2021 | |
| Document Owner: General Manager Corporate | | | Review Frequency: 2 Years | |

1. The purpose of this policy is

To establish a framework for Mildura Rural City Council to manage and implement a consistent approach to the collection of rates and charges that is consistent with Council's KRA of financial sustainability.

2. Policy Statement

Council derives a large share of its revenue from rates and charges, and therefore has a responsibility to ensure that all monies owing are collected in a timely, effective and efficient manner, in order to finance its operations and to ensure effective cash flow management.

3. Principles

In formulating this policy, Council is committed to the following principles:

- Assisting customers to attend to any rates arrears in a progressive manner.
- Adherence to Part 8 of the Local Government Act 1989 in relation to the recovery of unpaid rates and charges.
- Ensure a fair, equitable and accountable approach to collection decisions and practices.
- Rate debtors are expected to take responsibility for their Council debt obligations and to organise their affairs in such a way as to be able to discharge these obligations when required.
- Council will not instigate legal action without first making reasonable endeavours to contact the debtor directly to advise of such action. However, Council will proceed with each step of the legal process without further notice where a debtor:
 - Fails to respond to communications from Council or its nominated Debt Collection Agency;
 - Fails to enter into a realistic and agreed payment arrangement; or
 - Fails to meet repayments as agreed

Process

In the event that a customer does not pay their annual rates, charges or levies by the statutory due dates, Council may instigate recovery of this debt via the methods outlined in the Local Government Act 1989. However, this process must also include the requirement for Council to make reasonable endeavours to avoid the need to engage the legal system.

The convention that shall be applied for Debt Collection is:

| Reasonable Endeavours Checklist | Recovery of Rates, Charges & Levies |
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| <p>Step</p> <p>1. Final Notice issued</p> <p>2a. Referral to Debt Collection Agency (Lump sum participant)</p> <p>2b. Referral to Debt Collection Agency (Instalment participant)</p> <p>3. SMS sent and Demand Letter issued</p> <p>4. Second Attempt to Contact Customer</p> | <p>Action</p> <p>Final Rate Notices are to be issued on all rates assessments with balances greater than five dollars (Lump Sum Option only) 14 days prior to the conclusion of the 28 day grace period on penalty interest.</p> <p>Rates assessments with balances no less than \$750.00 (or with aged debt of more than three years) are to be referred to our nominated debt collection agency after the conclusion of the penalty interest grace period (Lump Sum Option only) unless an agreed payment arrangement has been made and adhered to.</p> <p>Rates assessments with balances no less than \$750.00 are to be referred to our nominated debt collection agency where unpaid Instalments from the previous financial year are not paid by 14 October of the new financial year.</p> <p>The debt collection agency will:</p> <ul style="list-style-type: none"> - send a SMS text message to the customer (if we have a mobile phone number) requesting contact, and - send a Demand letter in the mail to the customer. <p>After 7 days, rates assessments with balances no less than \$1,500.00 (or with aged debt of more than three years) where no contact has been received from the customer by either Council or the debt collection agency, the debt collection agency will:</p> <ul style="list-style-type: none"> - make one attempt to contact the customer by phone. Successful phone contact is defined as being: |

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| | <ul style="list-style-type: none"> - The call is answered and the customer is spoken to, or - The call is answered and this person agrees to pass on a message to the customer, or - The call isn't answered but a message is left on an answering machine, message bank or message-to-text service <p>If phone contact is unsuccessful the debt collection agency is to refer the customer back to Council. Council will then search for alternative postal addresses, phone numbers or email addresses (within its customer database and document archive system) and make one attempt on each to contact the customer. If successful contact cannot be made, the customer is referred back to the debt collection agency.</p> |
| <p>5. Issue Complaint (Magistrates' Court)</p> | <p>After a minimum of 21 days since the initial SMS text or Demand letter, should no contact (including the receipt of full or part payment) be received from the customer by either Council or the debt collection agency and the amount of the debt is no less than \$1,500.00 (or is aged more than three years), the debt may be referred to the Magistrates' Court and a Complaint issued in accordance with Section 180 Local Government Act 1989.</p> <p>Note: where the debtor is not a registered owner, their details will be deleted from the rates assessment and their debt collection account will be closed. An updated Rate and Valuation Notice is then issued in the registered owner's name, accompanied with a letter advising their tenant has defaulted on payment, and they now have 14 days in which to pay in full or make an agreeable payment arrangement. No further contact or negotiation with the tenant will be entered into. After the 14 day period, the collection process will commence at Step 2.</p> |
| <p>6. Issue Judgement (Magistrates' Court)</p> | <p>After 21 days, should no contact (including the receipt of full or part payment) be received from the customer by either Council or the debt collection agency, the matter may proceed to</p> |

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| | <p>Judgement. Judgement is also to be obtained in the event that Council is required to attend a 'Defence' instigated by the customer, or if an agreed payment arrangement isn't adhered to.</p> <p><u>Judgement must be obtained prior to the expiry of the Complaint (regardless of the debtor's circumstances) if the debt including legal costs aren't paid in full.</u></p> |
| <p>7. Issue Summons Oral Examination (Magistrates' Court)</p> | <p>After 14 days from the date of issue of the Judgement, should no contact (including the receipt of full or part payment) be received from the customer by either Council or the debt collection agency the matter may proceed to Summons Oral Examination (SOE). The matter may also proceed if an agreed payment arrangement isn't adhered to.</p> |
| <p>8. Other Methods of Enforcement (Magistrates' Court)</p> | <p>After 14 days from attending the SOE, should no contact (including the receipt of full or part payment) be received from the customer by either Council or the debt collection agency, the matter may proceed to any other available method of payment enforcement not limited to the garnishee of wages or rental income, or the seizure of goods. The matter may also proceed if an agreed payment arrangement isn't adhered to.</p> |
| <p>9. Section 181 Property Sale</p> | <p>Where more than three years of unpaid rates, charges or levies exists, Council may initiate the sale of property pursuant to Section 181 Local Government Act 1989 Part 8. Council approval is required before proceeding with any property sale. However, a Warning Property Sale letter may be issued at any time once the property has met the criteria set out in Section 181.</p> |
| <p>Notes:</p> | <p>At any time, if a customer who has made a payment arrangement directly with Council defaults on their agreed payment arrangement, their rates assessment is to be referred to our nominated debt collection agency.</p> <p>At any time, if a customer who has made a payment arrangement (after their debt has been listed with our debt collection agency) defaults on their agreed payment arrangement, the debt collection</p> |

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| | <p>agency is to send a Broken Arrangement letter (first and final).</p> <p>At any time, should a customer default on their agreed payment arrangement without prior discussion with Council, the next step in recovery may proceed without notice.</p> <p>At any time, Council may send a 'Review' letter to the customer requesting an increase in either the payment amount or frequency. Failure to enter into a revised, agreed arrangement is to be treated as a default.</p> <p>If an agreed payment arrangement is entered into with Council after a Complaint has been issued, the customer must be advised in writing that a Judgement will be obtained against them 7 days prior to the anniversary of the Complaint's date of issue if any debt (including costs) exists at that time. Supply of a copy of a completed Application For Outstanding Rates Arrangement form is considered 'in writing'.</p> |
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4. Who is responsible for implementing this policy?

Revenue Coordinator
 Manager Corporate Administration

5. Definitions

Arrears Any monies unpaid after the statutory payment due date, including legal costs (if any).

6. Legislation and other references

6.1 Legislation

For further information related to this policy see:

- Section 177 *Local Government Act 1989*
- Section 180 *Local Government Act 1989*
- Section 181A *Local Government Act 1989*

6.2 Documents

This Policy is implemented in conjunction with the following documents:

- Application For Outstanding Rates Arrangement form
- Tenant Default letter

6.3 Risk Assessment Reference

Please tick the corporate risk(s) that this policy is addressing.

| Risk Category | | Risk Category | |
|----------------------------------|---|-------------------------------------|---|
| Asset Management | | Financial Sustainability | ✓ |
| Committees | | Human Resource Management | |
| Compliance – Legal & Regulatory | ✓ | Leadership & Organisational Culture | |
| Contract Management | | Occupational Health & Safety | |
| Contract Tendering & Procurement | | Organisational Risk Management | ✓ |
| Corporate Governance | ✓ | Project Management | |
| Environmental Sustainability | | Public Image and Reputation | |