

Central Coast Council

Hardship and Debt Recovery Policy



Date Adopted: 27/02/2024

Revision: 3

Policy No.: CCC022

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1. Policy Objectives

- 1.1.** The purpose of this Policy is to:
 - 1.1.1. provide a framework to assist ratepayers and sundry debtors during periods of financial hardship.
 - 1.1.2. provide a process for the assessment and determination of financial hardship applications; and
 - 1.1.3. ensure effective controls, policies, and procedures are in place for the collection of overdue rates, water, and charges by Council.
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2. Policy Scope

- 2.1.** This Policy applies to Council's ratepayers and sundry debtors. It applies to rates, water, annual charges, and fees for Council services.
 - 2.2.** Notwithstanding the provisions of this Policy, Council may produce additional guidelines, procedures, fact sheets, and/or forms consistent with the objectives of this Policy to respond to specific unforeseen circumstances facing the community.
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3. Policy Statement

- 3.1.** Council is responsible for recovering monies owing to it in a timely, efficient, and effective manner. This is to finance its operations and ensure efficient cash flow management.
 - 3.2.** Council aims to provide adequate control over Council debts, including overdue rates, water, fees and charges, and interest. It does this by establishing debt recovery procedures for efficient receivable collection and management of outstanding debts. This includes deferment and alternative payment arrangements.
 - 3.3.** This Policy takes into account the Debt Management and Hardship Guidelines issued by the Office of Local Government in 2018.
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4. Financial Hardship

- 4.1.** Council recognises cases of genuine financial hardship requiring respect and compassion in certain circumstances. This Policy establishes a framework for staff to assess applications for financial hardship, ensuring that the process is consistent and considers the individual's circumstances. The principles of fairness and integrity ensure that staff are guided in their decision-making. In contrast, confidentiality and compliance with statutory requirements ensure the information the individual provides is secure.

Assistance by Periodical Payment Arrangements

- 4.2.** According to section 564 of the *Local Government Act 1993 (LG Act)*, Council has the option to make a formal agreement with eligible ratepayers for alternative payment plans for their rates and charges. This Policy includes an offer for periodic payment agreements. Payments will be applied to outstanding rates and charges in the order that they were due, as outlined in section 568 of the LG Act.

Assistance by Writing off Accrued Interest and Costs

- 4.3.** Accrued interest on rates or charges payable by a person may be written off under section 567 of the LG Act, if:
- 4.3.1. The person was unable to pay the rates or charges when they became due for reasons beyond the person's control;
 - 4.3.2. The person is unable to pay accrued interest for reasons beyond the person's control; or
 - 4.3.3. Payment of the accrued interest would cause the person hardship.

Assistance due to General Revaluation of the Local Government Area

- 4.4.** Section 601 of the LG Act provides that any ratepayer who suffers substantial hardship as a consequence of the making and levying of a rate following a new valuation, may apply to Council for rate relief. Assistance is only available in the first-year new valuations are used to calculate rates.
- 4.5.** Section 601(2) of the LG Act provides that Council has the discretion to waive, reduce, or defer the payment of the whole or any part of the increase in the amount of the rate payable by the ratepayer. This is in such circumstances, for such a period, and subject to such conditions as it thinks fit.
- 4.6.** As valuations are independently determined by the NSW Valuer General, Council will encourage aggrieved ratepayers to make an appropriate application under the appeal provisions of the *Valuation of Land Act 1916*. Council will consider hardship applications under this provision.

Hardship

- 4.7.** Hardship applications must be received in writing on the approved Hardship Relief Application Form. Council may also request the ratepayer to attend an interview to assist Council in understanding the issues causing hardship. The application for hardship must be accompanied with supporting documentation which may include but is not limited to:
- 4.7.1. reasons why the person was unable to pay the rates and charges when they became due and payable;
 - 4.7.2. copy of recent bank statements for all accounts;
 - 4.7.3. details of income and expenditure; or
 - 4.7.4. letter from a recognised financial counsellor or financial planner confirming financial hardship.

5. Debt Recovery

Due date

- 5.1. Rate instalments are due on the same date every year, with the instalment notices, along with the initial rates and charges notice, to be issued at least six weeks before the due date. The due dates are 31 August, 30 November, 28 February, and 31 May each year.
- 5.2. Water bills are due 30 days from the issue date.
- 5.3. Sundry Debtors accounts are considered overdue immediately following the due date.

Unpaid amounts

- 5.4. Reminder notices will be issued for rates, annual charges and water bill amounts that remain outstanding 14 days after the instalment due date.
- 5.5. If, within 14 days of the issue of the reminder notice, payment in full is not made, or a satisfactory arrangement has not been entered into, the account will be forwarded to Council's debt recovery agent for further action.
- 5.6. General debtor accounts are considered overdue immediately following the due date. For any general debtor accounts that have not had a payment arrangement made and remain outstanding beyond 60 days, the account will be referred to Council's debt recovery agent for further debt recovery action as required.

6. Legal Action

- 6.1. A Letter of Demand for rates, annual charges and water bills will be issued to those ratepayers who have not paid their outstanding amounts within 14 days of the reminder notice due date. A Letter of Demand advises of Council's intention to commence legal action.
- 6.2. A Letter of Demand will not be sent to ratepayers who:
 - 6.2.1. are pensioners;
 - 6.2.2. have made a satisfactory arrangement for payment with Council;
 - 6.2.3. have legal action in progress; or
 - 6.2.4. have multiple instalments including rates and water totalling less than \$1,000 overdue.
- 6.3. Debtors who do not pay after receiving a Letter of Demand or make satisfactory arrangements to either Council or Council's debt recovery agent, will be subject to legal action as recommended by the debt recovery agent.
- 6.4. Council will make its best efforts to contact the owner before commencing legal action.

- 6.5.** Any legal or other expenses incurred by Council from the recovery of overdue rates and charges will be charged against the ratepayer in accordance with sections 550 and 605 of the LG Act and form part of the ratepayer's debt.
- 6.6.** Legal action includes, but is not limited to the following:
- 6.6.1. Statement of Claim (Summons)
 - 6.6.2. Judgement
 - 6.6.3. Writ
 - 6.6.4. Examination Summons
 - 6.6.5. Rent for Rates (Section 569 of the Local Government Act)
 - 6.6.6. Garnishee
 - 6.6.7. Wind up proceedings
 - 6.6.8. Bankruptcy
 - 6.6.9. Any other action available through the legal system deemed appropriate in the circumstances.
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7. Sale of Land

- 7.1.** If the legal action process does not result in recovery of outstanding rates, and five years or more have elapsed since the receipt of any payment, then Council may apply the sale of land provisions stipulated by section 713 of the LG Act.
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8. Water Restrictions

- 8.1.** Council will only restrict water supply as a last resort where other reasonable attempts to recover an unpaid charge have failed and after appropriate notice has been given.
- 8.2.** Council will not restrict water supply where it is known that the resident is a registered kidney dialysis patient or has another medical condition requiring continuous access to unrestricted water supply.
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9. Interest on Overdue Accounts

- 9.1.** In accordance with section 566 of the LG Act and section 356 of the *Water Management Act 2000 (WMA)*, Council charges interest on all rates and charges which remain unpaid after they become due and payable.
- 9.2.** Interest will be calculated daily using the simple interest method.
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10. Tenanted Properties for Water Usage

- 10.1.** Several landlords have lease agreements that stipulate that the tenant is responsible for the usage or consumption charge. The billing of tenants is the owner's or agent's responsibility.
 - 10.2.** In the case of a tenanted property, Council will only pursue the debt directly with the property owner. It will only take legal action against the title holder.
 - 10.3.** Council will not seek payment of water charges from tenants that landowners are liable for, nor will it collect money from tenants or accept a payment arrangement, unless provided for in section 569 of the LG Act.
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11. Delegation to Write Off

General Debtors

- 11.1.** The *Local Government (General) Regulation 2021 (LG Regulation)* contains provisions in respect to writing off debts to Council and the fixing of limits above which require a resolution of Council. An amount of five thousand dollars (\$5,000) has been adopted as the amount above which debts may be written off by resolution of Council. Any debts under this amount may be written off by order in writing from the Chief Executive Officer or the Responsible Accounting Officer.
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12. Responsibilities

Compliance, monitoring and review

- 12.1.** The responsibilities under this Policy are contained in the table below:

Authorised Officer	Roles & Responsibilities
Financial Operations Manager, Accounts Receivable Team	Determine Hardship Application submitted on the approved form
Accounts Receivable Team Leader, Credit Management Officer, Team Leader Revenue Management, Senior Finance Officer, Finance Officer, Council's Debt Recovery Agent Customers Services Officers	Enter a Payment Arrangement in accordance with the Debt Recovery and Hardship Policy, on behalf of Council.
Chief Executive Officer, Chief Financial Officer, Financial Operations Manager, Accounts Receivable Team Leader, Council's Debt Recovery Agent	Initiate and undertake legal action on Council's behalf.
Council by Resolution	Determine Interest Rate.
Council by Resolution	Approve Sale of Land for Unpaid Rates

Records management

~~12.2. Staff must maintain all records relevant to administering this protocol in accordance with Council's [Information and Records Management Policy](#).~~

13. Policy Definitions

Act	means the <i>Local Government Act 1993</i> (NSW)
Council	means Central Coast Council
Agent	means a person who has the express or implied authority to undertake collection activity on behalf of a council in circumstances where a debt has not been sold or assigned
Costs	means amounts incurred by a council in recovering overdue debts (e.g., court, interest, and professional costs) which can be legally recovered from the ratepayer
Hardship	means any situation where an individual is having difficulty paying legally owed debt. This can result from life changes (for example, because of illness, unemployment or changed financial circumstances) restricting the short-term capacity to pay.
Write off	Means the accounting procedure for cancelling a debt that is no longer collectable resulting in its removal from the ratepayer's balance sheet account.
Sundry Debt	means any debt owed to Council that is not a rate, special charge, or utility charge which is levied on a property in accordance with Council's Revenue Statement. Invoices are issued for goods or services that Council has provided

14. Policy Administration

Business Group	Corporate Services
Responsible Officer	Chief Financial Officer
Associated Procedure (if any, reference document(s) number(s))	Procedures are currently being formally documented.
Policy Review Date	Four years from date of adoption unless legislated otherwise.
File Number / Document Number	D15909881
Relevant Legislation (reference specific sections)	<p>This Policy supports Council's compliance with the following legislation:</p> <ul style="list-style-type: none"> ▪ <i>Local Government Act 1993</i> ▪ <i>Local Government (General) Regulation 2021</i> ▪ <i>Privacy Act 1988 (Cth)</i> ▪ <i>Water Management Act 2000</i> ▪ <i>Water Management (General) Regulation 2011</i>
Link to Community Strategic Plan	<p>Theme 4: Responsible</p> <p>Goal G: Good governance and great partnerships</p> <p>R-G3: Provide leadership that is transparent and accountable, makes decisions in the best interest of the community, ensures Council is financially sustainable and adheres to a strong audit process.</p>
Related Policies / Protocols / Procedures / Documents (reference document numbers)	<ul style="list-style-type: none"> ▪ Information and Records Management Policy (D14025241) ▪ Code of Conduct ▪ Delegations Register ▪ Debt Management and Hardship Guidelines - Office of Local Government NSW

15. Policy Authorisations

No.	Authorised Function	Authorised Business Unit / Role(s)
TBA	Determine Hardship Applications	Financial Operations Manager Accounts Receivable
TBA	Enter into a Payment Arrangement in accordance with this Policy on behalf of Council	Accounts Receivable Team Leader Credit Management Officer Team Leader Revenue Management Senior Finance Officer Finance Officer Council's Debt Recovery Agent Customer Service Officer
TBA	Initiate and undertake legal action on Council's behalf	Chief Executive Officer Chief Financial Officer Financial Operations Manager Accounts Receivable Team Leader Council's Debt Recovery Agent

16. Policy History

Revision	Date Approved / Authority	Description Of Changes
1	26 April 2017 Minute Number 216/17	Adoption of Policy for Central Coast Council.
2	23 March 2021 Minute Number 75/21	Moved to new template. Addition of revision history. Consideration of Section 23A guidelines including addition of decision makers and review authority, and resources for those facing financial hardship.
3	27 February 2024 Minute No. 26/24	Revised based on new template. High level outline of debt recovery process, and assistance options outlined.