

Policy Number	Policy Title
CP14	Debt Recovery

OBJECTIVE

To provide a clear and appropriate debt recovery process, ensuring effective control over all overdue accounts owed to the Shire, while being sympathetic to those ratepayers and debtors suffering genuine financial hardship.

POLICY

RATES DEBT RECOVERY

Rate notices are sent out to all ratepayers as soon as practicable after the budget has been set. Or in the case of interim rates, as soon as practicable after a revaluation has been received. Instalment notices are to be raised according to the specified dates.

Rate notices are due for payment 35 days from the date of issue in accordance with the *Local Government Act 1995 (WA)*.

Payment arrangements

The Shire encourages ratepayers to make contact to negotiate a payment arrangement if they are unable to meet their obligations set out in the rates notice.

Payment arrangement applications are required to be made in writing and will be assessed on an individual basis.

If you are experiencing hardship due to a declared State of Emergency, please refer to the Council Policy CP41 Financial Hardship for a declared State of Emergency.

Final notice – 14 days after due date

A final notice is to be issued for all debts that remain outstanding 14 days after the due date. This notice shall request payment within 14 days, excepting the following:

- the ratepayer has entered into a payment arrangement or paying by installments.
- the ratepayer is an eligible person/s registered to receive a pensioner or senior rebate under the *Rates and Charges (Rebate and Deferrals) Act 1992*.

If payment has not been received within 14 days of the final notice issue date, recovery action will commence based upon a risk management approach, as determined by the value and type of debt. This may include such action as referral to Council’s debt collection agency.

Ratepayers who have made a payment or deferment arrangement or are paying by installments are exempt from legal action, unless the arrangement to pay is in default or installment payments become overdue.

Refer to debt collection agency

If the debt remains outstanding and the balance is greater than the minimum rate value plus ESL then the debt is required to be referred to the debt collection agency (or Fines Enforcement Registry), with reference to the following:

- All costs associated with debt collection action are to be borne by the debtor.

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- Interest on outstanding accounts over 35 days shall be calculated on a daily basis at a level set in the Shire's annual budget, in accordance with Section 6.13 (6) of the *Local Government Act 1995*.
- The Shire is to write off any penalty interest accrued on an outstanding account of less than ten (10) dollars, in accordance with the provisions of Section 6.12 of the *Local Government Act 1995*.

Legal action

The Chief Executive Officer is authorised to undertake legal action for the recovery of all rates and charges that remain outstanding after referral to the debt collection agency.

Legal action for debts may be enabled through the local court by the Shire solicitors or any commercial debt collection agency approved by the CEO.

Recovery action

The Chief Executive Officer is to bring to Council's attention any debts which remain unpaid for a period of three (3) years.

After legal judgement is obtained in the Shire of Irwin's favour, judgement may be enforced in accordance with the *Civil Judgements Enforcement Act 2004 (WA)*, this includes but is not limited to:

- Means inquiry;
- Property Seizure and Sale Order over goods; and
- Property Seizure and Sale Order over land (prior Council approval is required).

Other options that are available when the nature of the debt or the debtor is of such that it is in the Shire's interest to do so:

a. Seizure of rent for nonpayment of rates

Where the property owner of a leased or rented property on which rates and service charges are outstanding, a notice 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 Shire the rent as it falls due under the lease/tenancy agreement, until the debt has been paid in full.

b. Lodging a caveat on the Land Title

Where rates and service charges that are due in respect of any rateable land remain unpaid, a caveat may be registered on the Land Title under the provisions of Section 6.64(3) of the *Local Government Act 1995* so the property cannot be settled until the debt is paid in full.

c. Sale of land

Where rates and service charges that are due in respect of any rateable land remain unpaid for at least three (3) years, and reasonable attempts to commence legal action have been made, the Shire may take possession of the land under the provisions of Section 6.64 of the *Local Government Act 1995*. The approval of Council is required before this course of action is undertaken.

Once Council has resolved to sell land for rates debt, payment arrangements will not be considered.

SUNDRY DEBTORS

The payment of debts is required in a fair and timely manner.

Payment arrangements may be considered upon application. Arrangements are to be made for the current financial year only and be negotiated for the outstanding balance. Subsequent invoices are payable on the due date.

Issue a statement notice – 30 days after invoice date

- Where an account is overdue, a statement shall be issued requesting payment within seven (7) days.

Letter of demand – 7 days after Statement date

- Where a debt remains outstanding after seven (7) days from the statement date, a letter of demand is to be issued requiring the full debt amount to be paid within seven (7) days.

Refer to debt recovery – 7 days after letter of demand

- Where a debt remains outstanding by the expiry of the above period, debts may be referred to a debt collection agency (or Fines Enforcement Registry), and all costs associated with debt recovery action is required to be borne by the debtor.

Each debtor's right to appeal in accordance with the provisions of the *Local Government Act 1995 (WA)* shall not be relinquished by anything in the policy.

Financial Management

Nearing the end of the financial year, all accounts within the scope of this policy are to be analysed to identify doubtful debts. A listing of the identified accounts are to be provided for the inclusion in the Financial Statements.

Unrecoverable – Bad Debts

After exercising all steps in this policy it may be considered impractical to pursue a particular debt further (that is, proceeding with legal action is unlikely to recover the debt).

If a debt is considered unrecoverable and overdue 180 days or more it is necessary to obtain approval to waive the debt.

Approval must be obtained in one of the following ways:

1. The CEO is delegated with authority to waive debts where all practical means to recover the debt have been exhausted and such debt is less than \$300
2. Debts in excess of \$300 are referred to Council for approval to waive.

RECORDS MANAGEMENT

All records associated with financial transactions must be recorded and retained in compliance with the *State Records Act 2000 (WA)* and the Shire of Irwin's Record Keeping Plan.

NON-COMPLIANCE

Financial activities are subject to financial and performance audits, which review compliance with legislative requirements and with the Shire's policies and procedures.

A failure to comply with the requirements of this policy is required to be subject to investigation. With findings to be considered in context of the responsible person's training, experience, seniority and reasonable expectations for performance of their role.

Where a breach is substantiated, it may be treated as:

- an opportunity for additional training to be provided

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- a disciplinary matter, which may or may not be subject to reporting requirements under the *Public Sector Management Act 1994*
- misconduct in accordance with the *Corruption, Crime and Misconduct Act 2003*.

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Responsible Directorate:	Corporate and Community Services		
Legislation:	Local Government Act 1995 Local Government (Functions and General) Regulations 1996 Rates and Charges (Rebates and Deferments) Act 1992 Civil Judgements Enforcement Act 2004		
Related Management Policy and/or Procedure:	CP41 Financial Hardship for a declared State of Emergency Code of Conduct CP24 Recordkeeping		