

# F5 Debt Collection Policy

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## Introduction

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

## Application

This policy applies to all Shire debtors.

## 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 Toodyay 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.

## 1. Sundry Debtors

Council provides trade debtors and miscellaneous debtors 30 days from month of invoice 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 effect 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.

Where payment is not received within thirty (30) days from the date of the initial invoice, interest will be applied on money that remains outstanding. Interest is calculated on the number of days from the due date of payment until the day the payment is received by the Shire of Toodyay. Interest (percentage) charged on sundry debtors is the percentage as adopted at the annual budget meeting in accordance with section 6.13(1) of the *Local Government Act 1995*. The rate as set under section 6.13(1) of the *Local Government Act 1995* is not to exceed the maximum rate of interest as prescribed within regulation 19A of the *Local Government (Financial Management) Regulations 1996*.

## 2. Rates Debtors

### 2.1 Issue of Notices

Rate Notices will be issued as soon as is practicable after raising rates, as per Section 6.41 of the *Local Government Act 1995* (being not less than 28 days after issue of notice) and will advise the ratepayer of the due date (being 35 days after issue of notice).

### 2.2 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.

### 2.3 Collection Steps

- (a) Rates Debtors remaining unpaid after the expiry date for the 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.

### 2.4 Instalments

A person wishing to participate in the instalment payment method must make at least the first payment by the due date and should not have any outstanding rates and 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.

### 2.5 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. Council's Rates Payment Arrangement Plan Fee (as per the *Schedule of Fees & Charges*) is applicable on all alternative payment arrangements.

### 2.6 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.

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## 2.7 Unpaid Rates

Rates remaining unpaid after the expiry date for the 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 to effect recovery. Council will be consulted if this action is proposed for the collection of amounts owed by known pensioners.

Where a summons has been issued and remains unsatisfied, action will be taken to pursue that summons by whatever means, through Council's solicitors or collection agency as the case may be to secure satisfaction of the debt.

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:

Warrants against land will be used 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.

## 2.8 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.

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## Reference Information

### Related Documents

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<b>Related Legislation</b>	<i>Local Government Act 1995 (WA)</i> <i>Local Government (Financial Management) Regulations 1996</i>
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### Associated Forms and Attachments

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## Document Control Information

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