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| Policy Title: | Debt Management Policy | |
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| CEO Signature: |  | Date: 1/10/19 |
| Responsible Officer and Unit: | Manager Finance | |
| Nominated Review Period: | <input type="checkbox"/> Annually <input checked="" type="checkbox"/> Other - Every 3 years | |
| Last Review Date: | September 2016 | |
| Next Review Date: | September 2022 | |
| Purpose / Objective: | To define Council's Policy for the management of outstanding debts. | |
| Background / Reasons for Policy: | Council generates significant income from rates, charges and user fees. It is appropriate to have a Policy in place to ensure an equitable approach to managing the associated debt. | |
| Definitions: | <p>Bad Debts and Bad Debt Write Offs – bad debts are debts that have been assessed as being uncollectable. When this assessment has been made, approval is sort to write off the debt which results in the debt being taken out of Council's balance sheet and the write off is recorded as an expense.</p> <p>Community Support fee/debtors – relates to the fees and debts in relation to home support services including domestic assistance, flexible respite and personal care.</p> <p>Debts and Sundry Debts - includes all amounts owed to Council (other than Rates) in relation to the provision of Council services, fines and other charges.</p> <p>Debt Owner - The Department or Unit with overall responsibility for the debt. This is generally the Department or Unit which receives the income.</p> <p>Doubtful Debts – is an accounting term used to describe debts that have been assessed as <u>likely</u> to become a bad debt. Under accounting standards an assessment must be made as to the collectability of debts and a provision for doubtful debts must be created for debts that are unlikely to be collectible.</p> <p>Penalty interest on unpaid debts - Interest that may be charged on unpaid rates and charges in accordance with section 172 of the Local Government Act. This policy also allows for interest to be applied on other overdue debts.</p> <p>Rates - includes any and/or all rates and charges on rateable land as described under Part 8 of the Local Government Act. "Rates" also includes any government imposed charge or levy that Council is required to collect on behalf of the Government.</p> | |

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| | <p>Supplementary valuations – these are adjustments to property valuations that generally occur due to improvements made to a property that have been identified after the last valuation was made, , eg construction of a dwelling, an extension to an existing dwelling, new sheds, etc. A supplementary valuation may also be required for changes in use of the property that may affect the differential rate and or the fire services property levy</p> <p>Seniors Housing – Council owns and/or is the committee of management for 49 seniors housing units in Gisborne, Lancefield and Romsey. The units are managed by a service provider under a contract with Council.</p> <p>Waiving of Debt - Council may waive (forgive) debt that are collectable in some circumstances.</p> |
| <p>Related Policies:</p> | <p>Financial Hardship Policy</p> <p>Procurement Policy</p> <p>Staff Code of Conduct</p> <p>Community Support Unit Client Contribution Policy</p> <p>Early Years Enrolment and Fee Policy</p> |
| <p>Related Legislation:</p> | <p>Local Government Act</p> <p>Accounting standard AASB 9 Financial Instruments</p> |

1. Scope

This Policy is subordinate to any regulations in relation to debts and debtors.

The Local Government Act establishes the law that applies to the declaration of rates, payment of rates, interest on outstanding rates and the collection of overdue rates.

This Policy covers:

- All debts;
- The initial establishment of a debt;
- Some aspects of invoicing;
- Follow up actions to collect outstanding debts;
- Creation of a provision for doubtful debts; and
- Write off of bad debts.

The Policy does not cover:

- Fees and charges where no debt is created (for example, applications fees that should be paid at the time the application is made and for which an invoice is not raised).
- Non monetary debts and obligations (for example, outstanding conditions on permits).

This Policy includes but is not limited to:

- Commonwealth Home Support Program (CHSP) fees
- Facility hire fees
- Fines and infringements
- Fire hazard clearance charges
- Kindergarten fees
- Home & community care for young people (HACC PYP) fees
- Interest penalties on outstanding fees and charges
- Lease fees
- Rates
- Saleyards fees
- Special charge scheme debts
- Unpaid grants
- All miscellaneous fees and charges where a debt is created

2. Objectives

- To ensure that the collection of debts is undertaken fairly, impartially, consistently, efficiently, effectively and in accordance with good governance;
- To encourage any person, organisation or company having difficulty in paying an outstanding debt to contact Council and make arrangements for a payment plan to pay the debt in a reasonable and manageable timeframe; and
- To ensure that the collection of debt is consistent with the Local Government Act and Regulations, Accounting Standards and recognised financial practices.

3. General principles applicable to all debts

The general principles described in this section are applicable to all debts and debtors but they also need to be considered in conjunction with Section 4 which outlines specific requirements in relation to debt types. All decisions and approvals in this policy are subject to the conflict of interest provisions in the Staff Code of Conduct.

3.1 Payment terms

Council's payment terms are 30 days from invoice issue date unless specific regulations apply or unless Section 3.3 or 4.1 of this Policy applies.

3.2 Invoicing

A debt is created when the service is provided or when the invoice is created whichever occurs first. (Note: Income is recognised in Council's accounts when the invoice has been raised).

Unless there is regulation or accepted practice to the contrary, an invoice should be produced and payment requested at the time, or in advance, of the service being provided. This practice reduces the risk of non-payment. However, it is recognised that there will be instances where invoicing and payment in advance is not practicable.

The Finance Department [**Finance**] is the only Department with authority to generate a Council invoice. Debtor invoice requests should be made on the "debtor invoice request form".

3.3 Reminders and final notices

Except as specified in section 4, if payment of an invoice has not been received it will be included in the monthly debtor statements sent out by Finance.

Reminder phone calls and other debt follow up procedures may be employed by the debt owner or Finance.

A final notice will be sent if collection and follow up have been unsuccessful. Final notices will not be issued in relation to community support debtors, seniors housing (see sections 4.2 and 4.4) and in relation to unpaid grants. This issuing of final notices for kindergarten, sporting clubs and community debtors will be considered on a case by case basis. Further reminder notices will continue to be sent if payment is not received. A record will be kept of all attempts to contact the debtor, whether successful or unsuccessful.

If payment is not received in the required timeframe after the final notice the debtor may be referred to a debt collection agency (see Section 3.8).

3.4 Payment arrangements

Any person, organisation or company who is having difficulty in paying a debt is encouraged to contact Council and make a personal payment arrangement to pay off the debt in a reasonable and manageable timeframe.

Finance will consider requests for a personal payment arrangement [**payment plan**] and may agree upon a payment plan (for example, a weekly payment of an agreed amount until the debt is paid in full).

The Customer Service Unit may agree upon a rates payment plan in accordance with Finance guidelines.

Payment plans for any infringement can be made available via the issuing Department, eg Community Safety. Payment arrangements are also available for any infringement via Fines Victoria upon request by the person issued the infringement. This information is printed on all infringements as required by law. Payment arrangements may also be made through the Court or Fines Victoria for court issued fines.

Details of the payment plan must be recorded and payments monitored. Any defaults (that is, payment not made by the agreed date) will be followed up by Finance (except as described in section 4) and a new payment plan may be made.

If the debtor defaults on the payment plan by missing two or more consecutive payments, debt recovery under section 3.8 of this Policy may be commenced, unless the debt is governed by regulations that prohibit debt collection.

3.5 Interest penalties

3.5.1 Council will charge interest on unpaid rates and charges in accordance with section 172 of the Local Government Act.

The penalty interest percentage rate is fixed under section 2 of the Penalty Interest Rates Act as applied on the first day of July.

3.5.2 Council may charge penalty interest on sundry debtors that are overdue by more than 60 days unless the charging of interest is prohibited by legislation or excluded by section 4 of this Policy.

For interest not to be charged, the approval of the relevant Manager and the Manager Finance is required.

The penalty interest percentage rate for sundry debtors will be the same as the interest rate prescribed for rates debtors (see 3.5.1)

3.6 Continuation of the provision of services where debt is overdue

In some cases specific regulations or funding agreements require Council to continue to supply services regardless of outstanding debts. These cases are outlined in section 4 of this Policy.

Unless specified otherwise in section 4, a Department or Unit must not continue to supply service where debts are more than 60 overdue and no payment arrangement has been agreed.

In these circumstances approval from the relevant Director is required to continue provision of services.

3.7 Financial hardship

Under sections 170 and 171A of the Local Government Act, the Victorian Parliament has given councils the authority to:

- defer payment of rates and charges due to hardship (s170); and
- waive rates and charges and interest due to financial hardship (s171A).

Council has developed the Financial Hardship Policy for the purpose of defining Council's interpretation and application of sections 170 and 171A of the Local Government Act.

The Financial Hardship Policy is also applicable to sundry debtors.

3.8 Debt recovery

Unless there is a specific regulation or other requirements set out in Section 4 or unless a payment plan has been agreed, Council will refer a debt that is overdue by 75 days or more to a debt collection agency.

The debtor will be liable for all legal costs incurred by Council in the debt collection process.

Finance will advise the relevant department of the intention to refer the debt to a debt collection agency.

Generally, only debts over \$100 will be referred to the debt collection agency. In the case of debts under \$100, the debt will be written off in accordance with Sections 3.10 and 3.11 and the debtor will be advised that they are no longer eligible to receive the service until such time as the debt is paid.

For debt recovery action not to be taken, the approval of the relevant Manager and the Manager Finance is required.

If the initial action by the debt collection agency does not result in payment of the debt, the Finance Department will determine if it is financially beneficial to pursue legal recovery.

3.9 Correction of invoicing and rating errors and issuing of credit notes

In the event that it is discovered that an error has been made and a rate payer or debtor has been incorrectly undercharged, Council will correct the error immediately for future billing periods and invoices and Council will not attempt to apply the correct fee or charge retrospectively. This excludes supplementary valuations (see 4.1.2).

In the event that it is discovered that an error has been made and a ratepayer or debtor has been incorrectly overcharged, Council will correct the error immediately for current and future billing periods and invoices and Council will apply the correct fee or charge retrospectively to 1 July of financial year in which the error was discovered.

Upon written application from the ratepayer or debtor who has been incorrectly overcharged, the Director Corporate Services will consider the merits of the matter and the Director may apply the correct fee or charge retrospectively (for example in the case where an error which had previously been brought to Council's attention and not corrected). The maximum period for a retrospective adjustment is three years.

Any credit notes or other adjustments to amounts owed due to a correction of amounts invoiced or rates levied must be approved by an appropriate delegate in accordance with the Council's financial delegations (see Procurement Policy).

3.10 Refunds and waiving of fees and debt

There may be circumstances where refunds may be warranted because the service was not provided or the service was provided in an unsatisfactory manner. The refund must be approved by the relevant Coordinator or Manager.

There may also be special circumstances where Council may waive a debt or fee as a goodwill gesture. An example may be where a debtor has suffered severe personal hardship. In such a circumstance the debt or fee may be waived as follows –

A debt or fee of up to \$500 may be waived if approved by the Manager Finance.

A debt or fee of up to \$5,000 may be waived if approved by the relevant Director and one other Director.

A fee or debt greater than \$5,000 may be waived if approved by the Chief Executive Officer.

The power to defer or waive payments is included in s142 of the Local Government Act.

3.11 Bad debts

This section does not apply to rates and charges.

A bad debt is a legitimate amount owing that Council has been unable to collect. After all avenues to collect the debt have been exhausted approval may be sought to write off a bad debt (see 3.13).

Finance will refer all bad debts over 1 year old to the relevant Director for approval to write off.

All approved write offs will be recorded in the nominated accounts under the Finance Department.

If a debt is written off and a client seeks to have further service provided at a future date, the written off debt will be reinstated and the client will be required to pay the debt before the service recommences (subject to provisions in Section 4).

3.11.1 Approval for to write off bad debts and/or penalty interest

A bad debt of up to \$500 may be written off by the Manager Finance.

A bad debt greater than \$500 and less than \$5,000 may be written off by the relevant Director and one other Director.

A bad debt greater than \$5,000 may be written off by the Chief Executive Officer.

3.12 Provision for doubtful debts

This section does not apply to rates and charges. This section is only relevant to the Finance Department.

A provision for doubtful debts is a liability to reflect debt that is likely never to be collected and hence is expected to be written off in future periods. The provision for doubtful debts is disclosed in the annual financial statements.

Finance will maintain a provision for doubtful debts based on the following method:

- For debts over \$1,000, an individual assessment will be undertaken to determine whether a debt is doubtful. All debt assessed as doubtful will be included in the provision.
- For debts under \$1,000 a weighted average based on historic debt write offs will be applied using the age of the debt as the basis for determining the doubtful debts. The aged debt categories that will be reviewed are as follows:
 - less than 30 days
 - 30-90 days
 - 90 -150 days
 - 150 days +

This methodology is in accordance with AASB 9 Financial Instruments.

4. Requirements in relation to specific types of debtors

4.1 Rates

Section 180 and section 181 of the Local Government Acts outlines Council's powers in relation to overdue rates and charges. A Rate Notice is sent on or around 1 September each year.

Rates are payable in four separate instalments due 30 September, 30 November, 28 February and 31 May.

A Reminder Notice is sent 14 days after the 3rd instalment date (28 February) and 10 days after the 4th instalment date (31 May). The Reminder Notice includes unpaid amounts from previous periods and interest payable.

Each Reminder Notice states that payment must be made within 14 days. In the case of the 4th instalment payment must be made on or about 28 June.

A Final Notice is sent 14 days after the Reminder Notice for the 4th instalment (in first week of July). The Final Notice states that payment must be made within 10 days (that is about 15 July).

If the rate debt is still outstanding on or about 22 July the debt will be referred to a debt collection agency.

Council may instruct the agency or the agency's solicitors or its own solicitors to take the following steps to collect the debt:-

1. Debt collection agency urgent letter will be issued.
2. Debt collection agency final notice will be issued.
3. Application will be made to the Magistrates Court for a Complaint to be issued.
4. Pre-Judgement warning letter will be sent to the Ratepayer.
5. Application will be made to the Magistrates Court for Judgement.
6. Pre-Warrant warning letter sent to the Rates Debtor.
7. Application will be made to the Magistrates Court for a Warrant to be issued.
8. Matter referred to Supreme Court – if required.

Debt Collection is an expensive process and the full cost of any action is passed onto the Ratepayer and becomes a charge against the property.

Under the Local Government Act unpaid rates remain as a charge against the property and they must be paid first when a property is sold. Therefore, there are no doubtful debts or debt write offs in relation to Rates.

4.1.1 Sale of land to recover unpaid rates

Under Section 181 of the Local Government Act 1989, Council has the power to sell land to recover unpaid rates and charges, if the rates and charges have been unpaid for more than three years.

The benefit of selling the land is that Council will be able to recover all monies owed to it and furthermore, the property becomes a revenue producing property again, that is, the new owner is a new ratepayer.

Council will not exercise the power it has under section 181 of the Act –

- Until all other relevant requirements of this Policy (to recover the unpaid rates and charges, on the land in question) have been taken.

- If there is a dwelling constructed on the land which is currently being used as the ratepayers primary residence.
- If the land is land to which a payment plan is currently in place with the Ratepayer.
- If an Application has been made and granted under section 6.5(c) of Council's Financial Hardship Policy.

By instrument of delegation dated 27 September 2017 Council has delegated to the Chief Executive Officer all powers and authorities in respect of Section 181 of the Act relevant to the sale of land to recover unpaid rates and charges. In turn, the Chief Executive Officer has delegated that power and authority to the Director Corporate Services and the Manager Finance. Prior to any action being undertaken by Council Officers in relation to Section 181, approval must be obtained from the Director Corporate Services.

4.1.2 Supplementary valuations

If a supplementary valuation has taken place, the ratepayer will be sent a letter and a supplementary valuation rate notice which outlines the reason for the supplementary valuation, the change in the capital improved value (CIV) of the property and the adjustment to rates.

If works were completed in the current financial year, the supplementary valuation will be backdated to the date of certificate of occupancy or the last date the property was sold (which ever date occurs last).

If the works were undertaken in the previous financial year(s), the supplementary valuation will be backdated no further than 1 July of the current financial year.

4.2 Community support fees

In accordance with the Community Support Unit Client Contribution Policy, an assessment is made in regard to a client's capacity to pay before a service is provided.

If payment of assessed fees is not received within 60 days after the due date then the Coordinator Community Support Services will make assessment in regard to the ongoing provision of services and make a recommendation to the Manager Community Services for approval.

4.3 Kindergarten fees

The application of kindergarten fees is outlined in the Early Years Enrolment and Fee Policy. The Policy (section 5.21.7) allows for no fees to be applied for the funded kindergarten program in some circumstances, for example where a parent holds a Commonwealth Health Care card. Any fee reductions associated with section 5.21.7 will be backdated to when the condition was met up to a maximum period of one year.

Under the Early Years Enrolment and Fee Policy, fees must be paid prior to the commencement in the program and prior to term 2 and 3. The discontinuation of services will be considered on a case by case basis for debts that are more than 120 days overdue and where no payment arrangement has been agreed.

4.4 Seniors housing rents

Seniors housing rents will be collected by the service provider who has been appointed to manage the units on behalf of Council. Rent in arrears will be managed by the service provider and reported to Council on a regular basis.

4.5 Infringement notices (fines)

Infringement Notices are managed in accordance with the framework set out in the Infringements Act 2006 and the Fines Reform Act 2014, which set out how fines are issued and enforced. Penalty Reminder Notices are sent out by Council for unpaid infringements that are not paid by the due date. Unpaid fines are lodged with Fines Victoria for collection. Added fees for administration and enforcement of late and unpaid fines are set by legislation. Further information is available through Fines Victoria <https://online.fines.vic.gov.au/>

4.7 Leases

There may be terms in the lease agreement that vary from the principles outlined in Section 3.

4.8 Grants

Final notices, interest penalties and debt collection processes will not be invoked for unpaid grants.

5. Roles & Responsibilities

5.1 Debt owner

The Department or Unit with responsibility for the income stream is known as the debt owner. The Debt Owner has overall responsibility for the management of the related debt.

The debt owner is responsible for:

- Ensuring that invoiced amounts are correct
- Providing assistance to Finance in follow up on overdue debts (in some cases all debts are followed up by the debt owner)
- Liaising with Finance in terms of the status of debts (eg whether it is likely to be recovered)
- Documenting any discussions with Debtors in relation to outstanding monies and providing the documentation to Finance.
- Ensuring further credit is not given to the Debtor with overdue debts unless there is a specific regulation.
- Gaining approval from the relevant Director for any debt write off and advising Finance accordingly

5.2 Finance Department [Finance]

In relation to debt collection, Finance is responsible for:

- Sending out invoices
- Recording debts in the financial systems
- Recording payments in the financial systems
- Sending reminder letters on overdue debt (except for fines and infringement notices).
- Follow up on overdue debt (with assistance from the debt owner).
- Determining the level of doubtful debts (with assistance from the debt owner)
- Referring debts to a debt collection agency after advice from the debt owner.
- Advising Departments on the status of outstanding debts and making recommendations on debt recovery/write off.
- Writing off debts in the financial systems after approvals have been received.