

## Rates and Charges (including eligible pensioner reduction) Recovery Policy

### 1. Purpose

To ensure the efficient and effective recovery of outstanding rates and charges whilst maintaining quality customer service.

### 2. Objectives

- To ensure a fair, consistent and accountable approach to Council's debt management and collection decisions and practices;
- To be sympathetic and helpful to those ratepayers suffering genuine financial hardship;
- To fulfil the statutory requirements of the Local Government Act and associated Local Government Regulations with respect to the recovery of rates and charges;
- To assist in the efficient management of Council assets through the timely collection of outstanding monies.

### 3. Legislative Framework

- Council's statutory requirements:
- Local Government Act 1993
- Local Government (General) Regulation 2005
- Social Security Act 1991 of the Commonwealth
- Council's delegation from the General Manager to staff, bodies and other individuals.

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<b>History of approved versions</b>					
<b>Version</b>	<b>Effective date</b>	<b>Summary of changes</b>			
1.0		Draft for Council resolution			
1.1	8 July 2009	Minor changes to reflect Council resolution			

#### 4. Principles

Council's staff will take the appropriate steps to recover rates and charges against all owners in the Ku-ring-gai Council area according to the following principles:

- All owners are to be issued with a Rates and Charges Notice in accordance with Section 546 of the Local Government Act 1993 and, where required, Rate Instalment Notices in accordance with Section 562 of the Local Government Act 1993.
- Under Section 582 of the Local Government Act 1993 Council is allowed to waiver or reduce rates, charges and interest by any person prescribed by the regulations who is in receipt of a pension, benefit or allowance under the Commonwealth Social Security Act 1991.
- The Rate Instalment Notice is to include any amount that is overdue. This amount is to be shown separately and identified as being overdue and subject to interest charges.
- Interest charges are to accrue on overdue rates and charges on a daily basis in accordance with Section 566 of the Local Government Act 1993.
- Where an owner has rates and charges that are overdue (excluding eligible pensioners - see below), Rates staff will issue a letter (Reminder Notice) requiring payment or a mutually agreeable payment arrangement of the overdue amounts within 14 days from issue of the letter.
- If rates and charges remain unpaid after the expiry of the Reminder Notice, Rates staff (or Council's agent) will forward a letter of demand allowing for seven days payment prior to instigation of legal action. Generally the legal action starts with a Statement of Liquidated Claim, and where necessary, is followed by a Writ of Execution or Garnishee Order. Council may in specific circumstances issue Section 569 notices.
- Ratepayers who because of hardship wish to enter into a mutual payment agreement with Council/debt recovery agent to pay off the rates and charges accounts, need to submit a written request and complete an "Application for Hardship (Including Eligible Pensioner) Rate Relief Statutory Declaration" (Appendix B). If in some circumstances whereby the ratepayer wishes to defer payment for a short period of time, a verbal request will be accepted and a note

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recorded against the property. Interest will continue to accrue until full payment.

- Where a ratepayer who has made arrangements to pay rates and charges by mutual agreement fails to meet their full obligations under the agreement, the agreement will be terminated and legal action shall be immediately instituted for the recovery of any outstanding rates and charges.
- Any payment agreement entered into with the ratepayer for the outstanding rates and charges other than pursuant to Section 562 of the Local Government Act 1993, shall endeavour to ensure that all rates and charges outstanding are fully paid by 30 June of the rating year in which the agreement is entered into, and an agreement for payment of outstanding rates shall not extend beyond two years.
- Legal action shall only be commenced for amounts greater than \$500. Council will not proceed to Statement of Liquidated Claim in the debt recovery process but will pursue all other avenues of recovery of outstanding accounts.
- Where legal action is unsuccessful and rates and charges are overdue for 5 years or more, the property can be sold by public auction in accordance with Section 713 of the Local Government Act, subject to a resolution of Council.

## **5. Eligible Pensioners in Financial Hardship**

### *Eligible Pensioner Applications from 8 July 2009*

Where an owner (eligible pensioner) has rates and charges that are overdue, Rates staff will issue a Reminder Notice requesting payment and if the owner (eligible pensioner) has financial hardship, Council enter into an arrangement with the owner (eligible pensioner) and any interest charges raised be written off annually.

Eligible pensioners wishing to make an arrangement on their rates and charges on the grounds of financial hardship can do so by completing an “Application for Hardship (Including Eligible Pensioner) Rate Relief Statutory Declaration which will be kept on file. An “Application for Hardship (Including Eligible Pensioner) Rate Relief Statutory Declaration” form will be required every two years. Each application will be assessed by Council’s Revenue Accountant on a case by case basis.

***Existing Approved Eligible Pensioners prior to 8 July***

Where an owner (eligible pensioner) has rates and charges that are overdue, Rates staff will issue a Reminder Notice requesting payment. No further action will commence to recover monies outstanding. It should be noted that Section 712 of the Local Government Act 1993, requires Council to commence proceedings for the recovery of a rate within 20 years of it being levied.

Eligible pensioners wishing to defer their rates and charges on grounds of financial hardship can do so by completing an “Eligible Pensioner Application for Deferment of Rates & Charges” form (see Appendix A) which will be kept on file. An “Eligible Pensioner Application for Deferment of Rates & Charges” form will be required every two years. Each application will be assessed by Council’s Revenue Accountant on a case by case basis. Deferment of rates and charges will continue to attract interest charges until transfer of property or settlement of account in full.

**6. Write Off – Interest**

- Section 567 of the Local Government Act 1993 empowers Council to write off accrued interest on rates and charges payable by a person if in Council’s opinion:
  - a) The person is unable to pay the accrued interest “for reasons beyond the person’s control”, or
  - b) Payment of the accrued interest would cause the person “hardship”.
- Under Regulation 131 of the Local Government (General) Regulation 2005 *a resolution or order writing off a debt to a council must:*
  - a) *Specify the name of the person whose debt is being written off, and*
  - b) *Identify the account concerned, and*
  - c) *Specify the amount of the debt, or must refer to a record kept by the Council in which those particulars are recorded.*
- Under Regulation 131 of the Local Government (General) Regulation 2005, *a debt can be written off only:*
  - a) *If the debt is not lawfully recoverable, or*
  - b) *As a result of a decision of a court, or*

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- c) If the council or the general manager believes on reasonable grounds that an attempt to recover the debt would not be cost effective.*
- *Under Regulation 131 of the Local Government (General) Regulation 2005, the fact that a debt is written off under this clause does not prevent the council concerned from taking legal proceedings to recover the debt.*
  - *Under Regulation 131 of the Local Government (General) Regulation 2005, the general manager must advise the council of rates and charges written off by written order of the general manager.*
  - *Under Regulation 132 of the Local Government (General) Regulation 2005, the council's annual report must include the amount of rates and charges written off during the year.*

## 7. Delegations

In accordance with Section 377 of the Local Government Act 1993 the following delegated authority applies:

- The General Manager has delegated authority to waive or reduce rates, charges and interest for eligible pensioners in accordance with Council's Policy and Section 575 of the Act.
- The General Manager has delegated authority to write off eligible pensioner rates, charges and interest reduced in accordance with Section 583 of the Act.
- The General Manager has delegated authority to reduce rates to eligible pensioners in accordance with Council's policy and Section 582 of the Act.
- The General Manager has delegated authority to write off or reduce accrued interest on rates and charges under Section 564 (periodic payments); write off accrued interest on rates and charges under Section 567 (hardship); write off rates, charges and accrued interest under Section 595 (postponed rates); write off rates, charges and accrued interest under Section 607 (additional circumstances if prescribed by regulation) and write off or reduce rates, charges and accrued interest in respect of any error in levying rates or charges against an assessment, if the amount is not lawfully recoverable or as a result of a decision of a court.

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- The General Manager has delegated authority to commence legal proceedings for the recovery of any rate and charge under the provisions of the Local Government Act 1993.
- If Option C is adopted, that the delegation to the General Manager under Section 377 of the Local Government Act 1993 to approve the writing off of irrecoverable bad debts relating to rates and charges be to the limit of \$10,000.

## 8. Sale of Property/Land for Non-Payment of Rates and Charges

In accordance with Section 713 of the Local Government Act 1993 Council may sell land for the non-payment of rates and charges after 5 years. The Manager Finance will report to Council any rate debtors that remained unpaid following implementation of recovery action as detailed above. Following Council's resolution, the parcel of land will be sold by public auction for unpaid rates and charges.

## 9. Definitions

- **Notice of Demand:** Demand letter from Council's debt recovery agent.
- **Statement of Liquidated Claim:** Is a legal document which outlines to the ratepayer:
  - That a claim has been made to the Court for the recovery of monies;
  - Who has initiated the claim and whom the claim is against;
  - The monetary value of the claim; and
  - Time period available to relinquish the debt
- **Judgement:** In cases where the debtor does not respond to a Statement of Liquidated Claim issued to them, the Court may make a default judgement whereby it will award a decision without having the matter heard.
- **Writ of Execution:** Documentation served by a Court Sheriff on a ratepayer. This document allows a court to seize goods and sell the goods. The proceeds are then distributed to the ratepayers less part or full payment of the debt to Council.
- **Sale of Land:** In accordance with Section 713 of the Local Government Act, Council has the authority to sell land which has unpaid rates and charges for 5 years or greater.

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- **Rent for Rates:** Section 569 of the Local Government Act allows councils to order tenants of properties with overdue rates to pay rent to Council in lieu of unpaid rates, under specific circumstances.