

## Debt Recovery & Financial Hardship Policy

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Applicable Legislation	Local Government Act 1999 Local Government (Financial Management) Regulations 2011
Related Policies	Community Wastewater Management Scheme (CWMS) Hardship Policy Strategic Rating Policy Privacy Policy
Related Documents	Financial Hardship Application Form Payment Arrangement Application Form Community Wastewater Management Scheme Customer Service Charter

### 1. Policy Objective

The objective of this policy is to:

- To ensure a fair, consistent and accountable approach to Coorong District Council's debt management and collection decisions and practices.
- To ensure that all applications for the postponement of rates payments due to financial hardship are considered in an equal and fair manner as per the provisions set out under section 182 of the *Local Government Act 1999*.
- Assist in the efficient management of Council assets through the timely collection of outstanding monies.

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### **2. Policy Statement**

The management and recovery of outstanding revenue is an important aspect of Council's financial management function. Rates are a form of taxation and are levied under the *Local Government Act 1999* on the basis of land value and use. This Policy recognises that there may be circumstances where the value of the property, or the land use does not indicate the ratepayer's capacity to pay, and allows Council to consider applications for temporary relief from rates. Section 192 of the *Local Government Act 1999* allows that postponement of rates may be considered if Council is satisfied that the payment of rates would cause extreme hardship.

The principles that will apply in the management and recovery of debt are as follows:

- Council has a responsibility to recover monies owing to it in a timely and efficient manner to finance its operations and ensure effective cash flow management;
- Council will operate effective billing and debt collection processes;
- Council aims to minimise the amount of outstanding monies that it is owed;
- Debtors are expected to take responsibility for their Council debt obligations and to organise their affairs in such a way as to be able to discharge these obligations when required;
- If a debtor cannot meet their obligations on the due dates, it is in the interests of the debtor, and Council, for the debtor to contact Council at the earliest opportunity to make appropriate arrangements to address the debt;
- Council will explain the debtor's rights and obligations in relation to any action that Council might take to recover debt;
- Council will not issue a letter of demand to a debtor without taking all reasonable steps to establish a payment arrangement or negotiate settlement of the outstanding debt.
- Once a letter of demand has been issued, legal action can proceed and any settlement negotiations will be made on a "*without prejudice*" basis so that the legal right to collect the debt is not compromised.

### **3. Definitions**

***"Financial Hardship"***: a circumstance of experiencing a lack of financial means, which may be either ongoing or temporary, but does not include circumstances where a person chooses not to meet a liability for an unpaid debt.

***"Default"***: where a Council approved Payment Arrangement Agreement is in place and payments are not made as agreed by the ratepayer.

***"Ratepayer"***: a person who owes amounts for rates, fees, or other charges due and payable to the Council.

***"the Act"***: the *Local Government Act 1999 (SA)*

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### **4. Debt Management**

The following debt collection practices will be applied to all debts (rates and sundry debtors) over \$200.00 that is not in dispute which have been outstanding for sixty (60) days:

1. First reminder letter will be forwarded, requesting payment within fourteen (14) days, or to contact Council to enter into a Payment Arrangement Agreement (the application can be found on our website, or a copy may be obtained from any of our Customer Service Centres).
2. Where no response has been received a letter of demand for payment within seven (7) days will be forwarded. The letter will state that failure to make payment in full or to enter into a Payment Arrangement Agreement will result in the commencement of legal action.
3. Where no response has been received, outstanding debt will be forwarded to Council's debt collection agent.

### **5. Disputing a Sundry Debt**

In the event that a sundry debt is in dispute, the debtor will lodge a complaint in writing, by either submitting a letter or completing a customer complaint form (the form is available on our website, or a copy may be obtained from any of our Customer Services Centres).

The Director Community & Corporate will report the dispute and recommended resolution to the leadership team to ensure that a timely response is forthcoming, in accordance with Council's service standards.

Council provides the Chief Executive Officer and the Director Community & Corporate with the authority to write off sundry debts in accordance with their specific delegations.

### **6. Payment Arrangement Agreement**

Council may grant a payment plan for the payment of rates and charges. There is no limitation of the scope of the payment plan that can be provided by the *Act*. However, due to practical and economic reasons, this Council has determined that the arrears, including any additional charges applied in return for Council agreeing to defer payment of rates and charges, should be paid in full within twelve (12) months of granted payment plan.

Payment plans can be made with council or when a debt is with a debt management agency, directly with the agency. All agency payment plans are approved by council prior to being agreed upon by the agency.

All payment plans will be confirmed in writing to the ratepayer. Failure to meet the agreed payments will result in the cancellation of the payment plan. A broken payment plan letter will be forwarded to the ratepayer, either by council or the agency upon cancellation of the agreed payment plan. The broken payment letter will allow the ratepayer at least seven (7) days in which to bring the payment plan back into order. In particular circumstances, legal recovery action may commence immediately in the event of default by the ratepayer.

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### **7. Financial Hardship**

Principal ratepayers may be eligible for financial hardship consideration relating to the payment of rates where:

- They are unable to pay rates and any accrued fines and interest when due for reasons beyond their control;
- Payment of rates when due, would cause extreme hardship for the principal ratepayer.

Assessment criteria for hardship consideration will be, but is not limited to, the following:

- Income from all sources;
- Living expenses;
- Reasons for financial hardship; and
- Compliance with any previous periodic payment arrangements.

All financial hardship applications must be in writing on Council's prescribed Financial Hardship Application form (the form is available on our website, or a copy may be obtained from any of our Customer Service Centres) and will only be legitimate after written confirmation of approval is provided by Council.

All financial hardship application requests will be assessed on a case-by-case basis and treated in confidence in accordance with Council's Privacy Policy.

Applications for financial hardship are required to be supported by appropriate documentation with evidence of financial hardship.

Council, through delegations specified to the Chief Executive Officer and Director Community & Corporate may, after consideration of all circumstances and documents at their disposal, remit penalties and related expenses for late payment of rates where genuine financial hardship can be substantiated.

### **8. Late Payment of Council Rates**

Late payment penalties in the form of monthly interest and quarterly fines will be applied in accordance with Section 181(8) of the *Local Government Act 1999*. Council offers a grace period of three (3) days after the due date for payment to allow for administration functions of processing external agency payments. Late payments received within this grace period and which pay arrears balances in full will avoid penalties being applied.

Fines and/or interest for late payment of rates may otherwise be waived upon application made to Council in writing by a ratepayer under the following circumstances:

- Financial difficulties due to unemployment or sickness of the principal income earner;
- Delayed applications for financial assistance through the Department for Communities and Social Inclusion;
- Accidents, sudden hospitalisation or serious injury;
- Non-receipt of rates notice (limitations apply);
- The history of a ratepayer's payment of rates, i.e. good payment history;

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- Financial hardship.

The following reasons, in the absence of those above, are considered as not acceptable and fines/interest for late payment will not be remitted:

- Loss of cheques for payment of rates in the post;
- Late receipt of payments due to postal delay;
- Late remittances for payments made by financial institutions on the client's behalf;
- Absenteeism from the area due to business or vocational purposes;
- Intentional late payment as an objection for alleged non-receipt of expected services;
- Simple oversight and no other explanation given.

Council will issue a Notice of Overdue Rates for payment of rates when rates – taking into account the grace period – remain unpaid by the due date. Should rates remain unpaid for more than thirty (30) days after the issue of the Notice of Overdue Rates, Council will instigate its internal debt recovery process.

### **9. Sale of Property for Non-Payment of Rate Debts**

In accordance with Section 184 of the *Local Government Act 1999*, Council may sell land for the non-payment of rates where the ratepayer has not applied for, and been granted waiver or remission of the overdue rates by Council. Council recognises the severe impact that the sale of land can have on an individual property owner and accordingly, this action will only be instigated after all other attempts to recover monies owed have been exhausted. This approach will assist in providing that all ratepayers will be treated fairly and equally in regard to the recovery of long-term rates debt. In addition, Council acknowledges that the balance of the community should not be required to bear the financial burden of any long term rate debts.

The Director Community & Corporate will report to Council any rate debtors that have remained unpaid following implementation of recovery action as detailed above, and are in arrears for three (3) years or more. Council will give the Director Community & Corporate direction on further recovery action pursuant to Section 184 of the *Local Government Act 1999* on presentation of such a report.

Once Council has granted approval for Section 184 action to commence, the ratepayer will be advised in writing of the following:

- Council's ability to recover rates via sale of land (without any threat to proceed) and requesting their cooperation by arranged payment of debt and payment options
- Outlining the process details relating to Section 184 of the Act and action if the rates remain outstanding for over three (3) years
- That any interested parties, such as mortgagees, will be notified if an arrangement to clear the debt is not forthcoming
- Requesting a response within one month from the date of the letter.

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### **10. Further information & Policy Review**

This Policy will be reviewed annually in line with Council's Policy Framework and the Audit Committee Work Program, or as necessary due to relevant legislation changes relating to this Policy.

This Policy will be available for inspection at the Council offices listed below during ordinary business hours and available to be downloaded, free of charge, from Council's internet site: [www.coorong.sa.gov.au](http://www.coorong.sa.gov.au).

#### **Coorong Civic Centre**

95-101 Railway Terrace  
PO Box 399  
Tailm Bend  
Phone: 1300 785 277  
Fax: 8572 3822

#### **Meningie Information Hub**

49 Princes Highway  
Meningie

#### **Tintinara Customer Service Centre**

37 Becker Terrace  
Tintinara

Copies will be provided to interested parties upon request. Email [council@coorong.sa.gov.au](mailto:council@coorong.sa.gov.au).

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.