Debt Recovery & Financial Hardship Policy

Strategic Reference	**Leadership** *Priority Area 4 – Financial Sustainability* Action 5.4.3 – Council considers financial sustainability (including Long Term Financial Plan) capacity in decision making for projects involving significant expenditure.
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Next review date	July 2028
Applicable Legislation	Local Government Act 1999 Local Government (Financial Management) Regulations 2011
Related Policies	Community Wastewater Management Scheme (CWMS) Hardship Policy Rating Policy
Related Documents	Financial Hardship Application Form Payment Arrangement Application Form Postponement of Rates for Seniors Scheme Application to Postpone (Primary Production) Application to Postpone (Non-Primary Production) Community Wastewater Management Scheme Customer Service Charter

1. Purpose

The purpose of this policy is to:

- Set out Council's principles in relation to the management of debt and to ensure a fair, consistent, timely and accountable approach to Council's debt collection decisions while retaining flexibility to respond to the unique circumstances of individual debtors;
- Provide a framework to identify debtors who are experiencing payment difficulties due to financial hardship.

This policy sets out:

- The practices that Council will utilise to recover unpaid rates and other debts;
- An outline of a range of processes or programs that the Council will use, or apply, to assist our debtors who have been identified as experiencing payment difficulties.

This Policy will apply to Council Rates and Sundry Debtor Invoices.

This Policy does not apply to infringement debts with the Fines Enforcement Recovery Unit (FERU) as FERU manage the collection process under the *Fines Enforcement and Debt Recovery Act 2017* and under their own policies and procedures.

2. Policy Objective

The objective of this Policy is to ensure that all applications for rate relief and debt management are considered in a consistent, equal, timely and fair manner in line with the provisions set out under the Local Government Act 1999 and this Policy.

3. Policy Statement

Chapter 10, Division 5 (Sections 159 to 166) of the Local Government Act 1999 contain provisions applicable to the Council granting a rebate of rates to persons or bodies.

The Local Government Act 1999 provides for a mandatory rebate of rates in specified cases and the amount of that mandatory rebate.

The Local Government Act 1999 also provides that where the Council must grant a rebate of rates under the Local Government Act 1999, and the amount of that rebate is fixed by the Local Government Act 1999 at less than 100%, the Council may increase the amount of the rebate.

Pursuant to Section 166 of the Local Government Act 1999, the Council may provide a discretionary rebate of rates in the cases set out in that Section.

Discretionary rebates and postponement of rates payments will only be considered in accordance with this Policy.

4. Definitions

"Financial Hardship" means a person experiencing hardship generally includes, but is not limited to; suffering through a difficult circumstance, family tragedy, financial misfortune, serious illness, or impacts of natural disaster.

"Rebates" means the reduction in rates in accordance with the rebate provisions of the Local Government Act 1999.

"Remission** and/or **Remittance" means the reduction of the amount of rates payable in accordance with the remission and postponement of payment provision of the Local Government Act 1999.

"Senior Postponement" means the delay of payment of rates until a future date for Seniors. Subject to interest charges, the annual rates payable are delayed and do not become payable until a future date.

5. Debtor Types

The Council provides a diverse range of services to its community, and these are funded through various means under the Local Government Act 1999. The nature of debtors in respect to debts owed to the Council principally fall within two (2) categories:

a. Sundry debtors

b. Rates debtors

6. Assisting Debtors Experiencing Payment Difficulties

The Council will inform a debtor of this policy where it appears to Council that non-payment of a debt is due to the debtor experiencing payment difficulties.

The Council will engage in discussion with the debtor to determine a realistic payment option in line with the debtor's capacity to pay.

These options will include the following:

(1) A general payment arrangement (under clause 7 of this policy); or

(2) A financial hardship arrangement (under clause 11.2 of this policy).

7. General Payment Arrangements

Where this option is appropriate, payment arrangements for a debtor will be considered having regard to:

- The debtor's capacity to pay, and
- Any arrears owing by the debtor, and

The payment arrangement will also include a payment plan for the debtor to pay for their debt at a frequency agreed with the debtor (e.g. weekly, fortnightly, monthly or as otherwise agreed with the debtor).

Where a payment arrangement is offered to a debtor, the Council will inform the debtor in writing, within ten (10) business days of an agreement being reached, of:

(1) The duration of the arrangement

(2) The amount of each instalment payable under the arrangement, the frequency of instalments and the date by which each instalment must be paid

8. Identifying Debtors Experiencing Financial Hardship

A debtor experiencing financial hardship is someone who is identified by themselves, by the Council, by an accredited financial counsellor, or by a welfare agency as having the intention, but not the ongoing financial capacity, to make required payments in accordance with Council's payment terms.

Debtors who may be identified as experiencing temporary hardship are those who have experienced a short-term change in circumstances, such as (but not limited to) serious illness, disability or death in the family, loss or change in income, separation, divorce or other family crisis, a loss arising from an accident, or some other temporary financial hardship.

These debtors generally require flexibility and temporary assistance, such as an extension of time to pay or an alternative payment arrangement.

The extent of hardship will be determined by either the Council's assessment process or by an external body, such as an accredited financial counsellor.

Where the Council assesses a debtor's eligibility for hardship assistance, the Council will consider indicators including (but not limited to) whether:

- The debtor is on a Centrelink income and holds a Pensioner Concession Card or holds a Centrelink Low Income Health Care Card;
- The debtor is eligible for a South Australian Government concession;
- The debtor has been referred by an accredited financial counsellor or welfare agency;
- The debtor advises they have previously applied for emergency relief (irrespective of whether or not their application was successful);
- The debtor's payment history indicates that they have had difficulty meeting their obligations in the past;
- The debtor, through self-assessment, has identified their position regarding their ability to pay.

8.1 Assisting debtors who are experiencing financial hardship

The Council will inform a debtor of this policy where it appears to the Council that non-payment of a debt is due to the debtor experiencing payment difficulties due to hardship.

Where a debtor has been identified as experiencing financial hardship, the Council will offer the debtor, as soon as is reasonably practicable, flexible and frequent payment options that have regard to the hardship debtor's usage, capacity to pay and current financial situation.

The Council will engage in discussion with the hardship debtor to determine a realistic payment option in line with the debtor's capacity to pay.

The Council will work with a hardship debtor's accredited financial counsellor to determine the payment arrangement and instalment amount that best suits the debtor and their individual circumstances.

Where a hardship debtor's circumstances change, the Council will work with the debtor, and their financial counsellor, to re-negotiate their payment arrangement.

The Council will also offer the hardship debtor:

(1) Where appropriate, information about the right to have a bill redirected to a third person, as long as that third person consents in writing to that redirection,

(2) Information about, and referral to, accredited financial and other relevant counselling and support services, particularly where a debtor is experiencing ongoing financial hardship.

Where a hardship debtor requests information or a redirection of their bills, the Council will provide that information or redirection free of charge.

The Council will explain to the hardship debtor how and when the debtor will be returned to regular billing cycles (and collection), after they have successfully completed the hardship program.

The Council will also explain to the hardship debtor that they will be removed from our hardship program, and be returned to the Council's standard collection cycles, including debt recovery, should they cease to make payments according to the agreed payment arrangement or fail to contact us for a period of greater than ninety (90) days.

The Council will not take any action to remove a debtor from our hardship program until the Council has sent the debtor a written notice, allowing them ten (10) working days from the date of the notice to contact us to re-negotiate their re-entry into the program.

If the hardship debtor is deemed to be suffering ongoing or extreme hardship with their Council rates, confirmed via a letter from an Accredited Financial Councillor, the elected body of the Council may consider it appropriate for a hardship debtor to apply for a postponement or remission of rates in accordance with s182 (1) of the Local Government Act 1999.

If the hardship debtor is deemed to be suffering ongoing or extreme hardship to pay a Sundry Debtor invoice, the Council may consider it appropriate for a hardship debtor to apply for a postponement or write-off of the invoice, with the approval of the relevant person as per the Council's Delegations Register.

8.2 Financial Hardship Payment Arrangements

The Council's payment arrangements for a hardship debtor will be established having regard to:

- The debtor's capacity to pay and current financial situation,
- Any arrears owing by the debtor, and
- The debtor's expected debt needs over the following twelve (12) month period.

The payment arrangement will also include an offer for the hardship debtor to pay for their debt at a frequency agreed with the debtor (e.g. weekly, fortnightly, monthly or as otherwise agreed with the debtor).

Where a payment arrangement is offered to a hardship debtor, the Council will inform the debtor in writing, within 10 business days of an agreement being reached, of:

(1) The duration of the arrangement

(2) The amount of each instalment payable under the arrangement, the frequency of instalments and the date by which each instalment must be paid

The Council may:

(1) Remit/waive any fees for late payment of a bill for a hardship debtor during their participation in this hardship program, providing any hardship agreement is maintained and/or

(2) Offer postponement of the bill for an agreed period prior to commencement of a hardship agreement payment arrangement

9. Debt Recovery

The Council will suspend debt recovery processes while negotiating a suitable payment arrangement with a debtor.

The Council will not engage in legal action or commence proceedings for the recovery of a debt for a debtor if the debtor has agreed to a payment arrangement and continues to adhere to the terms of that arrangement.

a. Sundry Debtors – Debt Recovery Management

For a sundry debt not covered by a payment arrangement, not in dispute and outstanding for sixty (60) days the following process applies:

1. First reminder letter will be forwarded, requesting payment within twenty-one (21) days, or to contact the Council to enter into a payment arrangement (the application form can be accessed via Council's website www.coorong.sa.gov.au. Alternatively, a copy may be obtained from any of our Customer Service Centres).
2. Second letter of demand for payment within fourteen (14) days will be forwarded.
3. Account forwarded to the Council's external debt collection agency after further fourteen (14) days.

Disputing a Sundry Debt

In the event that a sundry debt is in dispute, the debtor may lodge a complaint in writing.

b. Rates Debtors – Debt Recovery Management

A quarterly reminder notice will be sent for all amounts over $10 which are unpaid by the instalment due date. Where a rates due amount of over $200 is not covered by a payment arrangement the following will also apply:

1. A first reminder letter will be sent within twenty-one (21) days of the due date on the reminder notice, requesting payment within thirty (30) days or to contact the Council to enter into a payment arrangement (the application form can be accessed via Council's website www.coorong.sa.gov.au. Alternatively, a copy may be obtained from any of our Customer Service Centres).

2. Second letter of demand for payment within fourteen (14) days will be forwarded.
3. Account is forwarded to the Council's external debt collection agency after a further fourteen (14) days.

10. Rebates

The Council will inform the community of the provisions for rate rebates under the Local Government Act 1999 by the inclusion of suitable details in the Annual Business Plan and Rating Policy.

11. Postponement of Rates

11.1 Hardship

Where applicants satisfy the requirements for relief from payment of rates due to hardship or extenuating circumstances, the Council may grant relief in the form of postponement of rates in whole or in part for such period as the Council thinks fit.

The remittance of rates raised in whole or part, is not covered by this policy and is only possible by a resolution of the Council.

A hardship postponement will be assessed and determined by either an accredited financial counsellor or through the Council's assessment process.

Applications for the relief of rates due to hardship or extenuating circumstances are to be made in writing and accompanied by the appropriate supporting documentation.

All such inquiries are treated confidentially by the Council.

11.2 Special Circumstances - Properties Experiencing Adverse Conditions

The Council can declare certain types of properties that have been affected by rare or unusual circumstances to be exempt from the usual detailed application. An example of this type is drought causing an economic downturn or extreme weather events.

In these circumstances, ratepayers can apply to postpone rate payments for rates that fall due after the application made for the properties affected and can do so without incurring fines and interest (for twelve (12) months).

Ratepayers who are in arrears on their rates at the time that they make an application under this clause must enter into a payment arrangement with the Council for the repayment of amounts in arrears before a postponement is granted. The following year/s the ratepayers can enter into a payment agreement without incurrent fines and interest for up to twenty-four (24) months.

12. Postponement of Rates – Seniors

If the Council is satisfied from a ratepayer's application that payment of rates, in accordance with Section 182 of the Local Government Act 1999 would cause hardship, then Council may provide for the postponement of the payment of the prescribed portion of rates for the current or future financial year if:

- The ratepayer holds a current State Seniors Card issued by the State Government, or qualifies to hold such a card and has applied for the card but has yet to be issued with the card; and
- The person is a prescribed ratepayer, or is the spouse of a prescribed ratepayer; and
- The rates are payable on land that is the principal place of residence of the prescribed ratepayer; and
- The land is owned by the prescribed ratepayer or their spouse; and
- No other person has an interest (as owner) in the land.

Eligible ratepayers are required to pay a minimum of $500 per year toward their Council rates with payment of the remaining balance postponed for an indefinite period, until their property is sold or eligibility ceases.

Ratepayers can opt to pay:

- One lump sum of $500
- Quarterly payments of $125 or
- Fortnightly Centrepay deductions of $20
- Senior applicants should be referred to an accredited financial counsellor for assistance with their postponement application.

Applications for the postponement of rates are to be made on the Council's postponement application form and accompanied by the requested supporting documentation.

Under the Local Government Act 1999 and detailed in the Council's Rating Policy, amounts over $500 can be postponed subject to the prescribed interest rate.

<u>Interest payable</u>

If a postponement of rates occurs under this section, interest will accrue on the amount postponed at the prescribed interest rate compounded on a monthly basis. The prescribed interest rate is $P = \frac{CADR + 1\%}{12}$ where:

P = Prescribed Interest Rate
CADR = Cash Advance Debenture Rate for the relevant financial year as advised by the Local Government Finance Authority

13. Remittance of Fines and Interest

The Council has adopted this Policy relating to the remittance of fines and interest raised for late payment of rates and service charges, according to the different circumstances involved, these being:

13.1 Fines and interest raised due to the delay of rate payment delivery via Australia Post:

- Where a request is received by the Council to remit fines and/or interest due to the delay in delivery of payment, the Council's policy is that fines and/or interest will only be remitted where it can be demonstrated that the delay was caused by Australia Post.

13.2 Fines and interest raised for the reason of non-receipt of the rate notice by the ratepayer:

- Where a request is received by the Council to remit fines and interest for the reason of non-receipt of rates notices, only where it can be demonstrated that the rates notice has been returned to Council as undeliverable, due to an administrative error by Council.

13.3 Fines and interest raised due to an administrative error by the Council

13.4 Fines and interest raised on rates and unable to be paid due to illness, death or whereby financial hardship is demonstrated within this policy

All requests for remittance of fines and/or interest must be made in writing to the Council with relevant supporting documentation attached.

The following Council officers are permitted to authorise remission of fines and interest in accordance with this Policy (and section 181(9) of the Local Government Act 1999):

- Chief Executive Officer: up to and including $500
- Director Community & Corporate and Finance Manager: up to and including $50
- Finance Officer – Rates: up to and including $20

The Chief Executive Officer has final discretion on the remittance of fines and interest.

The power to write off bad debts is outlined in section 143(1) of the Local Government Act 1999, however this has not been delegated to Council staff. Any request to write off a bad debt will be subject to a resolution of Council.

14. Sale of Property for Non-Payment of Rates

In accordance with Section 184 of the Local Government Act 1999, the 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.

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

15. Complaints

Complaints will be considered in accordance with the Council's complaints and grievance procedures and Sections 270 and 271 of the Local Government Act 1999. A copy of the

Complaints Handling Policy can be found at www.coorong.sa.gov.au. Complaints should be forwarded to Council in writing, addressed to the Chief Executive Officer.

If you are not satisfied with the outcome of your complaint you may contact the Ombudsman SA on (08) 8226 8699 or email Ombudsman@ombudsman.sa.gov.au

16. Availability/Accessibility

This Policy is available for inspection at the Council's offices during normal business hours and Council's website and will be emailed to interested parties on request (please lodge request in writing via email to council@coorong.sa.gov.au).

17. Document History

This Policy will be reviewed at least every three (3) years or more frequently if legislation or the Council requires.

Version	Adopted	Minute No	Description of change(s)
1	12 December 2011	392/11	New policy
2	19 March 2013	070/13	Cyclical review
3	20 October 2015	234/15	Cyclical review
4	17 October 2017	207/17	Cyclical review
5	16 April 2019	112/19	Cyclical review
6	21 April 2020	071/20	Cyclical review
7	16 February 2021	020/21	Cyclical review
8	18 February 2025	031/25	Purpose refined and definitions re-ordered alphabetically New clause (6 – Identifying Debtors Experiencing Financial Hardship) inserted Rebates clause refined Sub-clause 8.2 inserted at clause 8 to reflect resolution of Council (17 December 2024) Payment options itemised at clause 9
9	8 July 2025	181/25	'Regular Payment Arrangement' and 'Financial Hardship' clearly defined throughout policy and through the introduction of new clauses (6 and 7)

			References to direct debit program removed as Council does not offer this service Procedural documentation and postponement application forms created to supplement the declaration of clause 8.2 (now clause 11.2), once enacted Clauses renumbered
10	7 July 2026	200/26	Deletion of rebates information under clause 10 to ensure there are no inconsistencies with the Rating Policy (which contains further information on the management of rate rebates).