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# DEBT RECOVERY POLICY

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**CONTROL:**

Policy Type:	Financial
Authorised by:	Council
Head of Power:	Local Government Regulation 2012: Residential Tenancies Act 2008
Responsible Officer:	Governance and Compliance Manager
Adopted / Approved:	Council Meeting March 2022 Minute No. 2022.03.21-OM-5
Last Reviewed:	March 2022
Review:	March 2024
Version:	VER 1

## 1. INTRODUCTION

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**1.1 PURPOSE:**

This policy seeks to:

Ensure that the Council has clearly documented guidelines for the efficient and consistent collection of all outstanding rates and charges, accounts and general debtor accounts.

**1.2 POLICY OBJECTIVES:**

- To ensure all debts owed to Council are paid, where possible, by the due date and followed up within specified timeframes;
- To ensure a fair, equitable and accountable approach to Council's debt management and collection decisions and practices.
- 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 aims to minimise the amount of outstanding monies that it is owed from time to time;
- Rate 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;
- Council and its officer's will explain the rate debtor's rights and obligations in relation to any action that Council might take to recover debt;
- Council will not instigate legal action without the debtor first being advised of such action. However, Council will proceed with legal action without further notice where
  - A debtor fails to respond to communications from Council; or
  - Fails to enter into realistic arrangements to meet outstanding debt; or
  - Fails to meet repayments as agreed
- Establish the framework for the Council and ratepayers to consider applications for financial hardship;

**1.3 COMMENCEMENT OF POLICY:**

This Policy will commence on adoption by Council. It replaces Councils previous 2012 Debt Collection Policy.

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### 2. POLICY

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#### 2.1 CONTEXT:

This policy applies to all debts incurred by third parties or employees of Council whether that debt is current, future or outstanding at the time of policy adoption. The policy should not conflict with the statutes referred to, however if there is an inconsistency the statute will prevail.

#### 2.2 POLICY STATEMENT:

The policy was finalized to provide a consistent framework for collection of overdue debts owed to council and to comply with the relevant Statute Law and meet Councils external and internal audit requirements.

### 3. STANDARDS AND PROCEDURES

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#### 3.1 POLICY PROVISIONS OVERDUE RATES

##### 3.1.1 Initial Recovery Action

A monthly aged rates outstanding report must be prepared by the Rates Officer in order to be acted upon.

Where rates are outstanding sixty days or more after date of levy and no arrangement has been made

(a) A reminder notice is issued in the month following the closing of discount and again one month following the first notice on all properties that have an outstanding balance with the current daily compound Interest rate. This reminder notice will call for payment of the debt within 14 days of the date of the letter.

(b) Should the ratepayer fail to pay the outstanding balance or contact Council and negotiate an alternative arrangement following the issue of two reminder notices within this fourteen (14) days, a "Show Cause" letter will be issued. This letter will give the ratepayer seven (7) days to pay the outstanding balance in full or negotiate a suitable payment plan with Council.

(c) Should the ratepayer fail to pay in full or make a suitable arrangement for payment by the expiry of the seven (7) day period the debt may be referred to a Debt Collection Agency depending on the size of the debt and the length of time the debt is overdue..

##### 3.1.2 Referral to Collection Agency

If the debt remains unpaid after 6 months with the Collection Agency it may then be referred for legal action if the amount of the debt is over still over \$2,000.

##### 3.1.3 Repayment Plan/Request

(a) When a repayment plan has been reached for the payment of rates by instalments, a letter confirming the plan and setting out conditions will be sent to the ratepayer.

(b) If a ratepayer misses an instalment, and Council's approval has not been verified the repayment plan is deleted and the balance in full is payable immediately.

(c) If a repayment plan is agreed to, the terms must be strictly adhered to i.e. a repayment plan to pay instalments of \$50 per week means paying \$50 every week with additional payments or payments above the agreed amount not equating to payments in advance or catch up payments.

(d) Where an arranged payment will be missed, prior agreement with Council is necessary. All delayed payments must be made up as soon as possible.

(e) Any ratepayer who has previously had a repayment plan cancelled for noncompliance will only have the option of payment by Direct Debit.

(f) For any arrangement to be successful it must clear the debt within the half-year period of issue

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being 31 December or 30 June within the financial year.

(g) When an application is deemed unacceptable a letter will be issued to the applicant outlining:

- How much each instalment needs to be in order to clear the debt within an acceptable period of time;
- The legal consequences of continued delinquency.
- (h) No repayment plan will be entered into for arrears however a Direct Debit arrangement may serve to deter legal action proceeding if it is sufficient to cover the annual rates and arrears.

### 3.1.4 Sale of Land for Rate Arrears

Where rates remain unpaid for three years or more and no arrangements to pay exist, Council will commence proceedings to sell the property subject to and by virtue of its powers under Part 12 Subdivision 2 of the Local Government Regulation 2012 using the following Procedures.

- (i) A list of properties for sale is sent to Chief Executive Officer for approval.
- (ii) A report is sent to Council listing properties for sale.
- (iii) Notice of Intention to Sell is issued.
- (iv) Notification of sale advertised in appropriate newspapers.
- (v) Auction and sale.

### 3.1.5 Acquisition of Land by Council for Overdue Rates

Where rates remain unpaid for three years or more and no arrangements to pay exist Council may also decide to commence proceedings to acquire the property subject to and by virtue of its powers under Part 12 Subdivision 3 of the Local Government Regulation 2012 using the procedures outlined in sections 149 to 151 of the Queensland Local Government Regulation 2012.

This would be done where the probable proceeds of any sale undertaken in 3.1.4 would not outweigh the costs associated with the sale.

### 3.1.6 Write Off Limits

Subject to all outstanding rates being paid, all requests for special dispensation such as relief on interest and legal costs, the Council delegates to the Chief Executive Officer to approve the waiving of charges up to \$250 per assessment. Requests of this nature for amounts greater than \$250 per assessment can only be approved by Council resolution.

## 3.2 POLICY PROVISIONS GENERAL ACCOUNTS RECEIVABLE/OTHER DEBTORS

*Council will vigorously pursue all old debt.*

Where invoices are outstanding for thirty (30) days or more after date of the invoice an aged debtors report must be prepared for all outstanding debts and copies of monthly statements sent to all outstanding debtors.

**3.2.1** A reminder notice is issued on all invoices along with the monthly statements that have an outstanding balance to pay the outstanding amount in full, by the end of the calendar month.

**3.2.2** The account of the debtor will be suspended if overdue after 30 days from the end of the month the debt was incurred. The customer will only be able to continue trading with Council as a cash customer. This would mean Council would either have to have the capacity to take a cash receipt at its Bedourie and Birdsville offices or be reliant on confirmation of bank transfers which may take a few days.

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**3.2.3** Should the customer fail to pay the outstanding balance by the end of the month referred to in (b) above a second reminder is to be issued along with the statement with the outstanding balance to be paid in full by the end of the calendar month.

**3.2.4 Repayment Plans**

Repayment Plans will be considered where the debtor has approached council due to hardship experienced in debt payment. The repayment plan must be in writing, have an end date no greater than six months and be approved by the Finance Manager.

**3.2.5** Should the customer fail to pay in full by the expiry of the period defined in (c) above a final letter of demand will be issued and the debt may be referred to the collection agency for a period of 6 months.

**3.2.6 Legal Action** (i) If after a period of 6 months with the collection agency if the debt is still outstanding the customer will be advised the debt will be referred for legal action.  
 ii) When the amount of the debt is less than \$5,000 legal action will be by way of plaint and action in the Small Debt Court. This action will be initiated either "in house" or via Council's Solicitors.  
 (iii) Amounts over \$5,000 will be referred to Council's Solicitors for action by way of plaint and summons.  
 (iv) Council reserves the right to initiate action under Corporations law for recovery of debts owing by companies (which may include winding up/bankruptcy action).

**3.2.7 Write Off Delegations**

The Chief Executive Officer has delegated authority to write-off amounts of up to and including \$2,000 per customer as a bad debt. Bad debts of an amount greater than \$2,000 per customer can only be written off by Council resolution.

**3.2.8 Yearly Review of Bad Debts**

Debts must be reviewed annually and the Provision Account adjusted in line with the relevant accounting standard.

**3.3 POLICY PROVISIONS RENT ARREARS**

Rent is managed through the accounts receivable system and all tenants must pay rent two-weeks in advance as per the tenancy agreement.

If tenants default on rental other services provided by Council will be on a strictly cash basis.

All employee tenants of council dwellings must pay rent via payroll deduction.

Non Council employee tenants must pay by direct debit through the bank or Centrelink

At the end of each month an aged debtors report is sent to the property officer who is to send tenants notices as follows:

**3.3.1 First notice for any rent arrears over 7 days -RTA form 11 Notice to Remedy Breach.** The Form allows the lessor to select a date. To fall in line with our accounting system the last day of the current month should be the date the arrears are to be paid by.

**3.3.2 Second notice for any rent arrears over 7 days -RTA form 12 Notice to leave.**  
 The form allows the lessor to select a date. To fall in line with our accounting system the last day of the current month should be the date the arrears are to be paid by.  
 Immediately the Form 12 notice to leave date expires and the Tenant hasn't vacated, the property officer has to lodge an urgent application to the Tribunal for a termination order.

**3.3.3** If the Tenant has paid rent they need to apply in writing to the Council to stay in the residence. Each application has to be approved by either the Chief Executive Officer or the Manager of Governance and Compliance in the absence of the Chief Executive Officer and responded to in writing.

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**3.3.4** At any point in time the tenant can apply to enter into a payment plan. This must be authorised by either the Chief Executive Officer or the Manager of Governance and Compliance and be drawn up as an agreement and signed by the tenant. Only one payment plan is allowed and if the payment plan is breached the normal recovery procedure is to be followed with no further payment plans allowed during the tenancy.

**3.3.5** In addition to eviction from the premises any overdue rental debt will follow the same procedure as that outlined for General Accounts Receivable/Other Debtors.

**3.3.6** Tenants details will also be given to TICA Data Solutions for registering as an outstanding rental debt and the tenant advised of this action in accordance with privacy legislation.

### **3.3.7 Rental Bonds**

All bonds must be paid along with two weeks rent in advance either upfront, or over two fortnightly instalments via payroll deduction by employees on commencement of work with Council.

Non Employees need to apply to the RTA for a loan if they have financial difficulties coming up with the bond and two weeks advance rent before they can commence tenancy.

## **3.4 POLICY PROVISIONS LANDING FEES**

**3.4.1** Landing fee arrears are followed up by Council in accordance with the principles outlined in Section 3.2 of this policy once the debt is outside of 90 days, however Council will not be using a collection agency to follow up on overdue landing fees due to the small amount of the overall debt.

**3.4.2** Avdata act as Councils Collection Agency for the intervening period from 30 to 90 days and in accordance are to produce a report every month for the first three months detailing collection activities taken on behalf of Council.

**3.4.3** Every year Avdata are to produce a list of what they consider are uncollectable debts for discussion with management for possible write off to council.

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## **4. REFERENCE AND SUPPORTING INFORMATION**

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### **4.1 DEFINITIONS:**

To assist in interpretation, the following definitions shall apply:

Word / Term	Definition
Council	means Diamantina Shire Council.
Rates and Charges	Rates and Charges are defined in the <i>Local Government Act 2009</i> as including differential general rates, minimum general rate levies, separate rates and charges, special rates and charges, utility charges and accrued interest or premium owing on outstanding balances.

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Accounts Receivable	Accounts Receivables are debts owed to Council by customers for the supply of goods and services. For the purposes of this policy Accounts Receivables exclude Rates and Charges and fines that may be levied by Council for breach of legislation or subordinate legislation. Should the debt be in relation to a Residential Property, then the provisions of the Residential Tenancy Act must also be addressed.
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### 4.2 RELATED POLICIES, LEGISLATION AND DOCUMENTS:

Links to supporting documentation
Queensland Residential Tenancies Act 2008
Queensland Local Government Regulation 2012

### 4.3 VERSION CONTROL:

Previous Version Number	Adopted/Approved Date