

2.1.7 Rates/Sundry Debtor Recovery (Debt Collection)

Type:	Corporate Services – Financial Management
Legislation:	Refer to References
Delegation:	DA76 Write Off Debt
Other Related Document:	

Objective

The purpose of this policy is to outline the Town of East Fremantle process for efficient and effective management of outstanding Rates and Sundry Debtor Accounts.

Policy Scope

The Town of East Fremantle will exercise its debt recovery powers, as outlined in Part 6 of the *Local Government Act 1995*, in order to reduce the overall debt burden on ratepayers. It will be guided by the principles of:

- ensuring that debt collection procedures are carried out in a fair and equitable manner;
- making the processes used to recover outstanding debt clear, simple to administer and cost effective;
- transparency by making clear the obligations of its ratepayers and sundry debtors to the processes used by Council in ensuring that they meet their financial obligations;
- equity by having regard to providing the same treatment for ratepayers and sundry debtors with similar circumstances;
- flexibility by responding where necessary to changes in the local economy;
- ensuring the Town of East Fremantle is compliant with all regulatory obligations;
- promoting effective governance and definition of roles and responsibilities;
- upholding recognition from the public and industry for the Town of East Fremantle practices that withstand probity.

Definitions

Debtor an individual, organisation or other party that transacts with the Town where goods or services are provided, use of facilities are made available, fines and license fees are levied and any other transactions that result in an expected future payment to the Town.

General Procedure Claim (GPC) means the claim lodged with the Magistrates Court where the value of the claim or the relief claimed does not exceed \$75,000.

Property Seizure and Sale Order (PSSO) is a court order that authorises a bailiff to seize and sell as much of the judgment debtor's real or personal property as necessary to satisfy the judgment debt wholly or partially.

Financial Hardship A person in a situation of vulnerability may have low income or, as a result of their circumstances, be experiencing a financial shock, leading to difficulties in paying rates by the due date. This can take the form of 'payment difficulties' or 'financial hardship'.

Policy

1. Recovery of Sundry Debtor Accounts

The recovery of outstanding sundry debtors will be collected in a fair and timely manner. Sundry debts are due for payment 21 days from date of issue. The process for sundry debt collection is as follows:

- a) Sundry debtors will be issued an invoice as soon as possible after the amount is known, providing 21 day payment terms.
- b) A statement (or form of reminder) will be issued as soon as practicable after the invoice becomes due and payable, , requesting payment within 14 days.
- c) At the end of 14 days, communication will be issued advising that legal action may be taken without further warning should the debt remain outstanding beyond 7 days.

Where the customer fails to pay in full by the expiry of the period defined above, credit may be suspended or services limited and legal action may be commenced.

Legal action – debts will be assessed to ascertain the ability to recover. If the cost of legal action exceeds the amount of the debt, the amount may be considered for write off, subject to Council delegation, once all non-legal recovery actions have been exhausted.

2. Recovery of Rate and Service Charges

The recovery of outstanding rates will be collected in a fair and timely manner. Rate notices are due for payment 35 days from date of issue in accordance with the *Local Government Act 1995*.

Amounts that remain outstanding past the prescribed due date may have interest applied, up to a maximum interest rate as legislated and imposed annually by Council as part of the Annual Budget. Interest is calculated on the number of days from the due date of payment until the day the payment is received by the Town of East Fremantle. This includes overdue amounts where the rate payer has elected to pay by an instalment option.

Accounts unpaid by the due date shown on the Rate Notice

Where accounts remain outstanding after the prescribed due date, a Reminder Notice shall be issued requesting full payment within fourteen (14) days (this to be commenced within two weeks of accounts falling due).

Accounts that remain outstanding after the due date of the Reminder Notice are to be issued with a Final Notice requesting full payment within nine (9) days (to be commenced within a week of accounts falling due).

Accounts that remain outstanding after the due date of the Final Notice are to be issued with a Final Demand requesting full payment within seven (7) days (to be commenced within a week of accounts falling due).

Accounts with eligible persons registered to receive a pensioner or senior rebate under *the Rates and Charges (Rebates and Deferrals) Act 1992* will not be subjected to the above recovery process however those accounts with service charges or rates that are unable to be deferred (Seniors) from the previous year will be subject to a communicate requesting payment of overdue charges.

Accounts unpaid after the expiry date shown on the Final Demand

Where amounts remain outstanding after the expiry date shown on the Final Demand and no communication has been entered into, recovery action will commence.

Accounts will be sent to the Town's debt collection agency for issuance of a Final Demand (Agency Letterhead) with a due date of fourteen (14) days. The demand is to be issued by mail and email (if an email exists).

Those accounts with existing action carried over from the previous year will receive a demand from the Town's solicitors.

Seizure of Rent for Non Payment of Rates

Where the property owner of a leased or rented property on which Rates and Service Charges are outstanding cannot be located or refuses to settle Rates and Service Charges owed, a Notice may be served on the lessee or tenant under the provisions of Section 6.60 of the *Local Government Act 1995* requiring the lessee or tenant to pay to the Town the rent due that they would otherwise pay under the lease/tenancy agreement as it becomes due, until the amount in arrears has been paid.

Options to recover rates debt where rates remain unpaid.

Under the guidance of the Town's debt collection service provider, legal action may be undertaken to recover outstanding rates and charges. This action may include General Procedure Claims and Property Seizure and Sale Orders (Goods). Any costs incurred in undertaking legal action in a Court of competent jurisdiction are recoverable from ratepayers under section 6.56 of the *Local Government Act 1995*.

Options to recover rates debt where rates are in arrears for in excess of three (3) years.

(i) Lodging a Caveat on the Title for Land

If rates and service charges which are due to Council in respect of any rateable land have been unpaid for at least three (3) years a caveat may be registered on the title for the land, under the provisions of Section 6.64 (3) of the *Local Government Act 1995*. The approval of Council is required before this course of action is undertaken.

(ii) Sale of Property

If rates and service charges which are due to Council in respect of any rateable land have been unpaid for at least three (3) years, Council may take possession of the land under the provisions of Section 6.64 of the *Local Government Act 1995*. The approval of Council is required to be obtained before this course of action is undertaken.

3. Write off Debts

The Chief Executive Officer and the Executive Manager Corporate Services have the authority to write-off individual debts up to \$500.00 in accordance with Delegation DA76 – Write off Debt, excluding late payment interest and Service Charges applicable to the Emergency Services Levy.

4. Financial Hardship

While evidence of hardship will be required, the Town recognises that not all circumstances are alike. The Town will consider a range of individual circumstances including, but not limited to, the following situations:

- Recent unemployment or under-employment.
- Sickness or recovery from sickness.
- Low income or loss of income.
- Unanticipated circumstances such as caring for and supporting extended family.

Ratepayers will be required to provide information about their individual circumstances that may be relevant. This includes demonstrating a capacity to make some payment where possible and entering into a formal payment arrangement. The Town will consider all circumstances,

applying the principles of fairness, integrity and confidentiality whilst complying with all statutory responsibilities.

Where a ratepayer meets the Financial Hardship Criteria, payment arrangements will incur a \$0 administration fee and the Town reserves the right to waive late penalty interest, excluding the late payment interest and Service Charges applicable to the Emergency Services Levy.

5. Payment Arrangements

Payment arrangements are facilitated in accordance with *Section 6.49 of The Local Government Act 1995* and will be offered to rate payers in circumstances evident of financial hardship. A payment arrangement must be negotiated to reflect a ratepayer's capacity to repay outstanding rates and contain the details of the agreed repayment schedule.

These payment arrangements will include the following:

1. It is the responsibility of the ratepayer to ensure that the agreed payment amounts are paid on or before the agreed due date.
2. The Town of East Fremantle requires full payment of the outstanding rates by the end of the financial year.
3. If a ratepayer requires an extension on this timeframe an end date must be negotiated and approved by the Executive Manager Corporate Services.
4. The ratepayer will be responsible for informing the Town of any change in circumstance that jeopardises the agreed repayment schedule.

For the purpose of recovering rates and service charges, where a ratepayer defaults on more than two repayments, the payment arrangement will become void and be subject to the Town's debt recovery procedures outlined in this policy.

6. Management Reporting

Rates Debtors:

The Town has adopted a benchmark target of 5% for its outstanding rates ratio. The monthly financial report to Council is to include a receivables note detailing the total amount of rates outstanding, and a breakdown of rates outstanding between one and two years, two and three years, and more than three years. Management are required to maintain a status report of recovery action against all rates in arrears of more than one year.

Sundry Debtors:

The Town has adopted a benchmark of less than 10% of sundry debtors exceeding 90 days outstanding. The monthly financial report to Council is to include an aged receivables note detailing the total amount outstanding against current, 30 days, 60 days and 90+ days. Management are required to maintain a status report of recovery action against all sundry debts in arrears of more than 90 days.

Roles and Responsibilities

- The Chief Executive Officer shall be responsible for the application of delegations of authority in regard to the Policy.
- The Executive Manager Corporate Services shall be responsible for referring matters to Council in regard to this Policy and the collection of outstanding debts.
- The Manager Administration and Finance shall be responsible for the review and monitoring of the operations of the Policy (or delegate to the Revenue Officer functions of operation of the policy).
- The Corporate Service Team shall be responsible for the day to day operations of the Policy.

7. Legislation

- Local Government Act 1995: Part 6, Division 4, Clause 6.13 - Interest on money owing to local governments
- Local Government Act 1995: Part 6, Division 6, Clause 6.45 – Options for payment of rates and service charges
- Local Government Act 1995: Part 6, Division 6, Clause 6.51 - Accrual of interest on overdue rates or service charges
- Local Government Act 1995: Part 6, Division 6, Clause 6.56 - Rates or service charges recoverable in court
- Local Government Act 1995: Part 6, Division 6, Clause 6.60 - Local government may require lessee to pay rent
- Local Government Act 1995: Part 6, Division 6, Clause 6.64 - Actions to be taken
- Local Government (Financial Management) Regulations 1996
- Rates and Charges (Rebates and Deferments) Act 1992

Responsible Directorate	Corporate Services
Reviewing Officer	Executive Manager Corporate Services
Decision Making Authority	Council
Policy Adopted	18/9/18
Policy Amended/Review:	19/2/19, 17/9/19, 21/04/20, 19/7/22
Former Policy No:	4.4.2