

Policy Register

Rate Debtor Management Policy

Policy Classification	- Finance
Policy N°	- POL/341
Policy Status	- Current
Responsible Service Unit	- Financial Services
Authorised by	- Executive Management Team
Date Endorsed	- 5 August 2021
Next Review Date	- December 2023

This policy is part of a suite of policies adopted by Council or the Executive Management Team (EMT).

New or replacement policies can be created and developed within Service Units but can only be added to Council's Policy Register by Governance Services following the approval of the policy by Council or the EMT.

Commercial In Confidence ©

Contents

1. PURPOSE	3
2. OBJECTIVE.....	3
3. RESPONSIBILITY	4
4. LEGISLATION.....	4
5. GENERAL RATES	5
6. WASTE CHARGES	5
7. PENALTY INTEREST ON OVERDUE ACCOUNTS	5
8. ISSUE OF RATES NOTICES	6
9. RATE PAYMENT TERMS	6
10. RATE PAYMENT INSTALMENTS	7
11. PAYMENT METHODS.....	7
12. RATE PAYMENT AGREEMENTS AND INTEREST CHARGES ON OVERDUE DEBTS.....	7
13. WAIVING OF INTEREST AND LEGAL COSTS	8
14. DEFERRED RATES AND CHARGES.....	9
15. FINANCIAL HARDSHIP	9
16. DEFINITIONS	10
17. RATE DEBTOR FOLLOW UP.....	11
1 Notice of Arrears on Instalment Notice	11
2 Issue of Final Notice	11
3 Issue of Demand Letter (Debt Collection Agency).....	11
4 Issue of a Complaint in the Magistrates Court (LGA Section 180)...	11
5 Writ of Oral Examination (LGA Section 180)	11
6 Application for Judgment (Court Order) (LGA Section 180).....	11
7 Issue of a Distress Warrant (LGA Section 180)	12
8 Issue of a Rent Demand (LGA Section 177).....	12
9 Caveat on Property.....	12
10 Mortgagor Letter	12
11 Termination of Recovery Process.....	12
12 Sale of Property to recover Rates (LGA Section 181)	12
18. AUTHORITY LEVELS	14
19. EMPLOYEE DISCRETION	15
DOCUMENT HISTORY	16

1. PURPOSE

The purpose of this policy is to provide direction and guidance to Council employees in dealing with the efficient and effective recovery of revenue raised through the application of property rates and charges. The policy applies to General Rates, Service Charges (waste collection), Fire Services Property Levy, Special Rates and Charges and charges in lieu of rates.

This policy applies to:

- the raising of rates notices;
- the management of the payment of rates and charges by special arrangements;
- applications to defer payment of rates and charges;
- applications to have rates and charges waived;
- the recovery of legal fees and associated charges; and
- the levying of penalty interest on overdue rates and charges.

This Policy requires the exercise of judgment in relation to a number of issues. Such matters relate to Financial Hardship claims, term Rate Payment Agreements and in the actions taken to recover arrears through legal action. Employees need to exercise judgment in a timely and consistent manner having regard to the impact of such a determination on the finances of Council and, in specific cases, the welfare of the ratepayer.

2. OBJECTIVE

To provide guidance to ensure the prompt, efficient and consistent recovery of rates and charges debts.

The total revenue received from general rates and waste charges account for approximately 75% of total revenue received by Council. The timely collection and recovery of unpaid rates and charges is therefore pivotal to the cash flows of Council.

Early detection of defaulting ratepayers is a key aspect in debtor management. The benefits of early intervention are both to the debtor and to Council. This Policy provides for the early identification of defaulters in payment and provides a structured approach to debt recovery.

3. RESPONSIBILITY

Employees in the Financial Services unit are primarily responsible for the levying of general rates and charges and the collection of associated debts. The Policy is however applicable to all employees.

4. LEGISLATION

The *Local Government Act 1989* is the primary legislation for the levying and collection of rates and charges. The key sections include:

- Section 169(1) allows Council to grant rate rebates and concessions.
- Section 170 allows Council to defer the payment of rates, charges and interest.
- Section 171, sub sections (1), (2) and (3) allows Council to waive the whole or part of any rates, charges and interest.
- Section 172, allows Council to apply, or exempt, interest on arrears in Rate payments.
- Section 177, allows Council to have the occupier pay rent to Council equivalent to the Rate arrears.
- Section 180, allows Council to recover unpaid Rates through the Magistrate's Court or by suing for the debt
- Section 181, allows Council to sell, or transfer to itself, land on which Rates remain unpaid for 3 or more years.

Rates and charges are also governed through the following legislation:

- Local Government Amendment (Fair Go Rates) Act 2015 which details the provisions of rate capping. Under these provisions the Minister for Local Government sets the maximum average rate increase for each rating year.
- Fire Services Property Levy Act 2012 which details the processes whereby councils collect a levy on behalf of the Victorian State Government to fund fire services within Victoria. These rates are set by the State Government and 100% of all revenue collected is remitted to the State Government.

5. GENERAL RATES

With the introduction of rate capping by the State Government in 2016/17 through the Fair Go Rates System, the maximum annual average rate increase is determined by the Minister for Local Government.

In developing the annual budget process, Council determines the rate revenue to be raised to support the provision of infrastructure and services as detailed in the annual budget. The total revenue cannot exceed the rate cap determined by the Minister for Local Government (unless a Variation has been sought and approved to exceed the annual rate cap).

The total amount of rates to be collected is divided into the total value of all rateable properties to determine a rate in the dollar.

The rate in the dollar is then applied to the Capital Improved Value of each individual rateable property to determine the general rates payable.

6. WASTE CHARGES

Council declares a separate service charge for the collection and disposal of waste services. The standard household Waste Service is an 80 litre waste bin, 240 litre recycling bin and 240 litre green waste bin.

The waste and recycling charges are based on a user pays principle to recover the cost of collection and disposal of refuse and associated waste related activities.

These services include the kerb side waste, recycling and green waste service, litter collection throughout the municipality and the cleaning and sweeping of roads and footpaths, and the disposal of waste collected from these activities.

Residents can chose to have additional waste services over and above the standard waste service (in most cases at an additional charge).

7. PENALTY INTEREST ON OVERDUE ACCOUNTS

Penalty interest is applied to rates and charges not paid by their respective due dates. The penalty interest rate is charged in accordance with the provisions of Section 172 of the Local Government Act 1989 at the rate fixed under Section 2 of the Penalty Interest Rates Act 1983. As part of the Annual Budget process Council determines that interest will be charged on overdue rates and charges.

8. ISSUE OF RATES NOTICES

Council will levy rates and charges and issue annual rate and instalment notices at least 14 days prior to their due dates.

Instalment notices for an amount due of less than \$5.00 will not be issued.

9. RATE PAYMENT TERMS

In accordance with the provisions of the *Local Government Act 1989*, Council must offer the payment of rates and charges by four instalments whilst payment in full is optional. Council does not offer the full payment option.

Four Instalments

Council requires rates to be paid by four instalments. Whilst Council does not offer a payment in full option, the pre-payment of any or all instalments in advance will be accepted.

The due dates for payment of the four instalments are set by the State Government and are usually the last working day of September, November, February and May, respectively. Where the due date for payment falls on a working day or a public holiday, payment will be accepted on the following working day.

The four instalment payment option may be paid by Direct Debit from a savings or cheque account. A '**Direct Debit Request**' must be completed and submitted to Council to take up this method of payment.

Monthly Direct Debit (10 payments per annum)

In addition to the payment options permitted by legislation Council also provides the payment option of ten monthly instalments providing payment is made by Direct Debit from a savings or cheque account. The monthly instalments commence in September with the final instalment in June. A '**Direct Debit Request**' must be completed and submitted to Council to take up this method of payment. The option to pay in 10 Monthly instalments is not available through other payment methods (eg: BPAY).

Should a supplementary valuation result in an increase in rates and charges then payment of the amount due will be spread equally across the remaining instalments for the current financial year. If no more instalments are due then payment is to be made within 21 days of the issue date on the Supplementary Rate Notice without interest.

Special Rates and Charges have payment dates set during the consideration of the schemes by Council.

10. RATE PAYMENT INSTALMENTS

Where a ratepayer is unable to clear their arrears by way of a single payment, a payment agreement will be given consideration to allow the ratepayer to make regular periodic payments outside the normal prescribed instalment due dates. The applicant must complete and submit a '**Rate payment agreement**' form for consideration.

A rate payment agreement requires the Council and the ratepayer to agree on the period of the arrangement and the frequency of instalments.

Rate payment agreements require receipt of a payment at a minimum of at least once each fortnight by equal instalments over the life of the agreement. The preferred method of payment is by Direct Debit.

Where rate payment agreements are not honoured by the ratepayer, they will be contacted within 14 days of the defaulted payment date. The ratepayer will be provided with 7 days to respond to Council to enable a review of the agreements to take place. Where a response or payment is not received and two payments have defaulted, the arrangement will be cancelled and the ratepayer advised in writing. Further recovery action will be taken to recover the outstanding rates and charges in accordance with this Policy.

A ratepayer who is assessed as being, or will be, in financial hardship as a consequence of paying their rates will be provided with an agreement that acknowledges their financial position and their ability to pay.

11. PAYMENT METHODS

Council can accept payments by a number of methods including through Council's website, agents such as Australia Post and Bpay and at the Civic offices.

Payment options include EFTPOS debit cards, Visa/MasterCard credit cards, cash and cheque and may be transacted via the internet, mail, over the phone or in person.

The preferred, most efficient and least cost service to the ratepayer and Council is payment by direct debit.

12. RATE PAYMENT AGREEMENTS AND INTEREST CHARGES ON OVERDUE DEBTS

Council will raise interest charges on arrears to compensate Council for lost interest earnings and to encourage debtors to give priority to clearing the account.

Interest is applied to overdue rates and charges in accordance with Section 172 (2) of the Local Government Act 1989, at the rate fixed under Section 2 of the Penalty Interest Rates Act 1983.

Interest is charged on overdue accounts as per the following table:

Interest charges on overdue payments	Interest
Where there is no evidence of financial hardship.	Penalty interest in accordance with Section 172 of the Local Government Act.
Where an approved payment agreement has been entered into and there is no acceptance of financial hardship	Penalty interest in accordance with Section 172 of the Local Government Act
Where: i. there is acceptance of financial hardship: and ii. the property is the ratepayer’s principal place of residence (except in the circumstances that a ratepayer has had to leave the property due to family violence) or operate their own business from the property: and iii. a payment agreement has been entered into; and iv. (iv) there is no default in payments:	No interest to be charged.
Where there is acceptance of financial hardship, but a payment arrangement has not been entered into by the ratepayer.	Penalty interest in accordance with Section 172 of the Local Government Act.

* A grace period will be allowed for seven days after an instalment payment was due before the application of interest charges.

13. WAIVING OF INTEREST AND LEGAL COSTS

Interest waivers fall under three categories which are:

- Council administrative waiver – ratepayers may have interest waived in the event of an administrative issue, error or omissions which contributed to the failure to pay rates in a timely manner.
- Waiver on compassionate grounds – ratepayers may have interest waived where they have demonstrated compassionate grounds for a payment being late. Acceptable compassionate grounds would generally relate to family illness or death. Requests for waiver must be in writing to the Coordinator Revenue Services and will be assessed on an individual basis.
- Financial Hardship waiver – ratepayers may have interest or part interest waived where they have demonstrated that the payment of such interest would cause severe financial hardship. Applications for waiver must be in writing to the Coordinator Revenue Services and will be assessed on an individual basis.

14. DEFERRED RATES AND CHARGES

Where a ratepayer is unable to pay their rates in accordance with the prescribed times required by Council resolution an agreement can be entered into to defer the collection of the rates, where:

- there is a proven case of financial hardship, and
- the property is the ratepayer's principle place of residence (except in the circumstances that a ratepayer has had to leave the property due to family violence) or operate their own business from the property.

A deferral of collection of the rates means that the rates, in full or in part, can be deferred for an agreed period under the conditions contained in this Policy.

Where an agreement to defer payment of the rates is granted then:

- The period of deferment can be given for a maximum period of 12 month with further time extensions following an annual review. In considering an application for an extension to the deferral both the present and forecast financial position of the ratepayer will be reviewed.
- Interest rates determined by Council in accordance with this policy will apply.

Where a deferral of rates is granted then the property owner must be advised in writing of the deferral and further demands for payment will cease during the deferral period. An annual Rates and Valuation notice and instalment notices must be forwarded to the ratepayer as required by the Local Government Act 1989.

The amount of the rates and charges, which will be considered for deferment will take into account the capacity to pay and may not necessarily be the full amount due.

15. FINANCIAL HARDSHIP

A ratepayer who is assessed as being or will be in financial hardship as a consequence of paying their rates may be eligible for:

- a Rate Payment Agreement that acknowledges their financial position;
- interest placed on hold
- a deferment of rates and charges to a mutually agreed date. Interest may be charged on unpaid rates and charges under this option; and
- a rebate on rates of 50% of the increase in rates, where the increase is due to changes in CIV above 30% as a consequence of a general valuation.

The following criteria are to be considered by employees in determining if there is a sustainable case for financial hardship:

- The applicant is unemployed;
- Disposable income and savings levels;
- Number of dependents living with the ratepayer and their incomes;
- Other properties owned;
- Enduring or permanent nature of financial position;
- Whether a report from a recognised financial counsellor has been received (in some cases it may be required).

Applicants for financial hardship must complete and submit a Financial Hardship Form and are encouraged to seek advice from a recognised financial counsellor.

Employees will exercise judgment before seeking a legal recourse for unpaid accounts relating to a ratepayer who has been assessed as being or will be in financial hardship.

16. DEFINITIONS

Term	Definition
Deferment	<p>Deferment is a postponement of payment in whole or in part and can be for a specified period and subject to any conditions determined by Council. Rates and charges payments are deferred until such time as the ratepayer's circumstances improve or the property is sold or transferred to another entity.</p> <p>Rates, charges and interest accrue during this period.</p>
Genuine Financial Hardship	<p>Financial hardship involves an inability of the property owner to meet their financial commitments (bills), rather than an unwillingness to do so. Hardship can arise from a variety of situations. Common causes of hardship may include, but are not limited to:</p> <ul style="list-style-type: none"> • Loss of employment of the property owner or family member; • Family violence; • Family breakdown; • Illness, including physical incapacity, hospitalisation, or mental illness of the property owner or family member; • A death in the family; or <p>Other factors resulting in unforeseen change in the property owner's capacity to meet their payment obligations, whether through a reduction in income or through an increase in non-discretionary expenditure.</p>
Waiver	<p>A waiver is a one-off abandonment, which removes the liability to pay the debt. In terms of this policy it may be offered to include the whole or part of any interest.</p>

17. RATE DEBTOR FOLLOW UP

The available options for the recovery of outstanding debts are listed below. The application of steps in the recovery will be determined by the Coordinator Revenue Services having regard to the circumstances of the ratepayer.

1 Notice of Arrears on Instalment Notice

Where either the first or second or third instalment payment alone has not been paid then Council will include that amount on the next instalment notice and charge interest as provided for under the Local Government Act.

2 Issue of Final Notice

Where there is an amount outstanding at 31 May, a final notice will be issued requesting that payment of overdue rates be attended to.

3 Issue of Demand Letter (Debt Collection Agency)

Where a request for payment of overdue rates has not been attended to or contact made by the ratepayer to enter into an agreement the matter may be referred to Council's appointed debt collection agency.

Action by the agency may include a demand letter, telephone calls and or SMS message as instructed by Council.

4 Issue of a Complaint in the Magistrates Court (LGA Section 180)

Where the fourth/final instalment due date has passed and rates remain outstanding and a final notice has been issued requesting payment, action to recover the debt may be enforced through the Magistrates Court.

This action would only be considered following the issue of a demand letter by the debt collection agency which would advise that a Complaint may be issued in the Magistrates Court if payment is not remitted or a suitable arrangement put in place.

Due to the level of costs associated with the issue of a Complaint in the Magistrates Court this action should only be considered for outstanding debts exceeding \$2,500. Legal costs incurred are fully recoverable.

5 Writ of Oral Examination (LGA Section 180)

This action requires the ratepayer to attend court and explain why the rates remain unpaid. This action may result in a warrant being issued to compel attendance before the Court.

6 Application for Judgment (Court Order) (LGA Section 180)

An application for Judgment (Court Order) may be applied for where payment has not been received, contact has not been made by the debtor to enter into a payment agreement or the matter has not been defended by the debtor with the Magistrate's Court.

Judgments are also recorded against the debtor's credit rating and are particularly useful where the debtor may be applying for loan for financing or selling the property.

7 Issue of a Distress Warrant (LGA Section 180)

After obtaining a judgment Council may apply to the Magistrate's Court for the issue of a Distress Warrant. The warrant is served on the debtor by the Sheriff's Office requesting payment of the debt.

Failure to pay the debt allows the Sheriff's Office to seize goods to the value of the debt.

The law is very restrictive in what the Sheriff's Office can actually seize and in most cases the Distress Warrant is unsuccessful and only results in further significant costs being incurred.

8 Issue of a Rent Demand (LGA Section 177)

Where rates remain outstanding after the issue of a final notice or other recovery attempts and where the premises are rental or leased premises a Rent Demand may be issued under Section 178 of the Local Government Act. The demand requires the tenant or the agent acting for the landlord to pay the rates in lieu of rent to the landlord.

9 Caveat on Property

Failure of a Judgment or Rent Demand (if appropriate) to result in satisfaction of payment and the debt is in excess of \$5,000, a Caveat may be lodged on the property title indicating that rates and charges remain unpaid on the property. The cost of adding and removal of the caveat will be added to the ratepayer's account.

A caveat on property may also be lodged where there is a deferral of Rates beyond 12 months.

10 Mortgagor Letter

A letter may be issued to the mortgagor requesting that the rates be paid by the mortgagor where court actions fail to recover unpaid rates for a property that is subject to a mortgage.

11 Termination of Recovery Process

The above recovery actions are terminated where there is either:

- Evidence of financial hardship resulting from reasonable causes;
- Payment of all outstanding amounts;
- An agreement put in place that results in a repayment of the outstanding balance within a 12 month period; or
- Council agrees to defer the rates and charges under Section 171 of the Act.

12 Sale of Property to recover Rates (LGA Section 181)

(This is an act of last resort). Should all of the above actions fail to result in the outstanding rates and charges rates being paid and if there is no

evidence of financial hardship or agreement in place for deferral or agreement to pay, the Council may, subject to further tests, commence actions under Section 181 of the *Local Government Act* to sell the property where:

- a property is assessed not to be the ratepayer's principle place of residence and the balance outstanding is greater than \$5,000 and the rates have been outstanding for greater than 36 months then Council may commence actions for sale of the property to recover the outstanding amount. The same criteria applies to vacant land and other non-residential properties.
- a property is assessed to be the ratepayer's principle place of residence and the balance outstanding is greater than \$5,000 and the rates have been outstanding for greater than 60 months then Council may commence actions for sale of property.

Council is entitled to recover the costs associated with the sale of the property only if the property is sold. Any withdrawal of action once commenced can result in the costs being borne by Council.

Prior to consideration by Council of a report to recover unpaid rates under Section 181 of the Local Government Act 1989 the delegated officer of Council will write to the ratepayer advising of the officer's intention to place a recommendation before Council to take action under Section 181 of the Local Government Act 1989, and seek comments from the ratepayer on this proposed course of action.

18. AUTHORITY LEVELS

The delegations of authority to act within the Rates Debtor Management Policy and the reporting requirements are:

Delegations		
Section of LGA Action	Authorised Officer	Comments
Issue Reminder Letter	Coordinator Revenue Services or Revenue Officer	
Issue Final Notice	Coordinator Revenue Services	
S.180 Issue Complaint	Chief Financial Officer (CFO) or Coordinator Revenue Services in consultation with CFO	Where outstanding amount owed is greater than \$2,500
S.180 Application for Judgment and/or Issue of Distress Warrant	Chief Financial Officer or Coordinator Revenue Services in consultation with CFO	Where outstanding amount owed is greater than \$2,500
S.180 Writ of Oral Examination	Chief Financial Officer or Coordinator Revenue Services in consultation with CFO	Where outstanding amount owed is greater than \$2,500
S. 177 Issue of a Rent Demand	Chief Financial Officer	
S. 180. Caveat on Property	Chief Financial Officer or Coordinator Revenue Services in consultation with CFO	
Advice to ratepayer of Officer's intention to recommend to Council on transfer or sale of property under S181.	Chief Financial Officer	
S.181 Sale or Transfer of Property	Council	Resolution to sell or transfer land
S.170 Enter into a Term Payment Agreement	Chief Financial Officer or Coordinator Revenue Services in consultation with CFO	Over 12 months
	Revenue Officer	Less than 3 months
S. 171 Waive Interest	Revenue Officer	Up to \$100
	Coordinator Revenue Services	Up to \$1,000
	Chief Financial Officer	Up to \$2,500
	Director Shared Services	Up to \$5,000
	CEO	Over \$5,000

Section of LGA Action	Authorised Officer	Comments
S. 171 Waive debt collection costs	Revenue Officer	Up to \$100
	Coordinator Revenue Services	Up to \$1,000
	Chief Financial Officer	Up to \$2,500
	Director Shared Services	Up to \$5,000
	CEO	Over \$5,000
S. 171 and S.172 Determine Financial hardship	Coordinator Revenue Services (in consultation with CFO)	Pensioners
	Coordinator Revenue Services (in consultation with CFO)	All other cases
	Chief Financial Officer	All other cases
S. 169(1) Concession or Rebate on rates of 50% of the first year increase in rates is due to changes in CIV above 30% where the change in CIV is in consequence of a general revaluation and the ratepayer is assessed as being in financial hardship.	Coordinator Revenue Services (in consultation with CFO)	Up to \$1,000
	Chief Financial Officer	Up to \$2,500
	Director Shared Services	Up to \$5,000
	CEO	Over \$5,000

Ratepayer grievance / dispute

In the instance of a ratepayer grievance or dispute in relation to a decision made by Council employees in relation to this Policy, Council will review the matter in line with Council's adopted Complaints Policy (POL/555).

19. EMPLOYEE DISCRETION

This Policy provides advice on the arrangements that are to be applied in the management of Council's Rate debtors. Employees are expected to use their judgment when applying the provisions of this policy to identify cases where the application of the policy has unintended outcomes in given circumstances and to seek further advice from their supervisor.

DOCUMENT HISTORY

Policy Title:	Rate Debtor Management Policy
Responsible Officer:	Jon Gorst
Resp. Officer Position:	Chief Financial Officer
Next Review Date:	December 2023
To be included on website?	Yes

Last Updated	Meeting type? - Council or EMT	Meeting Date	Item N°
April 2018	Approval by Director Shared Services		
August 2021	EMT	5 August 2021	5.2