

Debtor Management Policy

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Debtor Management

Introduction

This policy outlines the principles that Council's officers must consider when:

- collecting monies owed to Council;
- reviewing the likelihood of collection and providing for doubtful debts; and
- writing off bad debts.

1 Context

Council commonly provides goods and services or issues infringement notices in advance of payment being received. This results in credit being provided until the amount is paid. The amount is recognised as a debt owed to Council, known as an accounts receivable.

Credit is issued by way of rate notices, infringement notices or invoices. A rate notice, infringement or invoice can only be issued when Council is legally entitled to collect the debt. Providing credit comes with the risk of the amount being paid late or non-payment. Council providing credit is unavoidable, so the risk needs to be recognised and managed.

2 Objectives

To provide direction to Council's Officers when managing debts owed to Council to promote debts being paid by the due date, reduce the likelihood of debts not being paid and be consistent with the Hardship Consideration Policy and requirements under the *Local Government Act 1989*.

The policy will be guided by the principles of:

- Transparency by making the obligations of debtors clear;
- Efficiency and effectiveness by making the processes clear, simple to administer and effective;
- Capacity to pay being considered when determining appropriate arrangements for different groups within the community; and
- Equity by treating all debtors consistently and in a fair manner.



3 Policy Details

3.1 Payment Terms

Council's standard payment terms are 30 days from the date the invoice is issued, unless specific regulations apply or an alternative due date is shown on the invoice. For rates and instalment notices, the due date of each instalment is set in the Local Government Act 1989.

3.2 Payment Arrangements

Any person, organisation or company who is having difficulty in paying a debt will be encouraged to contact Council's Debtor Management Team and make a payment arrangement to pay off the debt in a reasonable and manageable timeframe.

3.3 Continuation of Provision of Service

In some cases, Council will continue to supply services regardless of outstanding debts. Examples of when services will continue to be provided are:

- Rates debts, where the debt is linked to the property and the service continues regardless of the status of the rates payment;
- Kindergarten Services, where the child can't be excluded from Kindergarten Services if the fees are not paid by the parent/guardian. The Kindergarten Hardship Policy is applied in these circumstances;
- Aged and Disability debts, where the service is deemed essential for the health and wellbeing of the client and an alternative service is not available, the payment for the service is considered a contribution towards the service; and
- Where the community benefits from the provision of the service and the service provider have a payment plan to pay off the debt.

Where a service is discretionary and not governed by specific regulation, the service should not continue where debts are more than 90 days overdue and no payment arrangement has been agreed.

In these circumstances approval from the relevant Manager is required to continue provision of services.

3.4 Hardship Policy

Under sections 170 and 171A of the *Local Government Act 1989* (the Act), local councils have the authority to:

- defer payment of rates and charges due to hardship (s170); and
- waive rates and charges and interest due to financial hardship (s171A).

The Hardship Consideration Policy has been adopted for the purpose of defining Council's interpretation and application of sections 170 and 171A of the Act.

This Debtor Management Policy recognises that the principles of the Rates Hardship Policy are also applicable to other debts.

3.5 Debt Recovery

Unless there is a specific regulation or a payment plan has been agreed, Council has discretion to refer a debt that is overdue to a debt collection agency.

Rates and charges debts are pursued under section 180 of the Local Government Act 1989 which allows Council to recover rates or charges that remain unpaid through the Magistrates' Court.

Under the Fines Reform Regulations 2017, infringement debts that are not paid are referred to Fines Victoria either directly or via the Magistrates Court. Fines Victoria then manage the debt collection process on Council's behalf.

For other types of debts, the Debtor Management team will act on instructions from the relevant department that have created the debt before referring debt to the external debt collection company to pursue on our behalf.

The debtor will be liable for all legal costs incurred by Council in the debt collection process.

3.6 Waiving of Debt

Council may consider waiving of debt depending on the type of debt and the circumstances.

3.7 Provision of Doubtful Debts

A provision for doubtful debts is a liability to reflect debt that is unlikely to ever be collected and hence is expected to be partly or fully written off in future periods. Debtor Management will maintain a provision for doubtful debts based on the following factors:

- Rates debts are assumed not to be doubtful as the debt is tied to the property, therefore there is no provision for doubtful rates debts;
- Infringement debts are provided for in the provision for doubtful debt based on the historical debt recovery rates for the age of the debt;
- For other debts over \$500, an individual assessment will be undertaken to determine whether a debt is doubtful. All debt assessed as doubtful will be included in the provision.
- For other debts under \$500, the following arrangements will apply:
 - 50 per cent of debts aged between 90 days and 150 days overdue will be included in the provision (unless payment plans are in place and being adhered to).
 - 100 per cent of all debts aged over 150 days overdue will be included in the provision (unless payment plans are in place and being adhered to).

3.8 Bad Debts – Non-rates debts

If non-rates debts are over one year old without a payment plan, they will be considered to be bad debts. After all avenues to collect the debt have been exhausted, approval to write off a bad debt needs to be obtained as per the Instrument of Delegation CEO to Staff.

If a debt is written off and a customer seeks to have further service provided at a future date, the written off debt will be reinstated and the client will be required to pay the debt before the service is reinstated.

Rates debts are not required to be written off as a bad debt as unpaid rates are a charge on the property and are paid to Council as part of the settlement process when property ownership changes.



3.9 Complaints and Ombudsman

If there are disputes or complaints with how Council has managed a request for hardship consideration, owners can make a complaint directly to Council via

<https://www.wyndham.vic.gov.au/about-council/your-council/administration/complaint-resolution>

Complaints can also be made to Council under this Complaint Handling Procedure about the conduct of Council's debt collection agency. Property owners who are dissatisfied with the internal review can also contact the Victorian Ombudsman at

<http://www.ombudsman.vic.gov.au>

Wyndham City Council will cooperate with any review by the Victorian Ombudsman.

4 Definitions

Term	Definition
Debt	Debt is the amount (of money) owed by a debtor as a result of a transaction with Council.
Debtor	Debtor refers to the individual, organisation or other party that owes a debt as a result of a transaction with Council.
Specific Regulation	A regulation set out in: <ul style="list-style-type: none">• the <i>Local Government Act 1989</i>;• the <i>Magistrates Court Act 1989</i>;• the <i>Bankruptcy Act 1966</i>;• the <i>Competition and Consumer Act 2010</i>;• the <i>Fines Reform Act 2014</i>

5 Associated Documents

- the Local Government Act 1989 (retained sections);
- the Local Government Act 2020;
- the Magistrates Court Act 1989;
- the Bankruptcy Act 1966;
- the Competition and Consumer Act 2010;
- the Fines Reform Regulations 2017;
- Wyndham City Council's Hardship Policy
- Instrument of Delegation CEO to Staff