

DEBT RECOVERY PROCEDURE

1. Scope

The Debt Recovery Procedure (this 'Procedure') applies to all ratepayers, Infrastructure Charges, Trade Waste and other Sundry Debtors of Council.

2. Purpose

The objective of the Debt Recovery Procedure is to provide consistent, prompt follow-up and timely collection of overdue rate levies and other amounts owed to Council.

3. Related Documents

Legislative reference

Local Government Regulation 2012

Related documents

Accounts Receivable (Sundry Debtors) Guideline
Bad Debt Register
Rate Payment Policy
Revenue Policy
Trade Waste Plan

4. Definitions

To assist in interpretation, the following definitions shall apply:

Council	Livingstone Shire Council.
Debt	A sum of money that is owed or due.
Pensioner	An individual who meets the criteria set by the Australian Government to receive financial assistance to support basic living standards.
Property-related debt	A debt or expense that is directly related to the property. For example: slashing charges, infrastructure charges.

5. Procedure

This Procedure provides clear direction for recovery procedures to facilitate effective and flexible payment agreements in order to achieve Council's budgetary objectives, while at the same time giving all due consideration and assistance to ratepayers/debtors/trade waste account holders who display genuine commitment to clearing their debt.

5.1 Reminder Notices - Rating and Utility Charges

- 1) A minimum of 2 days prior to the due date an Email/SMS message will be issued as a courtesy reminder of the forthcoming due date (unless the account is already paid in full or a NETT Direct Debit is in place).
- 2) Following the expiry of at least fourteen (14) days after the due date, the first and final reminder notice will be issued (using the delivery method chosen by the ratepayer for delivery of Rates and Water Notices) as follows:
 - a) Accounts that have an amount outstanding of greater than \$10.00 but less than \$1,000, will be issued a Reminder Notice. This notice is a general reminder with no threat of legal or other action. It should encourage ratepayers to contact Council staff if they are experiencing difficulties in paying their account to arrange a suitable payment regime to clear the outstanding debt within fourteen (14) days, or
 - b) Accounts that have an amount greater than \$1,000 will be issued a Final Reminder Notice giving the ratepayer fourteen (14) days in which to settle their account balance or contact Council staff if they are experiencing difficulties in paying their account to arrange a suitable payment regime to clear the outstanding debt. This notice should contain Council's proposed action for recovery, state that interest will accrue on the debt and identify that the account is eligible for referral to Council's collection agency.
- 3) Following the expiry of at least fourteen (14) days after the reminder notice, a final Email/SMS will be issued to all accounts with a balance of \$1,000 or greater prior to proceeding to further collection action.
- 4) If a balance of \$1,000 is still outstanding after seven (7) days from the sending of the final email/SMS, accounts will be considered for commencement of the legal process by the referral to Council's collection agent.

5.2 Pensioners

- 1) Pensioners (that hold a valid concession card) who have an overdue rates balance of \$1,000 or greater will be requested to contact Council to make a formal agreement for payment by regular instalments. Such instalments are to be sufficient to ensure that the arrears situation does not worsen (i.e., at least enough to clear current period's rates each year).
- 2) No interest will be charged on overdue rates whilst the pensioner honours the agreement.
- 3) Should the pensioner default under the agreement, they will be allowed fourteen (14) days to rectify the situation. If the situation is not rectified, then the agreement will be cancelled, and interest will be charged from the date of default.
- 4) Pensioners who have arrears of \$1,000 or greater at the end of the financial year and who fail to contact Council to make a formal agreement, or have an agreement cancelled, will become subject to Council's normal recovery action for overdue rates as outlined in this Procedure.

5.3 Sundry Debtors (Including Trade Waste accounts)

- 1) A period of approximately seven (7) days after the end of the month shall be allocated to verify the accuracy of accounts and to identify those with overdue amounts.
- 2) Fourteen (14) days after the statements have issued, the first of two reminders shall then be sent to all such debtors whose accounts show outstanding balances.
- 3) The first notice should be a polite reminder with no threat of legal or other action. It should encourage debtors to contact Council staff if they are experiencing difficulties in paying their account to arrange a suitable payment regime to clear the outstanding debt.

- 4) After the debt has become thirty (30) days overdue, a Final Demand Notice will be served giving the debtor seven (7) days in which to complete payment or make appropriate agreements. This will be followed by a phone call, where practicable, by the Revenue Officer. The notice should contain Council's proposed action for recovery and confirm that future services will be cancelled at the expiry of the notice period. The notice should also advise that future dealings with Council will need to be on a cash basis and if unpaid, the debt may be referred to Council's Collection Agency for further recovery action.
- 5) Approval for a second trade waste account will only be given once the original account is paid in full, as per the Trade Waste Plan 7.1 – Trade waste charges.
- 6) Prior to the end of each rating period (31/12/XXXX or 30/06/XXXX) all remaining overdue property related debt balances, unless covered by an agreed repayment plan, will be transferred to the applicable property / rates assessment. A letter is to be issued to the Sundry Debt account holder notifying them that the outstanding amount will be transferred to the property rates account and will become recoverable as an outstanding rates charge.

5.4 Landfill Accounts

- 1) A period of approximately seven (7) days after the issue of the end of month statements shall be allowed to verify the accuracy of accounts and to identify those with overdue amounts.
- 2) Fourteen (14) days after the statements have issued, the first of two reminders shall be issued to all debtors whose accounts show outstanding balances.
- 3) The first notice should be a polite reminder with no threat of legal or other action. It should encourage debtors to contact Council staff if they are experiencing difficulties in paying their account to arrange a suitable payment regime to clear the outstanding debt.
- 4) After the debt has become thirty (30) days overdue, a Final Demand Notice will be served giving the debtor seven (7) days in which to complete payment or make appropriate agreements, followed by a phone call where practical by the Revenue Officer. The final notice will advise the debtor that the account is outstanding and has exceeded the thirty (30) days trading terms. Further credit at the landfill will be refused until the account has been paid in full or satisfactory agreements made with Council to clear the debt.

5.5 Infrastructure Charges – Property Related Debt

- 1) Infrastructure charges levied through an Infrastructure Charges Notice with Development Permits are identified within the Infrastructure Charges Register. Charges have a variety of trigger points for when they become payable and/or due. If the charge is identified as outstanding, a contact letter is issued by the Development Assessment team (or the Development Compliance team) to both the applicant listed on the Development Permit, and the property owner, providing notification that the Infrastructure Charges are payable. The letter provides 20 business days for payment. This notification also includes a copy of the Infrastructure Charges Notice.
- 2) Twenty (20) days after the issue of the Outstanding Charges contact letter, a reminder/overdue Infrastructure Charges letter to the applicant and the property owner will be sent with a further twenty (20) business days to make payment.
- 3) After the outstanding charges have become forty (40) business days overdue, the development assessment or compliance officer will notify Sundry Debtors. A Tax Invoice will be issued by debtors identifying the arrears as an outstanding property related debt.
- 4) A period of approximately seven (7) days after the end of the month shall be allocated to verify the accuracy of accounts and to identify those with overdue amounts remaining.

- 5) Fourteen (14) days after the statements have issued, the first of two reminders shall then be sent to all such debtors whose accounts show outstanding balances.
- 6) The first notice should be a polite reminder with no threat of legal or other action. It should encourage debtors to contact Council staff if they are experiencing difficulties in paying their account to arrange a suitable payment regime to clear the outstanding debt.
- 7) After the debt has become thirty (30) days overdue, a Final Demand Notice will be served giving the debtor seven (7) days in which to complete payment or make appropriate agreements. This will be followed by a phone call, where practicable, by the Revenue Officer. The notice should contain Council's proposed action for recovery. The notice should also advise that future dealings with Council will need to be on a cash basis and if unpaid, the debt may be referred to Council's collection agency for further recovery action.
- 8) Prior to the end of each rating period (31/12/XXXX or 30/06/XXXX) all remaining overdue property related debt balances, unless covered by an agreed repayment plan, will be transferred to the applicable property / rates assessment. A letter is to be issued to the Sundry Debtor account holder notifying that the outstanding amount will be transferred to their property rates account and will become recoverable as an outstanding rates charge.

5.6 Unrecoverable – Bad Debts

- 1) After exercising all steps set down in this Procedure, it may be considered impractical to pursue a particular debt any further (i.e. proceeding with legal action is unlikely to recover the debt).
- 2) If a debt is considered unrecoverable (e.g. bankruptcy) and overdue one hundred and eighty (180) days or more, approval may be required to have the debt written off.

This approval must be obtained in one of the following ways:

- a) The Chief Financial Officer is delegated by Council with authority to write-off outstanding debts which are seen to be unrecoverable up to and including a value of \$1,000.00; or
- b) All debts in excess of \$1,000.00 will be referred to Council for approval to write-off.

5.7 Bad Debts Register

- 1) All debts written off must be recorded in the Bad Debts Register that is to be regularly reviewed and updated by the Revenue Officer.
- 2) The Revenue officer shall be responsible for advising other Council units of the Debtors listed on this register to ensure no further credit is provided to them.

5.8. Agreements (Rates, Water Consumption, Infrastructure Charges, Sundry Debtors and Trade Waste)

- 1) In cases of genuine hardship, agreements for payment by regular instalments may be accepted.
- 2) Council will not pursue further recovery action against a ratepayer/account holder who has an agreed periodic payment agreement, while the agreement is current, and the ratepayer adheres to the agreed repayment schedule. Council reserves the right to renegotiate or cancel a payment agreement should circumstances change where the debt will not be paid within a reasonable time frame. In these circumstances, Council will not initiate further recovery action without reference to the ratepayer concerned.
- 3) Should a ratepayer propose an agreement to pay off the outstanding balance by periodic instalments, they will be advised of Council's stance in 5.7 (2) above and that whilst an

acceptable level of regular payments is maintained, therefore demonstrating a genuine attempt to clear the debt, Council may defer recovery action.

- 4) Where an agreed payment agreement has lapsed without approval, the ratepayer will be deemed to be in default and the ratepayer notified by way of a fourteen (14) day Reminder Notice.
- 5) As a general guide, further recovery action will not be taken where payments are being made as follows:
 - a) For debts of less than \$2,000, payments should be of a sufficient amount and regularity to clear the outstanding debt over a period of no longer than six (6) months; or
 - b) For debts of greater than \$2,000, payments should be of a sufficient amount and regularity to clear the outstanding debt of over a period of no longer than twelve (12) months.

Where these terms cannot be met, the account will generally be referred for recovery action as outlined within this Procedure. Also, payment amounts should be sufficient to ensure current rates and charges are paid as issued so that the account does not fall further in arrears.

Agreements with terms greater than those outlined above may be approved in cases of extenuating circumstances (e.g. long-term illness or unemployment). Approval is to be given by the Coordinator Revenue, Chief Financial Officer or Chief Executive Officer.

5.9 Legal Process

- 1) As soon as practicable following the expiration of the fourteen (14) day final Reminder Notice any ratepayer, sundry debtor (including Infrastructure charges) or trade waste account holder who:
 - a) has not responded by way of payment in full;
 - b) has not entered into an acceptable agreement to pay off the overdue account;
 - c) does not have their account under investigation for accuracy or awaiting a decision of the Council;
 - d) has defaulted on their agreed payment agreement;shall have their debt referred to an appropriate debt collection agency for recovery action.
- 2) Those agents acting for Council will be empowered to take whatever steps are necessary to recover the outstanding amounts. Legal action will require approval of each step by Council or its delegated officers.
- 3) Unless an acceptable payment agreement is made, payment in full including all legal outlays, shall be required prior to the withdrawal of the current recovery action.
- 4) Accounts referred to the collection agency may be left under their control and updated from time to time with the balance of accruing rates and interest until the rates are paid in full.

5.10 Sale of Land for Overdue Rates

- 1) Periodically a list of all ratepayers with rates outstanding in excess of the periods set out in section 140 of the *Local Government Regulation 2012* shall be prepared by the Revenue Officer and provided to the Coordinator Revenue and Chief Financial Officer. In accordance with the requirements of Division 3 of the *Local Government Regulation 2012*, the list will then be tabled for Council's consideration at the earliest opportunity.
- 2) If the liability to pay the overdue rates and charges is not the subject of court proceedings, then Council may resolve to sell the land in accordance with Chapter 4, Part 12, Division 3 of the *Local Government Regulation 2012*.

6. Changes to this Procedure

This Procedure is to be reviewed on an annual basis or as determined from time to time by the Chief Finance Officer.

7. Repeals/Amendments

This Procedure repeals the Livingstone Shire Council Policy titled 'Debt Recovery Policy (v3.0)'.

Version	Date	Action
1.0	15/08/2023	Approved
	13/02/2025	Document reviewed – no changes required

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