

Debt Recovery Collection- Statutory Policy

| | |
|-------------------------------|---|
| Effective Date | 1 July 2024 |
| Policy Owner | Finance |
| Link to Corporate Plan | Sustainable Organisation |
| Review Date | Special Meeting of Council Adopt 2025-26 Budget |
| Related Legislation | <ul style="list-style-type: none"> • <i>Local Government Act 2009</i> • <i>Local Government Regulation 2012</i> • <i>Fire & Rescue Service Act 1990</i> • <i>Fire and Rescue Service Regulation 2011</i> • <i>Information Privacy Act 2009</i> • <i>Gas Supply Act 2003</i> • <i>Gas Supply Regulation 2007</i> • <i>Australian Competition and Consumer Commission Debt Collection Guideline</i> • <i>National Energy Retail Law (Queensland) Act 2014</i> • <i>National Energy Retail Law (Queensland) Act</i> • <i>Residential Tenancies and Rooming Accommodation Act 2008</i> |
| Related Documents | <ul style="list-style-type: none"> • Revenue Policy • Revenue Statement • Debt Recovery Collection - Guidelines • Standard work Practice - Debt Recovery Collection Timeline • Western Downs Regional Council - Register of Delegations |

| Policy Version | Approval Date | Adopted/Approved |
|----------------|---------------|--|
| 1 | 20/06/2024 | <i>Special Meeting of Council Adopt 2024/25 Budget</i> |
| | | |

Debt Recovery Collection - Statutory Policy

1. PURPOSE:

The purpose of this policy is to establish the administrative process which will be used to collect overdue rates and charges, gas consumption charges and sundry debtor charges in a manner which is consistent, ethical, and in accordance with the *Local Government Act 2009* and *Local Government Regulation 2012*.

2. SCOPE:

This policy applies to all customers of Western Downs Regional Council with overdue amounts for rates and charges, gas consumption charges and all other debtors and are subject to the actions contained within this policy.

3. POLICY:

Council requires payment of rates and charges and fees and charges within a specified time period and will diligently pursue the collection of overdue rates and charges and cost recovery of fees and charges in accordance with the principles outlined in Council's Revenue Policy. Council is committed to the collection of overdue rates and charges and recovery of fees and charges in a fair, equitable, and timely manner but with due concern for any financial hardship faced by individual ratepayers and customers. Due consideration and assistance will be given to ratepayers and customers who display a genuine commitment to clearing their debt.

3.1. RATES AND UTILITY CHARGES

Part 12, Division 1 of the *Local Government Regulations 2012* defines what overdue rates and charges are, when they become overdue and allows interest to be charged. Section 132 states that the rates or charges are taken to have become overdue on the day after the due date stated on the rate notice for the rates or charges. Overdue rates or charges also include interest on the rates or charges and legal recovery costs (including court costs) if Council takes the ratepayer to court to recover rates or charges.

3.1.1. Overdue Rates and Utility Charges

Council will allow a period of fourteen (14) days after the due date of a notice period before starting the collection process.

A First Reminder Notice is sent to ratepayers whose accounts show outstanding amounts greater than \$10.00. This notice is in the form of a letter advising the ratepayer they have outstanding rates and charges and provides fourteen (14) days from the date of the letter to either pay the outstanding amount or submit a Payment Plan.

Following the expiry of fourteen (14) days after the first reminder notice, a Final Demand (second reminder letter) is issued on accounts that have an amount outstanding of \$50 or greater, giving the ratepayer a further fourteen (14) days to complete payment or make an appropriate payment plan. If the debt exceeds \$1,000.00, an Intention to Commence Proceedings notice will be sent with the Final Demand and a legal charge will be applied to the account.

After expiry of the Final Demand an account and Intention to Commence Proceedings (where applicable) will be referred to Council's appointed debt recovery agency and a letter will be sent to the ratepayer(s) on the appointed debt recovery agency letterhead requesting full payment within fourteen (14) days. If payment is not received Council will commence legal action to recover the outstanding debt.

3.1.2. Deferment of Recovery Action

Recovery action may be deferred for the following reasons:

Debt Recovery Collection - Statutory Policy

- a. deceased estates in probate;
- b. receivership/administration;
- c. bankruptcy liquidations;
 - i. approved hardship* (circumstance where a ratepayer fails to meet the obligation of paying rates and charges by the due date as a result of severe suffering or privation and Council agrees there is no course of action available to be taken to improve the financial position of the ratepayer).
 - ii. *Delegate power, under Section 257 (1)(b) of the *Local Government Act 2009*, to the Chief Executive Officer to grant hardship relief on a case-by-case basis, in relation to the following:
 - iii. payment plans;
 - iv. discount periods; and
 - v. interest on overdue rates
- d. property sale where an unconditional contract has been signed; or
- e. special circumstances (approved at the discretion of a delegated officer, for any overdue rates and charges not falling into any of the above categories that may benefit from the deferment of recovery action)

* Delegate power, under Section 257 (1)(b) of the *Local Government Act 2009*, to the Chief Executive Officer to grant hardship relief on a case-by-case basis, in relation to the following:

- i. payment plans;
- ii. discount periods; and
- iii. interest on overdue rates

**Special circumstances can be approved at the discretion of a delegated officer, for any overdue rates and charges not falling into any of the above categories that may benefit from the deferment of recovery action.

3.1.3. Sale of Land for Overdue Rate

A warning notice for potential sale of land letter is sent to ratepayer(s) advising they have twenty-eight (28) days from the date of the letter to satisfy the outstanding amount or submit a suitable payment plan. If payment is not received or an approved payment plan submitted, it may be decided by a Council resolution to sell the property to recover the overdue rates and charges.

If payment is not received or an approved payment plan submitted a list of ratepayers with rates outstanding in excess of the periods allowed in accordance with the requirements of Chapter 4, Part 12, Division 3 of the *Local Government Regulation 2012*, is prepared and tabled for Council's consideration.

3.2. GAS FEES AND CHARGES

Council will allow a period of seven (7) days after the due date of a notice period before starting the collection process.

3.2.1. Overdue Gas Fees and Charges

- a. Council will issue a Reminder Notice advising that the gas supply will be disconnected if all outstanding gas fees and charges are not paid in full within fourteen (14) days from the date of the letter. Alternatively, if the gas customer is unable to pay all the outstanding fees and charges within fourteen (14) days, the customer must submit a payment plan in writing for approval.

Debt Recovery Collection - Statutory Policy

- b. If the account remains unpaid seven (7) days after the Reminder Notice has been issued, a Disconnection Warning Letter will be issued advising customers that the supply will be disconnected if the account is not paid in full within seven (7) days. Date to be specified in the letter.
- c. If the account remains unpaid the gas supply will be disconnected, and a Disconnection Letter is left at the property advising the supply has been disconnected and the amount required to be paid in order for the supply to be reconnected. If the gas supply is disconnected due to nonpayment, a reconnection fee shall apply. For reconnection to the gas supply all outstanding gas consumption fees and charges plus extra charges including the reconnection fee must be paid in full.
- d. Should the supply be disconnected and no longer connected to the Council supply, and it is a final account with outstanding charges remaining unpaid, the account will be referred to Council's Debt Collection Agency for collection.

3.2.2. Gas Connection to Another Property

If a gas customer requests connection to another property, all outstanding fees and charges must be paid in full before the customer will be allowed connection to the Council's gas supply at another property. If the new connection is processed and monies are found to be owing the balance outstanding will be transferred to the new account.

3.3. SUNDRY DEBTORS

Western Downs Regional Council is committed to the collection of debts owed to Council by customers for the supply of goods and services.

3.3.1. Initial Recovery Action

When an account becomes overdue for at least thirty (30) days a reminder letter will be issued with the next Statement advising if the account remains unpaid, the account will be referred to Council's approved debt collection agency for further recovery action.

Should the debtor(s) fail to satisfy the outstanding balance as shown on the Statement included with the reminder notice within fourteen (14) days, the account may be passed to Council's debt collection agency for the collection of amounts above the Advanced Recovery Action Threshold.

Should the debtor(s) still fail to satisfy the outstanding balance as shown on the Statement after a sixty (60) day reminder letter is issued, Council may deny access to Council facilities and services.

3.3.2. Advanced Recovery Action

When the outstanding balance of the account has reached the threshold for Advanced Recovery Action, and initial recovery actions have been completed without success, the account will be referred to Council's approved debt collection agency.

3.3.3. Deferment of Recovery Action

Recovery action may be deferred for the following reasons:

- a) deceased estates in probate;
- b) bankruptcy liquidations;
- c) approved hardship - determined after written submission and/or interview; or
- d) special circumstances - can be approved for overdue accounts that don't fall into any of the above categories that may benefit from the deferment of recovery action.

Debt Recovery Collection - Statutory Policy

4. DEFINITIONS:

| Term | Meaning |
|----------------------|---|
| Rates and Charges | Debts that arise as a result of rates and charges are defined in Chapter 4 of <i>Local Government Regulation 2012</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 of rates and charges. |
| Gas Fees and Charges | <p>Any charges incurred by customers who use the gas supplied by Western Downs Regional Council. Charges include gas connection and/or gas consumption, fees and charges.</p> <p>Disconnection Threshold: The amount outstanding which triggers the action for the gas supply to be disconnected is \$50.00.</p> <p>Advanced Debt Collection Threshold: The amount outstanding which triggers the action for the account to be referred to Council's debt collection agency is \$50.00.</p> |
| Sundry Debtors | <p>QCAT: Queensland Civil and Administrative Tribunal</p> <p>Debt - amount owed for goods and/or services supplied by Western Downs Regional Council</p> <p>Outstanding Debt - amount unpaid for at least 30 days for goods and/or services supplied by Western Downs Regional Council</p> <p>Debtor - a person(s), Company, Trustee, or Commercial Enterprise that owes money for goods and/or services supplied by Western Downs Regional Council</p> |

5. REVIEW TRIGGER

List of factors which require the policy to be reviewed:

- a) Periodic review - (for example, at budget adoption or post-council elections); or
- b) Change in legislation relevant to the policy; or
- c) Change in Council priorities or circumstances relating to this policy; or
- d) Natural disaster