

COR 013: DEBT COLLECTION

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Objective

The Shire of Esperance will actively pursue all outstanding rates and sundry debtors. All outstanding rates and sundry debtors will be collected in accordance with the *Local Government Act 1995* and associated regulations.

Policy

This Policy will be applied to all:

- Ratepayers with balances outstanding 14 days after the due date of rates (excluding ratepayers that have elected the instalment option)
- Sundry debtors with balances greater than 30 days

The Corporate Debt Collection Policy will be administered in accordance with the attached Corporate Debt Collection Guidelines.

CORPORATE GUIDELINE

CORPORATE DEBT COLLECTION

GUIDELINES – RATES

The following steps will be undertaken to recover outstanding rate debt:

1. A Final Notice will be issued to all ratepayers with an outstanding balance 14 days after the due date (excluding ratepayers that have elected the Instalment option or another form of payment arrangement). Final Notice recipients will have 14 days in which to respond.
2. At the conclusion of Final Notice due date, and if the debtor has not entered into an arrangement to pay or made satisfactory efforts to clear the debt the account will be forwarded to a Debt Collection Agency for action.
 - Before proceeding to this step, the following checks will be undertaken:
 - Ownership of the property confirmed through a Title Search;
 - Postal address cross referenced with Water Corporation;
 - Search of White Pages for a contact number
 - Other means deemed appropriate by Management (including phone calls)
3. Any Final Notice recipients who are forwarded to a Debt Collection Agency for action will receive a Final Demand Letter with 7 days to respond. This letter is at no cost to the Shire. The Debt Collection Agency will send an account of all Expired Demand Letters to the Shire requesting updated information. Any accounts that still remain unpaid will be forwarded back to the Debt Collection Agency for further action.
4. However if the property is leased, the Shire under Section 6.60 of the *Local Government Act (1995)* has the ability to give notice to the lessee to pay the Shire any rent as it falls due to apply against the outstanding rates balance. This option is preferable before proceeding with Debt Collection Agency.
5. Shire's Debt Collection Agency will be requested to issue General Purpose Claim (GPC). During this period, the Bailiff will attempt to deliver the Claim to the ratepayer. The Ratepayer has a further 14 days to respond to the Claim. If a payment arrangement is required by the defendant, payment arrangements are to be made directly through the Shire.
6. Council will be notified of the list of GPC ratepayers just prior to the Debt Collection Agency issuing the claims.
7. The lodgement of a Claim will immediately affect the Ratepayers credit rating by recording the default payment. Legal costs will also be incurred at this time in which the costs will be charged to the property owner's assessment.
8. If the ratepayer fails to respond to the GPC, an application for Default Judgement is entered into.
9. If no response to Default Judgement, the Debt Collection Agency will be requested to issue a Property Seizure & Sale Order (PSSO).

10. The Bailiff will make several attempts to serve the PSSO, take payment or make payment arrangement. If payment/s is not made with the Bailiff he will then seize goods to the value of the debt – Car or other item/s – this is a “paper seizure”.
11. If no goods are available to seize, the next option is to proceed with PSSO over the land under *Civil Judgments Enforcement Act (2004)*. This requires Council Resolution before proceeding.
12. If the rates remain unpaid for at least 3 years under Section 6.64 of the *Local Government Act (1995)* the Shire has the option to take possession of the land and in accordance with the appropriate provisions of the above section may
 - Lease the land
 - Sell the land
 - Transfer the land to the Crown
 - Transfer the land to itself

Once the debt is settled in full the Shire of Esperance will notify the Collection Agency and request all action be ceased immediately.

Notice of Discontinuance (NOD)

The Shire of Esperance will not issue a Notice of Discontinuance unless a Claim was issued incorrectly against the Ratepayer. Should the ratepayer request a NOD, the Shire of Esperance will contact the Debt Collection Agency and request one to be issued. All fees will be on charged to ratepayer.

Payment Arrangement

1. An application for an alternative arrangement other than Option 1 (full payment) or Option 2 (4 instalments) must be entered into via a Direct Debit Request.
2. Payments are to be made on a regular weekly, fortnightly or monthly basis and are to be completed by the due date of the Fourth Instalment, as set by Council. Under certain circumstances this due date may be extended to the End of Financial Year of the relevant rating year. These payment arrangements require approval from Manager Financial Services or Director Corporate Resources.
3. In extreme circumstances (i.e. financial hardship) arrangements may be extended beyond 30 June of the current rating year requiring Chief Executive Officer approval. When calculating this option, the next year’s estimated rates must be included in the payment arrangement so that they are paid by the due date.

Default Direct Debit

The following process will apply for default direct debit payments.

1. If the direct debit defaults, a Breach of Payment Arrangement letter is issued, notifying the ratepayer that they are required to make payment of the default amount via alternative means before the next payment falls due.
2. If the direct debit defaults twice, a Breach of Payment Arrangement letter is issued, requesting full payment of the defaulted amount, and advising the Ratepayer that if the full amount is not paid with 14 days of issue of the letter the direct debit will be cancelled and the debt will be sent to the Shire’s Debt Collection Agency.

3. If payment is not received within 14 days of issue of the 2nd Breach of Payment Arrangement a letter is issued notifying the ratepayer the Direct Debit and Payment Arrangement has been cancelled and Debt Recovery Procedure will commence.

Centrepay

Eligible ratepayers may elect to have regular deductions taken from their Centrelink payments to pay off outstanding rates and charges.

Instalments

1. Ratepayers may elect to pay rates in four equal instalments as detailed on the Original Rate Notice.
2. If instalments 2, 3 and 4 are in arrears 14 days after the due date, a Final Notice will be issued requesting full payment of the arrears within 14 days.
3. If an instalment remains unpaid after the issue of a Final Notice, the Shire of Esperance will revoke the Ratepayers right to pay by instalments and issue a letter to the Ratepayer advising of the action.
4. A ratepayer has the option to enter into a payment arrangement at this stage.
5. If no contact is made from the Ratepayer after the issue of the letter, Debt Recovery will commence.

Pensioners and Seniors

1. Debt Collection will not proceed against eligible persons registered to receive pensioner or senior rebate under the *Rates and Charges (Rebates and Deferments) Act 1992* as such persons have until the 30 June in the rating year to make payment.
2. Eligible persons will not incur any interest penalty.
3. A reminder letter will be sent to all eligible persons during April every year.
4. Pensioners with arrears (i.e. refuse charges) and who are ineligible to defer payment of rates will be contacted by Shire of Esperance to discuss an alternative payment arrangement. Debt Recovery Procedure will commence for any outstanding rates and charges after 30 June of current rate year.

GUIDELINES – SUNDRY DEBTORS

1. All Shire of Esperance Sundry Debtor accounts are 30 day accounts.
2. Accounts unpaid after the due date will be issued with a Reminder Letter requesting payment.
3. Outstanding debtors after 14 days will be contacted by telephone requesting payment.
4. A Final Demand letter will be issued for all outstanding debtors 60+ days overdue requesting payment within 7 days.
5. After nil response from a final demand letter the Shire may cease providing further services to the debtor until the debt has been paid.
6. All accounts overdue at 90 days may be referred to Council's Debt Collection Agency for immediate action.
7. Debt Recovery Procedure will not commence with accounts that are in dispute.

8. Debt Recovery Procedure will not commence for debts held by other government agencies e.g. DFES, MRWA.

LEGISLATION AND OTHER REFERENCES

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Rates and Charges (Rebates and Deferments) Act 1992

.....Policy Ends.....