

## DEBT RECOVERY

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Previous policy number: 1.2.1

### Policy Statement

The Town of Mosman Park (Town) is committed to ensuring that it manages its cash flows in a manner that provides financial sustainability in order to meet the objectives of the Strategic Community Plan.

The purpose of this policy is to maintain manageable and efficient control of the Town's outstanding debts and to ensure timely collection as per the relevant sections of applicable legislation.

### Policy Details

#### Objective

The objective of this policy is to provide guidance in debt collection activities for recovery of outstanding receivables (rates, service charges, fees and charges, sundry debtors and infringements) in accordance with the provisions of the *Local Government Act 1995*, *Civil Judgements Enforcement Act 2004* and other relevant legislation.

#### Policy Principles

This policy has been formulated to treat all ratepayers, residents, suppliers and visitors to the Town fairly, equitably and consistently while recognising Council has the responsibility to recover all outstanding debts in a timely manner to finance its operations and ensure effective cash flow.

The policy will ensure the process will be undertaken with utmost respect, courtesy and diligence in dealings with all debtors, and that the information is treated with strict confidentiality.

#### Policy Guidance

The policy will be applicable to all debtors who owe outstanding amounts to the Town after the due date. This policy provides guidance on the Town's debt recovery process. For special cases of financial hardship please refer to the Financial Hardship Policy.

### **Payment Plans**

Under s6.49 of the *Local Government Act 1995*, the Town may accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person.

The Town may also enter into a payment plan to recover fees and charges.

### **Assessment of Payment Plan Applications**

Payment Plan Applications will be assessed with consideration given to the following:

- A debtor is considered vulnerable; for details on financial hardship please refer to the Financial Hardship Policy.
- A ratepayer has received an unbudgeted interim rates notice; or
- The Town's Administration has erred with a result detrimental to the debtor.

### **Default on Approved Payment Plans**

If the ratepayer defaults on an approved payment plan, at the discretion of the CEO or delegate and without any further notice, the debt recovery process as detailed in this Policy will resume from the next step to that which existed at the establishment of the payment plan. Where a ratepayer has demonstrated financial hardship refer to the Financial Hardship Policy.

### **Deferment of Rates**

Deferment of rates may apply for ratepayers who have a Pensioner Card, State Concession Card or Seniors Card and Commonwealth Seniors Health Care Card registered on their property. The deferred rates balance:

- remains as a debt on the property until paid;
- becomes payable in full upon the passing of the pensioner or if the property is sold or if the pensioner ceases to reside in the property;
- may be paid at any time, BUT the concession will not apply when the rates debt is subsequently paid (deferral forfeits the right to any concession entitlement); and
- does not incur penalty interest charges.

### **Rates Debtor Recovery Process**

The stages for collection and debt recovery process for outstanding 'Rates', 'Service Charges' and 'Fees and Charges' imposed on land are outlined below:

- 'Rates' and 'Service Charges' imposed on land are determined to be outstanding if not paid by the due date with the exception of eligible pensioners who choose to defer payments of a 'Prescribed Charge' in accordance with s44 of the *Rates and Charges Act 1992 (Rebates and Deferments)*.

- 'Service Charges' excluded from the *Rates and Charges Act 1992 (Rebates and Deferments)* definition of 'Prescribed Charge' and 'Fees and Charges' imposed on land are determined to be outstanding if not paid by the due date.

**Rates - Step 1 – Reminder Notice** Where a ratepayer has not paid the amount due or entered into a payment plan within 14 days after the due date shown on the Rates Notice a Reminder Notice shall be issued, requesting the ratepayer to contact the Town or make full payment within 14 days.

**Rates - Step 2 – Final Reminder Notice**

Where a ratepayer has not paid the amount due or entered into a payment plan within 28 days after the due date shown on the Rates Notice a Final Reminder Notice shall be issued, requesting the rate payer to contact the Town or make full payment within 14 days.

**Rates - Step 3 – Letter of Demand**

Where a ratepayer has not paid the amount due or entered into a payment plan or contacted the Town 14 days after the Final Reminder Notice, the Town shall authorise the Town's appointed debt recovery agent to issue a Letter of Demand for full payment within 14 days.

**Rates - Step 4 – General Procedure Claim**

Where a ratepayer has not paid amounts due or not entered into a payment plan 28 days after a Letter of Demand is issued by the Town's debt recovery agent a General Procedure Claim (GPC) will be issued by the Courts for recovery of the debt.

**Rates - Step 5 – Further Action**

Where a ratepayer has not paid the amount due or not entered into a payment plan 28 days after a GPC was issued by the Town's debt recovery agent, the following actions may be taken at the discretion of the CEO:

- a) Issue a Property Sale and Seizure Order on a debtor's goods under Part 4: Division 6 of the *Civil Judgments Enforcement Act 2004*;
- b) Lodge a caveat to preclude dealings in respect of the land under s6.64 (3) of the *Local Government Act 1995*; and/or
- c) Where a property is leased, recover the outstanding debt by way of receiving the lessees rent as it falls due under Section 6.60 *Local Government Act 1995*.

**Rates - Step 6 – Take Possession of Land**

Under s6.64 (1) and (2) of the *Local Government Act 1995*, where rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the CEO shall seek approval of Council for the Town to take possession of the land to either:

- a) lease the land;
- b) sell the land; or
- c) have the land transferred to the Town.

### **Sundry Debtors Recovery Process**

Sundry debtors are determined to be outstanding if not paid by the due date.

#### **Sundry Debtors - Step 1 – Reminder Notice**

Where a sundry debtor has not paid the amount due or entered into a payment plan within 14 days after the due date shown on the invoice, a Reminder Notice shall be issued, requesting full payment within 14 days.

#### **Sundry Debtors - Step 2 – Final Notice/Attempt to Contact/Discontinue Performance**

Where a sundry debtor has not paid the amount due or entered into a payment plan within 14 days after the due date shown on the Reminder Notice, a Final Notice shall be issued, requesting full payment within 14 days.

The Town will discontinue performance of any services and/or cancel any future hire reservations made by the sundry debtor (excluding a debtor who holds a lease or licence with the Town).

#### **Sundry Debtors - Step 3 – Letter of Demand**

Where a sundry debtor has not paid the amount due or not entered into a payment plan 28 days after the issue of a Final Notice, the Town shall authorise the Town's appointed debt recovery agent to issue a Letter of Demand full payment within 14 days.

Where the sundry debtor holds a lease or licence with the Town, the debtor shall be issued a breach of lease/licence letter.

#### **Sundry Debtors - Step 4 – General Procedure Claim**

Where a sundry debtor (excluding a debtor who holds a lease or licence with the Town) has not paid amounts due or not entered into a payment plan 28 days after a Letter of Demand was issued by the Town's debt recovery agent, at the CEO or delegate's discretion, a General Procedure Claim (GPC) will be issued by the courts for recovery of the debt.

#### **Sundry Debtors - Step 5 – Further Action**

Where a sundry debtor (excluding a debtor who holds a lease or licence with the Town) has not paid the amount due or not entered into a payment plan 28 days after a GPC was issued by the Town's debt recovery agent, at the discretion of the CEO, the Town may issue a Property Sale and Seizure Order on the debtor's goods under Part 4: Division 6 of the *Civil Judgments Enforcement Act 2004*;

Where the sundry debtor holds a lease or licence with the Town, the CEO shall request approval of Council to terminate the lease or licence agreement and issue a Property Sale and Seizure Order on the debtor's goods under Part 4: Division 6 of the *Civil Judgments Enforcement Act 2004*.

### **Interest Rates to be Applied**

Interest rates shall be applied in accordance with the Town's Fees and Charges Schedule with the exception of the following:

- Debtors assessed as being vulnerable due to financial hardship and have entered an approved payment plan, an interest rate of 0% shall be applied.
- Debtors assessed as being vulnerable due to payment difficulties or who have received unbudgeted interim rates notices and have entered an approved payment plan shall be charged an annual 'Rate Instalment Administration Fee' and interest rate equal to the 'Rate of interest on instalment plans'.
- Where the Town's Administration has erred with a result detrimental to the debtor and where the debtor has entered an approved payment plan, an interest rate of 0% shall be applied.

### **Infringements - Debt Recovery Process**

Infringement notices which are not paid in the prescribed or statutory period, are referred to the Fines Enforcement Registry (FER), where a court order is issued.

Note: The Town has no control over the collection process undertaken by FER and cannot take any action on its behalf.

### **Write-off of Sundry Debts**

From time to time, write off of debts will be required when the Town or FER deem the debt is uncollectable. This shall be done in accordance with the Register of Delegation of Authority.

### **Definitions**

**Debt** - Means a sum of money owed to the Town of Mosman Park by a debtor because of a transaction or rates, service charges and/or fees and charges levied.

**Debtor** - Means any individual, corporation, organisation or other entity owing money to the Town of Mosman Park.

**Payment Plan** - An agreement made between the debtor and the Town of Mosman Park to pay rates, service charges, and/or fees and charges imposed on land or any other debt at a timing and frequency other than the prescribed instalment/due dates.

**Prescribed Charge** – As defined under the *Rates and Charges (Rebates and Deferments) Act 1992*.

**Vulnerable Debtor** - A debtor is considered vulnerable may have low income or, as a result of their circumstances, be experiencing a financial shock, leading to difficulties in paying rates by the due date. This can take the form of 'financial hardship' or 'payment difficulties'.

- Financial Hardship – A state of more than immediate financial disadvantage which results in a debtor being unable to pay an outstanding amount without affecting the ability to meet the basic living needs of the debtor or a dependant.
- Payment Difficulties - A state of immediate financial disadvantage that results in a debtor being unable to pay an outstanding amount by reason of a change in personal circumstances.

**Write Off** - Means the accounting procedure for cancelling a debt that is no longer collectible resulting in its removal by Council from the Town's statement of financial position.

### Governance References

Statutory Compliance	<i>Local Government Act 1995, Part 6, Division 6</i> Local Government (Financial Management) Regulations 1996, Part 5 <i>Rates and Charges (Rebates and Deferments) Act 1992</i> <i>Civil Judgements Enforcement Act 2004.</i>
Organisational Compliance	1.2.1 - Debt Recovery Procedure Register of Delegation of Authority

### Policy Administration

Directorate:		Officer title:
Corporate Services		Executive Manager Corporate Services
Next Review		Review Cycle
February 2023		
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1	23 March 2010	OCM-072-2010
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