
DEBT RECOVERY

Council's water usage charges are billed every 4 months (3 accounts per year). Accounts are issued 30 days before the due dates.

Interest on overdue Rates and Annual Charges

Interest is calculated daily on overdue rates and charges at the maximum rate announced by the minister for Local Government each year in accordance with section 566 (3) of the Act. Interest is not charged on legal costs

Payment Arrangements

Council is empowered under Section 564 of the Act to enter into an agreement with a person to accept variable payments of rates and charges due and payable.

Where Council staff deem it to be appropriate in the circumstances, prior to the commencement of legal action, Council shall accommodate an agreement for the period payment of the debt that extinguishes it within a reasonable timeframe.

Failure to adhere to a payment arrangement that has been put in place will result in legal action for recovery, in accordance with this policy.

Where a debtor defaults on approved arrangements for payment and there has been no contact from the debtor to discuss the missed payments, Council may recommence recovery action from the stage which had been reached prior to the last arrangement being negotiated.

Recovery Action

If payment is not received or a suitable arrangement made to have the outstanding balance paid following the issue of a reminder notice and a final notice, legal action will be commenced on all accounts with an outstanding balance greater than \$1,000.

When legal action commences, a statement of liquidated claim (summons) will be issued and served. Where judgement is entered in Council's favour, Council will seek to recover the judgement debt through appropriate recovery actions. Action to recover outstanding debts that will be considered, may include, but is not limited to:

- A garnishee of income;
- Writ of execution on goods and chattels;
- Examination notice;
- Examinations summons;
- Service or a rent order where the property is tenanted; or
- Sale of Land for unpaid rates in accordance with section 713 of the Act.

Arrangements for payment may be accepted after legal action has commenced, subject to the continuation of legal action should the ratepayer not adhere to the approved arrangement.

Section 712 (1) of the Act 1993 provides that proceedings for the recovery of an ordinary rate or annual charge may be commenced at any time within 20 years from the date when the rate or charge became due and payable.

All legal costs and expenses incurred in recovering outstanding rates and charges shall be charged against the property in accordance with section 605 of the Act.

In accordance with Section 459 of the *Corporations Act 2001*, where the ratepayer is a company and has been served with a creditors statutory demand (Section 459e of the Act) and the ratepayer has not complied within the 21 day period, Council has the right to commence proceedings to have the

DEBT RECOVERY

POLICY OBJECTIVE

Council will carry out debt recovery in a fair and consistent manner and in accordance with the provisions of the *Local Government Act 1993* (Act) and the regulations.

1. POLICY STATEMENT

The intent of this policy is to ensure that Wentworth Shire Council establishes systems which:

- outline clear and appropriate debt recovery procedures which will be undertaken by Council;
- ensure effective control over all invoiced debts owed to Council (including Rates and Charges, Sundry Debtors and Water Usage Charges);
- are sympathetic to those ratepayers and debtors suffering genuine financial hardship;
- fulfil statutory requirements of both the Act and the *Civil Procedure Act 2005*, with respect to the recovery of rates and other debts; and
- ensure the integrity and confidentiality of all proceedings for both Council and the debtor.

2. POLICY COVERAGE

This policy applies to all ratepayers, sundry debtors and account holders within the Wentworth Shire Council Local Government Area.

This policy applies to Council staff with delegated responsibility for carrying out the procedures, and debt recovery agents who act on behalf of Council.

3. STRATEIC PLAN LINK

Objective: 4.0 Wentworth is a caring, supportive and inclusive community that is informed and engaged in its future

Strategy: 4.1 Provide strong and effective representation, leadership, planning, decision-making and service delivery

4. DEFINITIONS AND ABBREVIATIONS

Term/Word	Definition
Act	Local Government Act 1993 (NSW)
Council	Council of the Shire of Wentworth.

5. POLICY CONTENT

Rates and Annual Charges

Annual rates and charges notices are issued in July each year. They may be paid in a single instalment or by quarterly instalments. If a payment is made in a single instalment, the instalment is payable by 31st August. If a payment is made by quarterly instalments, the instalments are payable by 31st August, 30th November, 28th February and 31st May.

An Annual Rates and Charges notice and quarterly instalment reminder notices are issued 30 days before the due date.

Water Usage Charges

DEBT RECOVERY

debtor company wound up and a liquidator appointed. All debts regarding the issue of a creditors' statutory demand must exceed the sum of \$2,000.00.

Sale of Land for unpaid Rates and Charges

Where any rate or charge is overdue and has remained unpaid for more than three (3) years from the date on which it became payable, Council may proceed to sell the land in accordance with division 5, part 2, chapter 17 of the Act.

Where any rate or charge is overdue in respect of vacant land and the amount exceeds the valuer general's current valuation of the property, Council may proceed to sell the land in accordance with division 5, part 2, chapter 17 of the Act.

6. Related Documents & Legislation

Legislation

- *Local Government Act (NSW) 1993*
- *Local Government (General) Regulation 2021*
- *Privacy and Personal Information Protection Act (NSW) 1998*
- *Health Records and Information Privacy Act (NSW) 2002*
- *Civil Procedures Act (NSW) 2005*
- *Corporations Act (Cth) 2001*

Council Policies

- AF013 – Hardship Policy
- GOV022 – Legislative Compliance Policy

Council Documents

- Legislative Compliance Framework

Other Documents/Guidelines

- OLG Circular 15-40, December 2015, A30931
- Debt Collection Guideline for collectors and creditors ACCC/ASIC

7. ATTACHMENTS

Nil.

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8. DOCUMENT APPROVAL

This document is the latest version of the official policy of the Wentworth Shire Council, as adopted by Council on 16 February 2022. All previous versions of this policy are null and void.

This policy may be amended or revoked by Council at any time.

A PDF copy of the signed document can be accessed from Council’s record management system and Reliansys.



Signed:

17 February 2022

General Manager Wentworth Shire Council

Date