

POLICY: CORP-F-009

DEBT COLLECTION

PURPOSE

The purpose of this policy is to provide guidance to Council in determining efficient, effective and economical procedures for debt collection.

This is achieved through manageable and efficient control over overdue accounts by closely monitoring aged accounts in an attempt to reduce the likely occurrence of unrecoverable debts and to ensure consistency for all debt collection activities.

DEFINITIONS

Rates Debtors

Rate debtors are classed as either secured or unsecured and will generally be recovered as they are deemed to be a charge on the land. Mining Tenements are unsecured and therefore subject to normal debt recovery processes. Except where a ratepayer is entitled to defer the payment of their rates, Council will actively pursue the recovery of rate arrears as specified in the Local Government Act 1995, including the power to sell land.

Sundry Debtors

A sundry debtor is one to whom credit has been offered for services provided by Council.

Infringement Debtor

An Infringement Debtor is one to whom an infringement notice has been issued.

Firebreak Debtor

A firebreak debtor is one to whom the City has on charged the costs incurred for construction of a firebreak on the debtor's property.

PRINCIPLES

Council will exercise its debt recovery powers, as outlined in Part 6 of the *Local Government Act 1995*, in order to reduce the overall debt burden on ratepayers. It will be guided by the principles of:

- Providing the City of Kalgoorlie-Boulder with an effective method over the collection of outstanding debtors;
- Ensuring that debt collection procedures are carried out in a fair and equitable manner;
- Making the processes used to recover outstanding debt clear, simple to administer and cost effective;

- Transparency by making clear the obligations of its ratepayers and other debtors to the processes used by Council in ensuring that they meet their financial obligations;
- Equity by having regard to providing the same treatment for ratepayers and other debtors with similar circumstances;
- Flexibility by responding where necessary to changes in the local economy;
- Ensuring the City of Kalgoorlie-Boulder is compliant with all regulatory obligations;
- Promoting effective governance and definition of roles and responsibilities;
- Upholding recognition from the public and industry for the City of Kalgoorlie-Boulder's collection practices that withstand probity.

STATEMENT

The following guidelines provide direction for the ethical and effective management of the City's wide range of debtors:

- Management to establish and maintain appropriate credit limits and controls in order to ensure the risk of financial loss is properly managed;
- Access to credit should be limited to those circumstances where it is deemed an efficient method for collecting revenue or is legally required to be given;
- A credit application form is required to be completed and a Directors Guarantee may be requested for credit in excess of \$5,000 or at the discretion of the Chief Executive Officer;
- The provision of credit is not automatic and credit may be suspended or withdrawn based on compliance of trading terms. Management will use their discretion to deny any delinquent debtor access to Council's services and facilities;
- Fees applicable to the debt collection process (excluding recoupable Legal Fees) are listed in the City's Schedule or Fees Charges as adopted by Council annually;
- Action for the writing off of bad debts (other than rates or service charges) should only take place where all avenues for recovery have been exhausted or it becomes unviable to keep pursuing the debt;
- Unrecoverable debts (other than rates and service charges) up to the individual value of \$5,000 may be written off under Council delegation;
- Bad debts over \$5,000 (other than rates or service charges) are to be brought to Council for write off on an annual basis or more often if required;
- When a debtor is considered to be under serious hardship the Chief Executive Officer shall have the power to enter into a special payment arrangement and to reduce or mitigate interest charges;

- The City should register as an unsecured creditor for debtors who go into administration where there is some likelihood of a settlement (excluding rate debtors but including Tenement holders, as rates debt is secured against a property).

1 Debtor Recovery

1.1 Recovery of Rate Arrears

The recovery of outstanding rates will be collected in a fair and timely manner. Rate notices are due for payment 35 days from date of issue in accordance with the *Local Government Act 1995*.

Interest

Amounts that remain outstanding past the prescribed due date will have interest applied. Interest is calculated on the number of days from the due date of payment until the day the payment is received by the City of Kalgoorlie-Boulder. This includes overdue amounts where the debtor has elected to pay by an instalment option or special payment arrangement. The Rate of interest to be applied will be published in the City's Schedule of Fees and Charges for the applicable year.

Accounts unpaid by the due date shown on the Rate Notice

Where accounts remain outstanding after the prescribed due date, a Final Notice shall be issued requesting full payment within fourteen (14) days unless the debtor has entered into a payment arrangement which has been agreed upon by both parties.

Final Notices are not to be issued to eligible persons registered to receive a pensioner or senior rebate under the *Rates and Charges (Rebates and Deferments) Act 1992*; as such persons have until 30 June of the current financial year to make payment, without incurring any penalty interest. Final notices will, however, be issued to registered pensioners or seniors where there are unpaid charges which are not subject to a rebate or deferment e.g.: rubbish collection charges.

Accounts unpaid after the expiry date shown on the Final Notice

Where amounts remain outstanding after the expiry date shown on the Final Notice, recovery action will commence based upon a risk management approach as determined by the value and type of debt and may include such action as referral to Council's debt collection agency.

Lodging of a Caveat on Mining Tenements on Current Year Rates

Where rates remain outstanding on mining tenements after the issuing of a Letter of Demand and prior to legal action commencing, as a safe guard to protect Council's interest, a caveat pursuant to section 122A of the Mining Act 1978 (WA) may be lodged to preclude dealings in respect of the mining tenement.

General Procedure Claim

Where a Demand Letter has been issued and remains unpaid and the ratepayer has not elected to enter into an agreed special payment arrangement, a General Procedure Claim will be issued.

Property Sale and Seizure and Order

Where a General Procedure Claim has been issued and served and the amount remains outstanding fourteen (14) days after the service of the Claim, legal proceedings will continue until payment of rates is received. This includes Judgement and Enforcement of the Claim. Enforcement of the Claim may include a Property Sale and Seizure Order of goods and or land.

Seizure of Rent for non-payment of Rates

Where the property owner of a leased or rented property on which rates and service charges are outstanding cannot be located or refuses to settle rates and service charges owed, a notice may be served on the lessee or tenant under the provisions of Section 6.60 of the *Local Government Act 1995* requiring the lessee or tenant to pay to the City the rent due that they would otherwise pay under the lease/tenancy agreement as it becomes due, until the amount in arrears has been paid.

Options to recover rates debt where rates are in arrears for in excess of three (3) years.

i) Lodging a Caveat on the Title for Land

If rates and service charges which are due to Council in respect of any rateable land have been unpaid for at least three (3) years a caveat may be registered on the title for the land, under the provisions of Sections 6.64 (3) of the *Local Government Act 1995*. The approval of Council is required before this course of action is undertaken. Sale of Property

If rates and service charges which are due to Council in respect of any rateable land have been unpaid for at least three years, Council may take possession of the land under the provisions of Section 6.64 of the *Local Government Act 1995*. The approval of Council is required to be obtained before this course of action is undertaken.

Legal costs and other expenses

All legal costs and expenses incurred in recovering outstanding rates and charges will be charged against the property in accordance with the *Local Government Act 1995*.

1.2 Recovery of Sundry and other Debtor Accounts

The recovery of outstanding sundry debtor accounts will be collected in a fair and timely manner.

The City of Kalgoorlie-Boulder's credit terms are as outlined on the issued tax invoice.

- Where payment is not received within thirty (30) days from the date of the initial invoice, a First and Final notice shall be issued requesting full payment immediately unless the debtor has applied to enter into a Special Payment Arrangement, subject to approval.
- Where the customer fails to pay the outstanding balance within sixty (60) days from the date of the initial invoice, and a special payment arrangement has not been entered into, a Letter of Demand will be issued. This letter will give the customer a further seven (7) days to pay the outstanding balance in full and may incur a fee as

shown in the City's Schedule of Fees and Charges, which will be charged to the Debtor;

- Where the customer fails to pay in full by the expiry of the period defined above, credit may be suspended or services limited and legal action may be commenced. Any legal or other costs incurred will be charged to the Debtor.

Interest

Where payment is not received within thirty five (35) days from the date of the initial invoice, interest will be applied on money that remains outstanding. Interest is calculated on the number of days from the due date of payment until the day the payment is received by the City of Kalgoorlie-Boulder. Interest (percentage) charged on sundry debtors is the percentage as adopted at the annual budget meeting in accordance with section 6.13 (1) of the *Local Government Act 1995*. The rate as set under section 6.13 (3) of the *Local Government Act 1995* is not to exceed the maximum rate of interest as prescribed within regulation 19A of the *Local Government (Financial Management) Regulations 1996 S19A*.

Sundry Debtors – bad debts

Where a sundry debtor has accounts unpaid for a period exceeding one hundred and twenty days (120 days) and

- i) The debtor has moved and all reasonable attempts to locate the debtor have been unsuccessful; or
- ii) The debtor has provided documentary evidence of having filed for Bankruptcy/Insolvency.

Council Officers shall prepare a report for the Chief Executive Officer/Council listing the name of the debtor, the description of the debt, the amount outstanding, the period overdue and a reason for write off. Bad debts will be recognised when the sundry debt is seen to be no longer commercially collectable.

1.3 Recovery of Infringement Debtors

Infringements are issued by authorised officers of the City of Kalgoorlie-Boulder. There is no provision for part payments or payment arrangements with infringements due to making them un-enforceable with the Fines Enforcement Registry.

- Where payment is not received within twenty eight (28) days from the date of the infringement, a First Warning letter shall be issued requesting full payment within ten (10) days.
- Where the customer fails to pay the infringement by the expiry of the period defined above, a Final Demand Notice will be issued, with an applicable fee. The final demand Notice gives the customer a further twenty eight (28) days to pay the infringement.
- Where the customer fails to pay the infringement by the expiry of the period defined above, the infringement is referred to the Fines Enforcement Registry where further charges will be incurred.

- Referrals to the Fines Enforcement Registry may result in an individual's licence being suspended.

1.4 Recovery of debts resulting from construction of fire clearances

Under the Bushfires Act, the City can charge property owners for the construction of a firebreak when they fail to provide one themselves. Any infringement issued is separate and in addition to the charge for firebreak construction. An invoice will be issued for the construction debt and will be subject to 4.2 Recovery of Sundry Debtor Accounts.

If the account remains unpaid for a period exceeding one hundred and twenty (120) days, or if the property is listed for sale within that period, the debt will be transferred against the debtor's property and collected in accordance with 4.1 Recovery of Rate Arrears.

2 Payment Arrangements

Ratepayers or other debtors, except infringement debtors, who are unable to pay a debt amount owing to Council by the due date, may apply in writing to enter into an arrangement with Council to make periodical payments by completing a Council issued payment arrangement form. Arrangements are to be negotiated with the aim of recovering all arrears and the current year's charges within the current financial year. Payment will usually be made by a direct debit arrangement either weekly, fortnightly or monthly.

Where the ratepayer fails to adhere to a payment arrangement and has not contacted City Officers to amend the current arrangement, recovery action will commence. If legal action has been suspended due to the ratepayer entering into a payment arrangement and the agreement has not been met by the ratepayer, the legal action will be reactivated at the level when the suspension took place.

Interest is chargeable on debts being repaid under a payment arrangement, also set up charges are payable in accordance with City's Schedule of Fees and Charges. A payment arrangement cannot be entered into verbally by any party.

3 Serious Hardship and/or exceptional Hardship Circumstances

If a rate payer or other debtor is experiencing financial hardship due to rates and charges or other amounts owed to the City, they can submit a written application to the Chief Executive Officer to enter into a negotiated 'Special Payment Arrangement' detailing the "Serious Hardship" and/or "Exceptional Hardship/Circumstances" to warrant the City's consideration and lenience in accordance with Council's Debtors Management Guidelines.

Roles and Responsibilities

The Chief Executive Officer shall be responsible for the application of delegations of authority in regards to the policy.

The Director Corporate Services shall be responsible for referring matters to Council in regards to this policy.

The City Accountant and/or Manager Finance shall be responsible for the review and monitoring of the operations of the policy.

The Finance and Rates Department teams shall be responsible for the day to day operations of the policy.

Relevant Documents

Local Government Act 1995: Part 6

Local Government (Financial Management) Regulations 1996

Rates and Charges (Rebates and Deferments) Act 1992

Bushfires Act 1954

Mining Act 1978 (WA)

City of Kalgoorlie-Boulder – Schedule of Fees & Charges