



## Debt Management Policy

<b>Classification:</b>	Council Policy
<b>Version Number:</b>	2
<b>Review Frequency:</b>	Once in the Term of Council
<b>Last Reviewed:</b>	May 2023
<b>Review Due:</b>	May 2027
<b>Responsible Officer:</b>	Chief Executive Officer Director Corporate Services
<b>Applicable Legislation:</b>	Local Government Act 1999 (s143, 144, 181, 182 & 184)
<b>Related Policies/Procedures:</b>	Rating Policy Rates Hardship Policy Internal Financial Control Policy Internal Financial Controls Manual

### 1. PURPOSE:

The purpose of this Policy is to:

- provide a clear and concise policy framework in which to pursue all outstanding debts owed to Council;
- to ensure a fair, consistent and accountable approach to Council's debt collection decisions and practices, having regard to a person's financial circumstances; and
- to assist in the efficient management of Council assets through the timely collection of outstanding monies.

## **2. LEGISLATIVE CONTEXT:**

This policy is created in accordance with the following sections of the Local Government Act 1999 (the Act):

- 2.1 Council may write off bad debts pursuant to Section 143 of the Local Government Act 1999.
- 2.2 Council may write off any debts owed to Council if the Council has no reasonable prospect of recovering the debts or if the costs of recovery are likely to equal or exceed the amount to be recovered (S143(1)).
- 2.3 Council must not write off a debt unless the Chief Executive Officer has certified that reasonable attempts have been made to recover the debt or the cost of recovery is likely to equal or exceed the amount to be recovered (S143(2)).
- 2.4 If Council delegates the power to write off debts, the Council must set an amount above which the delegation will not apply (S143(3)).
- 2.5 Fees, charges, expenses or other amounts may be recovered by Council as a debt by action in a court or competent jurisdiction (S144(1)).
- 2.6 Where the fee, charge or expense is in respect of a rateable or other property, the Council may, after giving at least fourteen (14) days notice, recover the debt as if it were a rate declared on the property at the time of the notice requiring payment (S144(2)).
- 2.7 Late payment penalties and interest apply if instalment of rates is not paid by the due date (S181(8)).
- 2.8 Council may sell land if rates in respect of the land has been in arrears for three (3) years or more (S184(1)).
- 2.9 Council may remit and postpone payment of rates (S182).

## **3. SCOPE:**

This Policy will apply to the collection of rates debtors and sundry debtors owed to the Kingston District Council.

**4. DEFINITIONS:**

<i>Debt Collection Agency</i>	A company engaged by Council for the formal legal collection of rates and sundry debtor amounts owing to the Council.
<i>Financial Hardship</i>	Is experiencing a lack of financial means, which can be ongoing or temporary, but does not include circumstances where a person chooses not to meet a liability for unpaid debt.
<i>Payment Arrangement</i>	An agreed schedule of regular payments to be made by a Rates or Sundry Debtor to meet an outstanding amount owed to Council.
<i>Rates Debtor</i>	A person, body corporate or group incurring a rates debt including property rates, services charges, fines, interest and any other related charges.
<i>Sundry Debtor</i>	Any person, body corporate or group incurring a debt for services, goods, penalty or other purpose.

**5. POLICY PRINCIPLES:**

The management and recovery of outstanding revenue is an important aspect of Council's financial management function. The principles that will apply in the management and recovery of debt are as follows:

- 5.1 Council has a responsibility to recover monies owing to it in a timely and efficient manner to finance its operations and ensure effective cash flow management.
- 5.2 Council will operate effective and efficient billing and debt collection processes.
- 5.3 Council aims to minimise the amount of outstanding monies that it is owed.
- 5.4 Debtors are expected to take responsibility for their Council debt obligations and to organise their affairs in such a way as to be able to discharge these obligations when required.
- 5.5 If a debtor cannot meet their obligations on the due dates, it is in the interest of the debtor to contact Council at the earliest opportunity to make appropriate arrangement to address the debt.
- 5.6 In cases of financial hardship, Council will consider postponement of payment and/or a suitable repayment plan.
- 5.7 Staff will maintain procedures to support the administration of this policy, including the monitoring of compliance with associated internal controls.

**6. POLICY DETAIL:**

	Rate Debtor	Sundry Debtor
Late payment penalties and interest	Fines and interest will be applied in accordance with the Local Government Act 1999. A fines letter will be issued after each quarterly instalment is due, requesting payment by the end of the month.	Not applicable
Debt Management Process	If rates debt is outstanding for 2 or more quarters, an arrears letter will be sent requesting payment within 14 days. If payment is not received or a payment arrangement not established, debt collection proceedings will commence (subject to a minimum outstanding balance of \$500).  The debt collection agency will send a letter of demand for the rates debt. Failure to make payment in full or to enter into a payment arrangement will result in the commencement of legal action.	The following debt collection process will be applied to debts that are not subject to dispute or financial hardship. <ul style="list-style-type: none"> <li>• 30 days – Statement issued with an overdue notification requesting payment within 14 days.</li> <li>• 60 days – Letter of Demand sent informing that legal action will be pursued without further notice if no satisfactory response from the debtor.</li> <li>• 90 days – Debt Collection agency instructed to instigate legal proceeding for recovery of debt. (Applies for debt over \$200).</li> </ul>
Sale of Land for non-payment of rates	In accordance with Section 184 of the Local Government Act 1999, Council may sell land for the non-payment of rates when the rates are in arrears for 3 years or more.  A confidential report will be prepared for Council prior to commencement of action for sale of land for non-payment of rates.	
Delegations/Write-offs	<ul style="list-style-type: none"> <li>• Council officers will exhaust all avenues for debt recovery prior to making recommendations to the Chief Executive Officer for the debt to be written off.</li> <li>• The Chief Executive Officer will only consider the write off of debts when the cost of recovery is likely to equal or exceed the amount to be recovered.</li> <li>• In accordance with Council's Delegation Register (S143), the Chief Executive Officer has delegated authority to write-off debts up to and including \$1,000.</li> <li>• Debts exceeding this amount will need to be referred to Council for determination.</li> <li>• The Chief Executive Officer will maintain a register of debts written off in accordance with this Policy.</li> </ul>	

**7. AVAILABILITY OF THE POLICY:**

This policy will be available for inspection at the council's principal office, 29 Holland Street Kingston SE, during ordinary business hours and on council's website: [www.kingstondc.sa.gov.au](http://www.kingstondc.sa.gov.au). Copies will also be provided to interested members of the community upon request, and upon such payment of the fee set by council.

**FLOWCHART OF RATE DEBTORS MANAGEMENT PROCESS:**

