

# THE BAROSSA COUNCIL

## DEBT RECOVERY POLICY



<b>Strategic Plan Outcome:</b>	4.1 Governance and Organisation - Responsibility	<b>Document Code:</b>	TBCPOC4650
<b>Policy Owner:</b>	Director, Corporate and Community Services	<b>Last Revised Date:</b>	Initial Policy
<b>Document Control:</b>	Manager Financial Services	<b>TRIM Reference:</b>	15/24326
<b>Date Approved:</b>	21/7/2015	<b>Next Review Date:</b>	1/11/2018

### 1. Purpose

The purpose of this Policy is to:

- a) to provide a clear and concise policy framework in which to pursue all outstanding debts (rates and sundry debtors) owed to The Barossa Council (the Council);
- b) to ensure consistency, fairness, integrity and confidentiality for both the Council and the debtor; and
- c) to assist in the efficient management of Council assets through the timely collection of outstanding monies.

### 2. Scope

This Policy will apply to all rateable assessments and sundry debtors for monies owed to The Barossa Council.

3.	Definitions
Arrangement	An agreement between Council and a Ratepayer or Debtor to repay an amount of money within a time frame according to an agreed schedule.
Owner	The registered proprietor of a rateable property
Prescribed Percentage (P)	"the prescribed percentage" is to be calculated as follows: $P = \frac{CADR + 3\%}{12}$ where— "P" is the prescribed percentage and "CADR" is the cash advance debenture rate for that financial year
Ratepayer/s	Person/persons who appears in the assessment record as the owner/s or occupier/s of rateable property
Rate and Sundry Debtor/s	Person/s owing money for goods and/or services rendered to them by Council
Recurring Charges	Charges that are charged on a set frequency ie lease fees

#### 4.1 RATES

Rates Debtors shall include all those owing general rates, separate rates, differential rates, CWMS service charges, waste service charge amounts and any other charge levied by Council annually and issued on a quarterly rate notice.

##### 4.1.1 Arrangements

- 4.1.1.1 All Arrangements shall be determined on the merits of each individual case. Recovery action for overdue rates will be suspended whilst the terms/conditions of the Arrangement to pay are being met.
- 4.1.1.2 Each Arrangement shall specify the amounts of each regular payment and the dates by which each payment must be made to Council. Payments under an Arrangement should be of regular amounts and be payable at regular intervals.
- 4.1.1.3 Payment defaults will result in a default arrangement letter being issued with a request to pay any missed payments. If ratepayer fails to make up these payments or contact Council, the arrangement may be terminated and the full amount of the outstanding rates and charges and accrued interest shall be due and payable. Recovery action may be taken for recovery of the amount due. A maximum of three defaults applies for any one financial year.
- 4.1.1.4 Fines and interest will not be applied provided the arrangement:
  - a) is made before the due date;
  - b) payment terms are met; and
  - c) the Arrangement will clear the balance outstanding (excluding arrears) by the end of the current quarter for instalment only payments and the end of the financial year for full year Arrangements.

##### 4.1.2 Fines and Interest

If an instalment of rates is not paid on or before the date on which it falls due the instalment:

- a) will be regarded as being in arrears;
- b) will incur a fine of 2 per cent of the amount of the instalment; and
- c) on the expiration of each full month from that date, will incur interest at [the prescribed percentage](#) of the amount in arrears (including the amount of any previous unpaid fine and including interest from any previous month).

##### 4.1.3 Overdue Notice

A Rates Overdue Notice shall be issued within 14 days after the due date of an instalment to those Ratepayers who have not made satisfactory Arrangements. This Overdue Notice gives the Ratepayer a summary of the outstanding debt (including any fines and interest) and detailing options of paying this debt via a suitable payment method. The Notice will also advise Ratepayers that failure to pay or make a suitable arrangement to pay will result in the debt being referred to Council's Debt Collection Agency for recovery.

#### 4.1.4 Final Notice

A Final Notice shall be issued 14 days after the issue of the Overdue Notice for non-payment or to those ratepayers who have not made satisfactory payment arrangements. This Final Notice gives the ratepayer a total of the outstanding debt and the option of paying, or making suitable payment arrangement.

#### 4.1.5 Legal Action

4.1.5.1 Legal action will be initiated by referring the account to Council's Debt Collection Agency who will send a Letter of Demand to the Ratepayer. Council is then to be guided by the Collection agency as to the most suitable form of recovery action.

4.1.5.2 Once the debt has been referred to the Debt Collection Agency all communication is to be directed to them. All legal costs and expenses incurred by Council from the recovery of outstanding rates and charges will be charged against the debtor's property.

#### 4.1.6 Registered Mortgagee

4.1.6.1 Once the legal action process in 4.1.5 has been exhausted and before any other legal action in terms of Section 184 of The Act has commenced:

- a) a copy of the Certificate of Title for the property is to be obtained;
- b) Council will advise the Ratepayer in writing of the debt outstanding; and
- c) a copy will be sent to the Registered Mortgagee to establish the option of refinancing or paying the arrears outstanding.

4.1.6.2 If registered mortgagee advises that this is not an option then the Sale of Land for unpaid rates and charges process may begin.

#### 4.1.7 Sale of Land for Unpaid Rates and Charges

4.1.7.1 Council may proceed to sell the land where any rate or charge is overdue and has remained in arrears for more than three (3) years from the date on which it became payable in accordance with Section 184 of the Act.

4.1.7.2 Prior to instigating any action, the Ratepayer will be given the opportunity to make an application for rate relief due to financial hardship under the Councils Rate Relief and Rebate Policy.

4.1.7.3 In agreement with the Director, Corporate and Community Services, the Senior Rates Officer may from time to time report to Council on any rate Debts that have remained unpaid following implementation of recovery action as detailed above and where Officers seek direction from Council rather than exercising Delegated Powers under the Act.

#### **4.1.8 Deceased Estates**

Where a person becomes deceased during the course of the above processes and once notification in writing is received from lawyers acting on behalf of that person's estate, fines and interest will be suspended until probate is granted or outstanding debt is repaid.

#### **4.1.9 Small Balance Adjustments**

On the 30<sup>th</sup> June each financial year small debit and credit balances will be adjusted unless regular payments are being made.

### **4.2 SUNDRY DEBTORS**

Sundry Debtors include people owing Council money for food inspections, on-charging of utilities, donations, search requests, recurring charges or any other monies owed to Council.

#### **4.2.1 Invoices**

Invoices will be sent for any debt raised providing 30 days for payment.

#### **4.2.2 Monthly Statement**

A monthly Statement shall be issued at the beginning of each month. The Statement gives the debtor a summary of the outstanding debt.

#### **4.2.3 Arrangements to Pay**

4.2.3.1 All Arrangements shall be determined on the merits of each individual case. Recovery action for overdue debts will be suspended whilst the terms/conditions of the Arrangement to pay are being met.

4.2.3.2 Payment defaults will result in a default arrangement letter being issued with a request to pay any missed payments.

#### **4.2.4 Final Notice**

4.2.4.1 A final notice shall be issued where applicable after the non-payment or to those debtors who have not made satisfactory payment Arrangements of debt following the issue of the monthly statement. This Final Notice gives the debtor a total of the outstanding debt and the option of paying within 14 days, or making suitable payment arrangement.

4.2.4.2 If Council receives no response from the debtor for the final notice Council may refer the debt to Council's Debt Collection Agency for recovery.

#### **4.2.5 Legal Action**

4.2.5.1 Legal action will be initiated by referring the account to Council's Debt Collection Agency which will send a letter of demand to the ratepayer. Council is then to be guided by the Collection Agency as to the most suitable form of recovery action.

- 4.2.5.2 Once the debt has been referred to the Debt Collection Agency all communication is to be directed to them.
- 4.2.5.3 All legal costs and expenses incurred by Council from the recovery of outstanding debts may be charged to the Debtor and against the Debtor's property if applicable.

#### 4.2.6 Delegations – Write Offs

Debts shall be written off only when all reasonable attempts at recovery have been taken. Council provides the designated Officers with the authority to write off sundry debts in accordance with their specific delegations.

#### 4.2.7 Disputing a debt

In the event that a sundry debt is in dispute, the Debtor will be referred to the relevant approving officer for clarification of the debt charged. If the dispute cannot be resolved the approving officer should refer to Council's Complaint Handling Policy for direction.

<b>5.</b>	<b>Supporting Documentation</b>
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- Debt Recovery Process – TBCPRO4651
- Sale of Land for Unpaid Rates Process – TBCPRO4653
- Debt Recovery Flowchart TBCPRO4652
- Rating Process – TBCPRO4551
- Rates Accounting Process TBCPRO4553
- Property Process – TBCPR4555
- Journal Process – TBCPR4554
- Debtor Process – TBCPR4202

<b>6.</b>	<b>Related Policies</b>
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- Funding Policy – TBCPO4200
- Rating Policy – TBCPO4550
- Rate Relief & Remission Policy – TBCPO4850
- Complaint Handling Policy – TBCPOC2100
- Records Management Policy – TBCPOC2050

<b>7.</b>	<b>References</b>
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- Local Government Act 1999
- Instrument of Sub-delegation under the Local Government Act 1999 at section 143(1)

<b>8.</b>	<b>Review</b>
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This Policy shall be reviewed by the Senior Rates Officer in consultation with the relevant stakeholders, every four (4) years or more frequently if legislation or Council needs change.

<b>9.</b>	<b>Further Information</b>
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This Policy is available on Council’s website at [www.barossa.sa.gov.au](http://www.barossa.sa.gov.au). It can also be viewed electronically at Council’s principal office at 43-51 Tanunda Road, Nuriootpa and all Council branches, during ordinary business hours. A copy of this Policy can be obtained at those venues upon payment of a fixed fee.

Any complaint in relation to this Policy or its application should be forwarded in writing addressed to the Chief Executive Officer, PO Box 867, Nuriootpa SA 5355.

**SIGNED:** .....

Mayor

**DATED:** \_\_\_\_/\_\_\_\_/\_\_\_\_