

Policy

Rates Collection



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Adopted:	13/12/2017 #054
Last reviewed:	Nil
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Legal Authority:	Local Government Act Section 2.7 – The Role of Council
Directorate:	City Strategy
Department:	Finance
Related documents:	Acts/Regulations Local Government Act 1995, sections: 6.41(2), 6.45(3), 6.51(1), 6.56, 6.60 and 6.64. Local Government (Financial Management) Regulations 1996, sections: 68 and 70. Rates and Charges (Rebates and Deferments) Act 1992 Work Instructions D09/32060[v4] – RAT 02 – Debt Recovery Module.

Note: Changes to References may be made without the need to take the Policy to Council for review.

Policy:

1. Title

Rates Collection

2. Purpose

The purpose of this policy is to outline the City of Kwinana's process for efficient and effective collection of outstanding rates and charges.

3. Scope

This policy is applicable to all ratepayers within the City of Kwinana.

4. Definitions

“Minor Case Claim” means the claim lodged with the Magistrates Court where the value of the debt or damages you are claiming does not exceed \$10,000.

“General Procedure Claim (GPC)” means the claim lodged with the Magistrates Court where the value of the claim or the relief claimed does not exceed \$75,000.

“Property Seizure and Sale Order (PSSO)” is a court order that authorises a bailiff to seize and sell as much of the judgment debtor’s real or personal property as necessary to satisfy the judgment debt wholly or partially.

“Special Payment Arrangement” means an arrangement between the ratepayer and the City to pay outstanding rates, outside of the formal instalment options stated on the rates notice.

5. Policy Statement

Any rates payments due to the City of Kwinana that have not been received by the due date shall be recovered in accordance with this policy and any such action shall comply with relevant legislation and regulations.

5.1 Recovery of Rate Arrears

5.1.1 Rate notices are due for payment 35 days from date of issue as per Section 6.56 of the Local Government Act 1995.

- a) Interest on overdue rates and charges shall be imposed at a rate as prescribed in Section 70 of the Local Government (Financial Management) Regulations 1996 as per Section 6.51(1) of the Local Government Act 1995, calculated daily.
- b) Ratepayers may elect to pay their account by 2 or 4 instalments by paying the first instalment amount as indicated on the rates notice by the due date.
 - i. Interest shall be imposed on assessments opting for the instalment plan as prescribed in Section 68 of the Local Government (Financial Management) Regulations 1996.
 - ii. Notices for subsequent instalments will be issued not less than 28 days before each instalment is due as per Section 6.41(2)(b) of the Local Government Act 1995.
 - iii. Payment of a rate or service charge on any land may not be made by instalments if, at the date for payment of the first instalment, any part of a rate or service charge imposed on that land in a previous financial year (or interest accrued thereon at the date of issue of the rate notice) remains unpaid.
- c) Eligible persons registered to receive a pensioner or senior rebate under the Rates and Charges (Rebates and Deferments) Act 1992 have

until 30 June in that rating year to be eligible for the rebate or deferment of their rates and Emergency Services Levy (ESL), without incurring any late payment penalties.

- i. Those registered pensioners who are eligible to defer their rates and ESL amounts are required to pay only the waste and service charges by 30 June and the rates and ESL balances will automatically be transferred into a deferred account during the end of year procedures.
- ii. Those registered pensioners/seniors who are eligible for the rebate are required to pay the rebated amount as specified on the rates notice by 30 June of that rating year for the claim to Office of State Revenue to be successful.

5.1.2 The sequence of actions taken against defaulting ratepayers will be as follows:

- a) Where payment is not received within thirty five (35) days after the due date for payment, a Final Notice shall be issued requesting full payment within fourteen (14) days unless a successful special payment arrangement has been entered into by the City.
- b) Where amounts remain outstanding, three attempts to contact the ratepayer will be made by telephone and email (where provided). If no details are on file with the City, the City Officer will attempt to contact utilities providers and potential other leads (such as builders or planning consultants from applications or correspondence received at the City).
- c) If payment has not been made City Officers will issue a Notice of Intended Legal Action letter to the ratepayer, demanding immediate payment.
- d) Seven (7) days after the Notice of Intended Legal Action letter is issued, attempt to contact the ratepayer will be made requesting payment for the outstanding balance. Where possible, the mortgagee of the property may be contacted to rectify the breach of non-payment of rates with their client.
- e) For debts outstanding over \$10,000 the City may refer the debt to a debt collection agency for a General Procedure Claim (GPC) and Court proceedings to commence.
- f) Should a GPC be lodged and there is no response to the GPC within fourteen (14) days of issuing the claim, default judgment can be entered into at the Magistrates Court and a Property Seizure and Sale Order (PSSO) will be lodged at the Magistrates Court at the same time and served by an appropriate process server.
 - i. The PSSO authorizes the Bailiff to seize and sell as much of the debtor's real or personal property as necessary to satisfy the debt wholly.
 - ii. Where a PSSO involves the seizure of land a report to Council will be submitted for endorsement prior to the seizure of land.

- g) For debts outstanding under \$10,000 a Minor Case Claim may be lodged by the City. Should there be no response to the claim within fourteen (14) days if served within Western Australia or twenty one (21) days if served within another State or Territory of Australia, default judgment can be entered into at the Magistrates Court.
 - h) Costs incurred as a result of proceedings are to be debited to the rates account as per Section 6.56 of the Local Government Act 1995.
- 5.1.3 Other debt recovery actions that the City will undertake when the nature of the debt or the debtor is of such that it is in the City's interest to do so:
- a) 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 in full.
 - b) Lodging a Caveat on the Title for Land
If rates and service charges which are due to the City in respect of any rateable land remain unpaid, a caveat may be registered on the title for the land under the provisions of Section 6.64(3) of the Local Government Act 1995. The cost of lodging a caveat cannot be debited to the rate account. This option may be exercised where it is deemed necessary to protect the City's interests.
 - c) Sale of Land
If rates and service charges which are due to the City in respect of any rateable land remain unpaid for at least three (3) years, and reasonable attempts to commence legal action have been made, the City 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.

5.2 Discontinuance of further legal action

5.2.1 Notice of Discontinuance / Memorandum of Consent

- a) If it happens that a course of legal action that is lodged with the Magistrates Court was lodged in error by the City, a Notice of Discontinuance or Memorandum of Consent, whichever is appropriate, will be prepared and lodged at the Magistrates Court at the City's expense.
- b) If the debt has been settled with the City, a Notice of Discontinuance or Memorandum of Consent may be prepared on request. An administration fee as per the City's adopted Fees and Charges will be

charged and must be paid in full prior to the Notice of Discontinuance or Memorandum of Consent being released by the City.

5.2.2 The City will not proceed with further legal action if the debt has been settled in full or an approved arrangement to clear the debt is entered into and adhered to.

5.3 Special Payment Arrangement

Payment by arrangement (outside of the formal instalment options specified on the rates notice) to clear outstanding rates must be made in writing. An administration fee as per the City's adopted Fees and Charges plus penalty interest at a rate prescribed in Section 70 of the Local Government (Financial Management) Regulations 1996, calculated daily will be charged upon successful application. Acceptance of the special payment arrangement will be for regular instalments with all outstanding amounts to be finalised by 30 June of that financial year. Arrangements outside of these terms will be at the discretion of the Chief Executive Officer or the relevant Director.

6. Financial/Budget Implications

All costs incurred in relation to recovery action will be included in the current budget and where applicable will be 'on charged' to the debtor.

7. Asset Management Implications

There are no specific asset management implications associated with this Policy.

8. Environmental Implications

There are no specific financial or budget implications associated with this Policy.

9. Strategic/Social Implications

Plan	Objective	Strategy
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Corporate Business Plan into the future	6.1	6.1.2
	Ensure the financial sustainability of the City of Kwinana	Implement sound revenue and expenditure policies, seek additional revenue sources and optimise financial management system

10. Occupational Safety and Health Implications

There are no specific OSH implications associated with this Policy.