


Council Policy

Debt Recovery



COUNCIL POLICY

 <p>Adelaide Hills COUNCIL</p>	DEBT RECOVERY
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Policy Number:	FIN-04
Responsible Department(s):	Corporate Services
Relevant Delegations:	Nil
Other Relevant Policies:	Internal Review of Council Decisions
Relevant Procedure(s):	Nil
Relevant Legislation:	<i>Local Government Act 1999</i> <i>Water Industry Act 2012</i>
Policies and Procedures Superseded by this policy on its Adoption:	Debt Recover, 15 December 2015 Item 14.2, 209
Adoption Authority:	Council
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Next Review:	No later than November 2020 or as required by legislation or changed circumstances

DEBT RECOVERY POLICY

1. INTRODUCTION

- 1.1 The purpose of this policy is to set out Council's principles in regard to the management of debt and to ensure that money owed to Council is collected as soon as possible through efficient and effective debt recovery practices. This policy will assist to ensure a strategic, equitable, accountable, consistent and transparent approach to Council's debt management, collection decisions and practices.

2. OBJECTIVES

- 2.1 Council depends on incomes from rates and sundry debtors to fund services and facilities for the community. This policy provides the practice for Council to recover unpaid rates and sundry debtors.
- 2.2 Council undertakes recovery action for overdue rates and sundry debtors to ensure the fair, equitable and consistent collection of rates and sundry debtors in an effective and timely manner. Council will attempt to recover all costs, interest and expenses incurred by Council while recognising the need to identify and consider individual cases of genuine hardship.

3. DEFINITIONS

Council is the Adelaide Hills Council.

Debt is the amount (of money) owed to Council.

The Act is the *Local Government Act 1999*.

4. PRINCIPLES

- 4.1 Customers' Rights and Responsibilities

Rights:

- Be treated respectfully, sensitively and non-judgementally
- Have their cases individually considered and their circumstances kept confidential
- Receive prompt information on alternative payment arrangements
- Negotiate the amount they can afford and the frequency of instalments of their preferred payment plan
- Re-negotiate the amount of their instalment if there is change in their circumstances
- Receive information about free independent and accredited financial counselling services
- Receive a language interpreter service free
- Be shielded from legal action and additional debt recovery costs, whilst they continue to make payments according to an agreed schedule, or an agreed altered schedule of payments

- Where possible speak with a person at Council (or their agent) who is familiar with their situation in order to re-negotiate their payment arrangement if a payment has been missed or is likely to be missed.

Responsibilities:

- Advise Council (or their agent) of their financial difficulties as soon as practicable
- Be reasonable in their negotiations with Council staff (or their agent) in pursuit of a mutually acceptable outcome
- Be honest and realistic in their assessment of their capacity to pay
- Seek independent financial advice or representation where appropriate
- Maintain any arranged payment plan and advise Council (or their agent) if they are unable to meet a scheduled payment
- Advise Council (or their agent) if their circumstances change as soon as practicable.
- Maintain contact by phone, email or correspondence with Council (or their agent).

4.2 Debtor Types

Given the diversity of services provided by Council there are a number of circumstances that will result in money being owed to Council. The following sections provide an outline of each key area, the process by which a debt is raised and the recovery process that will be followed for Council to recover any debt owed.

4.2.1 Rates Debtors

Adelaide Hills Council operates a computerised rates billing system which records financial information on a transactional basis and maintains debtor information in accordance with established principles of rating in local government.

Annual rate notices are issued not less than one month prior to the due date of the first instalment. Subsequent instalment rate notices are issued not less than one month before the due date of payment.

All notices will be clear, concise and provide sufficient information to enable the debtor to be aware of their obligations.

Council rates become overdue when not paid in accordance with a Rate Notice that is issued pursuant to S180 of the Act and will be recovered in accordance with Section 5.3 of this Policy.

The Local Government Act provides for the raising of interest and penalties for overdue rates that are recognised as a charge against the property in accordance with Sections 177, 178 and 181.

Payment plans and flexible payment arrangements will be made available to ratepayers upon application for overdue amounts.

4.2.2 Other Debtors (including CWMS)

Council operates a computerised debtor accounts system which records financial information on a transactional basis and maintains debtor information in accordance with the established principles of a commercial business.

There are various debtor types that are recorded within the debtors system including the following:

- Additional Bins
- Age Units
- Burial Fees
- Fire Hazard Reduction
- Food Premises Inspection
- Grants Receivable
- Rents and Misc (includes Adelaide Hills Business and Tourism Centre)
- Private Works
- Road Rents

Council issues tax invoices for money owing at the end of each month or on a time basis applicable to each debtor class (eg. Aged Care invoices are issued on a 4 week cycle from the date of occupancy, seasonal users of Council facilities receive an invoice at the start of its season).

The tax invoice issued contains sufficient information so that the debtor can recognise the transactions included on the invoice and reconcile the debt if required.

The invoice issued is due and payable within 14 days of its date and invoices not paid by the due date are considered overdue and will be recovered in accordance with Section 5.3 of this Policy.

Council may apply an administration charge to sundry debtors that are overdue.

Whilst recovery of debt will proceed in accordance with this Policy, rights and responsibilities established under the Retail and Commercial Leases Act are not affected.

4.3 Recovery Process

Debtors considered overdue will be issued with a Reminder Notice which contains sufficient information regarding the original debt, any interest penalties imposed and proposed action to be taken by the Council should the account remain unpaid after a further 14 days.

The debtor will be given the opportunity to dispute the amount owing or make alternative arrangements for payments within that 14 day period. Payment plans and flexible payment arrangements will be made available to ratepayers and sundry debtors upon application for overdue amounts.

Those accounts still outstanding after the 14 day final notice period will be referred to a debt collection agency chosen by Council. The collection agency will issue a final demand that includes costs of recovery. All accounts outstanding after the expiry of the final demand letter, for which an arrangement has not been made, will be recovered through court proceedings.

Writing off paid debts will only be considered when all reasonable attempts have been made to recover the outstanding amount.

4.3.1 Sale Of Land To Recover Debt

Section 184 of the Local Government Act provides for the sale of land for non-payment of rates where the amount payable has been in arrears for three or more years.

Preparation for sale of properties will commence in accordance with the process prescribed within the Act as soon as practical after the three years rates have become due and no arrangements for payment have been agreed.

4.4 Financial Hardship

For the purposes of this policy “financial hardship” means a situation where a ratepayer is unable, reasonably, because of prolonged illness or unemployment, or other reasonable cause, to discharge their financial obligations to the Council and the ratepayer reasonably expects to be able to discharge those obligations if payment arrangements were changed.

Financial Hardship does not include circumstances where a person is simply unwilling to make payment.

Cases of financial hardship will be considered by application on an individual basis and always with a view to the ratepayer re-establishing financial capability and, wherever possible, meeting their financial obligations.

If an application for relief is refused, the applicant may seek a review of the decision by a more senior officer or the CEO.

An Internal review of a Council decision is also available under section 270 of the *Local Government Act 1999*. This is a process established by legislation that enables a Council to reconsider all the evidence relied on to make a decision, including new evidence if relevant. This process is generally a last resort in the complaint handling process, but may also be used in situations which are not able to be resolved by other means.

It should be noted that Council holds a licence for the provision of CWMS that is issued by the Essential Services Commission of South Australia under the *Water Industry Act 2012*. This licence requires specific provisions in relation to hardship that are specified in Appendix 1 to this Policy.

4.5 Postponement

In relation to property based debts such as rates and private works Council will consider an application for postponement of an outstanding amount. Council will not take any action against a debtor if postponement has been approved. All postponements will be subject to a timetable for periodic review.

Postponement will only be granted to individuals experiencing hardship with regard to amounts outstanding on their primary residence.

Ratepayers may apply to the Senior Rates Officer to have rates, interest and charges postponed, in whole or part, subject to the following conditions:

- a) the ratepayer must be able to demonstrate financial hardship. For example, a statutory declaration from a person familiar with the applicant's circumstances (family doctor, bank officer, financial counsellor);
- b) for a debt exceeding \$500 the ratepayer will be expected to provide a confidential statement from a recognised financial counsellor, or similarly qualified person, in support of the application for relief;
- c) the ratepayer must enter into an alternative arrangement with Council to pay the debt and meet the terms of such an arrangement; and
- d) if interest has been waived and the ratepayer defaults on the agreed terms for repayment, the interest waiver may be withdrawn and interest will then accrue under normal payment arrangements.

If postponement is approved the following will occur:

- a) the property will be flagged as a postponed property;
- b) rates and interest will still accrue (although interest may be waived); and
- c) no debt recovery action will be taken while the terms for payment are met.

Postponement will be withdrawn if:

- a) the ratepayer advises financial hardship no longer exists; or
- b) the ratepayer ceases to own or occupy the property; or
- c) the ratepayer has defaulted in meeting the agreed terms for payment of the debt;
or
- d) the ratepayer has provided false or misleading information in support of the application for relief.

It should be noted that there are special provisions included within Section 182A of the *Local Government Act 1999* relating to the postponement of rates for holders of a State Government Seniors Card. Ratepayers seeking postponement should contact the Senior Rates Officer for these provisions if they are eligible.

4.6 Reporting

The summary of all overdue debts will be prepared on a monthly basis for review by the Manager Financial Services.

A quarterly aged debtors report (including rates) will be prepared and reported to the Council Executive Leadership Team for subsequent presentation to the Audit Committee and Council.

5. DELEGATION

The Chief Executive Officer has the delegation to:

- Approve, amend and review any procedures that shall be consistent with this Policy; and
- Make any formatting, nomenclature or other minor changes to the Policy during the period of its currency.

6. AVAILABILITY OF THE POLICY

This Policy is available for inspection at the Council's Offices during ordinary business hours and via the Council's website www.ahc.sa.gov.au. Copies will be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

Appendix 1

*Community Wastewater Management Systems
Customer Hardship Policy*

COMMUNITY WASTEWATER MANAGEMENT SYSTEM CUSTOMER HARDSHIP POLICY

1. PURPOSE

Adelaide Hills Council is committed to assisting residential customers of recycled water and sewage (CWMS) services, who are experiencing financial hardship, to manage their payments in a manner that best suits the customer and ensuring they remain connected to a retail service.

The purpose of this policy is to identify residential customers who are experiencing payment difficulties due to hardship and assist those customers to better manage their bills on an ongoing basis.

This policy sets out:

- a. Processes to identify residential customers experiencing payment difficulties due to:
 - Hardship
 - Identification by Council
 - Self-identification by a residential customer
 - Identification by an accredited financial counsellor
 - Welfare agency
- b. An outline of a range of processes or programs that Council will use, or apply, to assist Council's customers who have been identified as experiencing payment difficulties.

2. LEGISLATIVE FRAMEWORK AND OTHER REFERENCES

The following legislation applies to this Policy:

South Australia Water Industry Act 2012

Under section 37(3) of this Act, a water industry entity must adopt a customer hardship policy published by the Minister under this section; or with the approval of the Commission, adopt such a policy with modifications.

Other references

Council's documents including:

- Fees and Charges Register
- Customer Service Charter for Recycled Water & Sewage (CWMS) Services
- Sale of Land for Non-payment of Council Rates as per Section 184 of the *Local Government Act 1999*
- Sec 182 of the *Local Government Act 1999* – Remission and postponement of payment
- Sec 182A of the *Local Government Act 1999* – Postponement of Rates - Seniors

- Complaints Policy
- Internal Review of Council Decisions Policy

External documents including:

- *South Australia Water Industry Regulations 2012*
- Water Retail Code – Minor and Intermediate Retailers
- *Essential Services Commission Act 2002*

This Policy is based on the Customer Hardship Policy, made by the Minister for Communities and Social Inclusion, pursuant to Section 37 of the *Water Industry Act 2012*, under a delegation by the Minister for Water and the River Murray.

3. DEFINITIONS

For the purposes of this Policy the following definitions apply:

Accredited Financial Counsellor - In South Australia, means a person who holds a Diploma of Community Services (Financial Counselling), and who has worked at least 12 months as a financial counsellor under the supervision of the South Australian Financial Counsellors Association.

Consumer - As defined in the *Water Industry Act 2012*, means a person supplied with retail services as a consumer or user of those services.

Customer - As defined in the *Water Industry Act 2012* means a person who owns land in relation to which a retail service is provided and includes:

- Where the context requires, a person seeking the provision of a retail service, and
- In prescribed circumstances, a person supplied with retail services as a consumer or user of those services (without limiting the application of this definition to owners of land) and
- A person of a class declared by the regulations to be customers.

CWMS - Community Wastewater Management System.

Financial Counsellor - Means accredited financial counsellor.

Financial Hardship - Means a circumstance of experiencing a lack of financial means, which may be either ongoing or temporary, but does not include circumstances where a person chooses not to meet a liability for an unpaid debt.

Hardship Customer - Means a residential customer who has been identified under, accepted into, or is eligible for assistance under Council's hardship program.

Payment Arrangement For Hardship - Means anyone who meets the definition of Hardship Customer and has entered into an arrangement to pay their rates beyond the due date.

Regulations - Means regulations under the *Water Industry Act 2012*.

Residential Customer - As defined in the *Water Industry Act 2012* means a customer or consumer who is supplied with retail services for use at residential premises.

Retail Service - As defined in the *Water Industry Act 2012* means a service constituted by:

- The sale and supply of recycled water to a person for use (and not for resale other than in prescribed circumstances (if any)) where the recycled water is to be conveyed by a reticulated system, or
- The sale and supply of sewage (CWMS) services for the removal of sewage.

(even if the service is not actually used) but does not include any service, or any service of a class, excluded from the ambit of this definition.

Sewage - As defined in the *Water Industry Act 2012* includes any form of waste that may be appropriately removed or dealt with through the use of a sewerage service.

Sewerage Service - As defined in the *Water Industry Act 2012* means:

- A service constituted by the collection, storage, treatment or conveyance of sewage through the use of a reticulated system, or
- Any other service, or any service of a class, brought within the ambit of this definition by the regulations.

Water - As defined in the *Water Industry Act 2012*, includes rainwater, stormwater, desalinated water, recycled water and water that may include any material or impurities, but does not include sewage.

Water Service - As defined in the *Water Industry Act 2012* means:

- A service constituted by the collection, storage, production, treatment, conveyance, reticulation or supply of water, or
- Any other service, or any service of a class, brought within the ambit of this definition by the regulations.

4. POLICY

4.1 Identifying residential customers experiencing financial hardship

A residential customer experiencing financial hardship is someone who is identified by themselves, by Council, by an accredited financial counsellor, or by a welfare agency as having the intention, but not the financial capacity, to make required payments in accordance with Council's payment terms.

There are two types of financial hardship: ongoing and temporary. Depending on the type of hardship being experienced, hardship customers will have different needs and will require different solutions.

Residential customers that are identified as experiencing ongoing hardship are generally those on low or fixed incomes. These customers may require ongoing assistance.

Residential customers that may be identified as experiencing temporary hardship are those that have experienced a short-term change in circumstances, such as:

- Serious illness

- Disability or death in the family
- Loss or change in income
- Separation
- Divorce or other family crisis
- A loss arising from an accident
- Or some other temporary financial difficulty
- These customers generally require flexibility and temporary assistance, such as an extension of time to pay or an alternative payment arrangement.

The extent of hardship will be determined by either Council's assessment process or by an external body, such as an accredited financial counsellor.

Where Council assesses a residential customer's eligibility for hardship assistance, Council will consider indicators including (but not limited to) whether:

- The customer is on a Centrelink income and holds a Pensioner Concession Card or holds a Centrelink Low Income Health Care Card
- The customer is eligible for a South Australian Government concession
- The customer has been referred by an Accredited Financial Counsellor or welfare agency
- The customer has previously applied for emergency relief (irrespective of whether or not their application was successful)
- The customer's payment history indicates that they have had difficulty meeting their retail services bills in the past
- The customer, through self-assessment, has identified their position regarding their ability to pay.

4.2 Assisting residential customers who are experiencing financial hardship

Council will inform a residential customer of this Policy where:

- It appears to Council that non-payment of a bill for retail services is due to the customer experiencing payment difficulties due to hardship, or
- Council is proposing to install a flow restriction device.

Where a residential customer has been identified as experiencing financial hardship, we will offer the customer, as soon as is reasonably practicable, flexible and frequent payment options that have regard to the hardship customer's usage, capacity to pay and current financial situation. This is to be considered as a Payment Plan for Hardship. These options will include:

- An interest and fee free payment plan
- Centrelink's Centrepay Service
- Other arrangement, under which the customer is given more time to pay a bill or to pay in arrears (including any disconnection or restriction of charges)

Where a residential customer has been identified as experiencing financial hardship, Council will offer the customer, as soon as is reasonably practicable, flexible and frequent payment options that have regard to the hardship customer's usage, capacity to pay and current financial situation. Options may include:

- BPAY
- Councils online service
- Centrelink's Centrepay service, or

- Other arrangement, under which the customer is given more time to pay a bill or to pay in arrears (including any disconnection or restriction charges).

Recognising that some residential customers have a short-term financial hardship issue which may be resolved in the near to medium-term, where others may require a different type of assistance for ongoing financial issues.

Council will not charge a residential customer a reconnection charge where that customer is experiencing financial hardship and should have been identified as eligible for this Policy, so long as the customer agrees to participate in Council's hardship program, upon reconnection.

Council will engage in discussion with the hardship customer to determine a realistic payment option in line with the customer's capacity to pay.

Council will work with a hardship customer's financial counsellor to determine the Payment Arrangement for Hardship and instalment amount that best suits the customer and their individual circumstances.

Where a hardship customer's circumstances change, Council will work with the customer, and their financial counsellor, to re-negotiate their payment arrangement.

Council will not require a hardship customer to provide a security deposit.

Council will not restrict a hardship customer's retail services if:

- The customer has agreed to a payment arrangement and continues to adhere to the terms of that arrangement, or
- Council has failed to comply with the requirements of this Policy.

Council will also offer the hardship customer:

- Where appropriate, information about the right to have a bill redirected to a third person, as long as that third person consents in writing to that redirection
- Information about, and referral to, Commonwealth and South Australian Government concessions, rebates, grants and assistance programs
- Information about, and referral to, accredited financial and other relevant counselling and support services, particularly where a customer that is identified as experiencing ongoing financial hardship.

Where hardship customer requests information or a redirection of their bills, Council will provide that information or redirection free of charge.

Council will provide information to the hardship customer on how to reduce usage and improve water efficiency, which may include referral to relevant government water efficiency programs. This will be provided at no charge to the customer.

Council will explain to the hardship customer how and when the customer will be returned to regular billing cycles (and collection), after they have successfully completed the hardship program.

Council will also explain to the hardship customer that they will be removed from Council's hardship program, and be returned to Council's standard collection cycles, including debt

recovery, should they cease to make payments according to the agreed payment arrangement or fail to contact Council for a period of greater than 90 days.

Council will not take any action to remove a customer from Council's hardship program until Council has sent the customer a written notice, allowing them 10 working days from the date of the notice to contact Council to re-negotiate their re-entry into the program.

4.3 Payment plans

Council's Payment Plan for Hardship customer will be established having regard to:

- The customer's capacity to pay and current financial situation
- Any arrears owing by the customer, and
- The customer's expected usage needs over the following 12 month period.
- Subject to a hardship customer meeting their obligations interest and fines will be waived when on a payment plan.

The payment plan will also include an offer for the hardship customer to pay for their retail services in advance or in arrears by instalment payments at a frequency agreed with the customer (e.g. weekly, fortnightly, monthly or as otherwise agreed with the customer).

Where a payment plan is offered to a hardship customer, Council will inform the customer within 10 business days of an agreement being reached, of:

- The duration of the plan
- The amount of each instalment payable under the plan, the frequency of instalments and the date by which each instalment must be paid
- If the customer is in arrears, the number of instalments to pay the arrears, and
- If the customer is to pay in advance, the basis on which instalments are calculated.

Where a hardship customer is seeking assistance in accordance with this Policy, but has failed to fulfil their obligations under an existing hardship arrangement, Council will require them to sign up for Centrepay or direct debit deductions.

4.4 Debt recovery

Council will suspend debt recovery processes while negotiating a suitable payment arrangement with a hardship customer.

Council will not engage in legal action or commence proceedings for the recovery of a debt relating to a retail service for a hardship customer if:

- The customer has agreed to a payment arrangement and continues to adhere to the terms of that arrangement, or
- Council has failed to comply with the requirements of this Policy.

4.5 Rights of residential customers experiencing financial hardship

Every residential customer experiencing financial hardship has the right to:

- Be treated respectfully on a case-by-case basis, and have their circumstances kept confidential

- Receive information about alternative payment arrangements, this Policy, and government concessions, rebates, grants and assistance programs
- Negotiate an amount they can afford to pay on a payment plan or other payment arrangement
- Consider various payment methods and receive written confirmation of the agreed payment arrangement within 10 business days
- Renegotiate their payment arrangement if there is a change in their circumstances
- Receive information about free and independent, accredited financial counselling services
- Receive a language interpreter service at no cost to the customer
- Be shielded from legal action and additional debt recovery costs, whilst they continue to make payments according to an agreed payment arrangement
- Not have retail services restricted or disconnected as long as they have agreed to a payment arrangement and continue to make payments according to an agreed plan.

4.6 General provisions

Council will ensure residential customers have equitable access to this Policy, and that this Policy is applied consistently. A copy of the documentation will be available at no charge to customers.

Council will ensure appropriate training of employees dealing with residential customers in hardship to enable them to treat customers with respect and without making value judgements. Training will also assist employees in the early identification of hardship customers, with establishing payment plans based on a hardship customer's capacity to pay, and include processes for referral to an Accredited Financial Counsellor or welfare agency for assistance.

Council will also make a copy of this policy available free of charge to a customer upon request as soon as practicable following a request to do so.

4.7 Confidentiality

Any information disclosed by a customer is confidential and will not be used for any purpose other than the assessment of an application for assistance.

4.8 Complaints handling

Council's General Complaints Policy detailing Council's customer complaints and dispute resolution process is available, upon request.

A residential customer experiencing hardship has a right to have any complaint heard and addressed by Council, and in the event that their complaint cannot be resolved, the right to escalate their complaint to the Ombudsman SA as outlined in Council's Internal Review of Council Decisions Policy.

5. DELEGATION

The Chief Executive Officer has the delegation to:

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