



Council Policy

Recovery of Rates and Service Charges Policy

Policy Objective

The Town of Bassendean aims to ensure that all payments due to the Town are received by the due date for payment and, through close monitoring of aged accounts, to reduce the likelihood of debts for outstanding rates and service charges becoming unrecoverable. Sometimes, however, rates and service charges due to the Town remain outstanding after the due date for payment.

The purpose of this policy is to provide a clear, accountable, and transparent process for the Town's rates and service charges debt management and collection practices and ensure consistency for all debt recovery.

Policy Scope

This policy applies to all debts due to the Town for outstanding rates and service charges.

Definitions

In this policy unless the contrary intention appears:

Financial Hardship – A person will be considered to be in financial hardship if paying their rates, service charges or sundry debts due to the Town will affect their ability to meet their basic living needs.

Firebreak Debtor – means an individual who has failed to construct a firebreak and the Town has on charged the costs incurred for construction of a firebreak on the ratepayer's property.

Payment Agreement – means an arrangement whereby the debtor pays amounts over a period, agreed to by the Town, to pay the total amount outstanding. A payment agreement would normally require payments to be made by direct debit and be structured to clear the debt due to the Town within a period of 12 months.

Rates Debt – means amounts due and payable to the Town for rates and service charges levied by the Town pursuant to the provisions of the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996*.

Rates Debtor – means an individual, organisation or other party that has outstanding monies owed to the Town for a rates debt.

Principles

The Town will exercise its debt recovery powers in Part 6 of the *Local Government Act 1995*, guided by the following principles:

- Equity – Implementing rate collection procedures fairly and equitably, ensuring similar treatment of ratepayers in similar circumstances;
- Simplicity – Making the processes used to recover outstanding rates clear, simple to administer and cost effective;
- Transparency – Making clear the processes used by the Town to ensure ratepayers meet their financial obligations;
- Flexibility – Responding where necessary to changes in the local economy and to meet local, State or National crises and other unforeseen events where they are applicable;
- Compliance – Ensuring the Town’s rate collection procedures are compliant with all regulatory obligations.

Policy Statement

1.1 Recovery of Rate Arrears

Rates are due for payment not less than 35 days from date of issue of the Rates Notice, in accordance with section 6.50(2) of the *Local Government Act 1995*. Rates debts not received by the due date shall be recovered in accordance with this Policy and any relevant legislation.

(a) Interest

The Town will charge interest against rates debts that remain outstanding more than thirty five (35) days from the date of the issue of the Rates Notice, as follows:

- where payment of rates is made by instalments pursuant to section 6.45(3) of the *Local Government Act 1995*, interest will be charged at the rate adopted by Council as part of the Annual Budget, up to the maximum prescribed by regulation 68 of the *Local Government (Financial Management) Regulations 1996*; and
- where rates remain unpaid after the due date for payment pursuant to section 6.51 of the *Local Government Act*, interest will be charged at the rate adopted by Council as part of the Annual Budget, up to the maximum prescribed by regulation 70 of the *Local Government (Financial Management) Regulations 1996*.

(b) Rates outstanding after the due date shown on the Rate Notice

Where the Town has not entered into a payment agreement with the rates debtor, the Town will adopt the following process to recover outstanding rates debts due to the Town:

- i. Issue a Final Notice to the rates debtor requiring payment within fourteen (14) days.
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 Deferrals) Act 1992*; as such persons have until 30 June of the current financial year to make payment, without incurring any penalty interest. The Town may, however issue a Final Notice to registered pensioners or seniors for any unpaid charges not subject to a rebate or deferment (for example, waste collection charges);
- ii. If payment has not been received by the due date shown on the Final Notice, attempt to contact the debtor by other means, including telephone and email, regarding payment of the debt;
- iii. Where contact was not possible or did not result in payment of the debt or the Town entering into a payment agreement with the debtor, issue a “Notice of Intention to Claim” demanding immediate payment; and
- iv. The Town may lodge a Minor Case Claim (where the debt is less than \$10,000) or a General Procedure Claim (where the debt is \$10,000 or more) with the Magistrates Court. Should the debtor not respond within the timeframes established by the Court, default judgment may be requested. Where a General Procedure Claim has been lodged and default judgement requested and granted, a Property Seizure and Sale Order (PSSO) may be lodged. The PSSO authorises the Bailiff to seize and sell as much of the debtor’s real or personal property as necessary to satisfy the debt wholly.

The Town may engage a debt collection agency and/or legal representative to act on its behalf in taking debt recovery action.

(c) Recovery of rates debt from lessee

The Town may seek to recover an outstanding rates debt from the lessee of a leased property, pursuant to section 6.60 of the *Local Government Act 1995*.

1.2 Options to recover rates debts outstanding for at least three (3) years.

The Town may seek to recover an outstanding rates debt that has remained unpaid for at least three (3) years by taking possession of the land in accordance with subdivision 6, Division 6, Part 6 of the *Local Government Act 1995*.

This may include:

- leasing the land;
- selling the land;
- causing the land to be transferred to the Crown; or
- causing the land to be transferred to the Town.

1.3 Legal costs and other expenses

Legal costs and expenses incurred by the Town in recovering rates debts will be charged against the land in accordance with the section 6.43 of the *Local Government Act 1995*.

1.4 Recovery of debts resulting from construction of fire clearances

Under the *Bushfires Act 1954*, the Town may charge property owners for the construction of a firebreak where the owner has failed to do so. The Town will issue an invoice to the property owner for payment of the cost incurred by the Town. Where that amount remains outstanding after the due date for payment, the property owner becomes a Firebreak Debtor and the debt may be recovered in accordance with this Policy.

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 may be transferred against the ratepayer's property and collected in accordance with Recovery of Rate Arrears in section 1.1 of this Policy.

2 Payment Agreement

Rates debtors who are unable to pay outstanding rates by the due date, may apply in writing to the Town to enter into a payment agreement to make periodical payments. The payment agreement will generally:

- be structured to clear the outstanding rates debt within twelve (12) months;
- require future rates and service charges to be paid on time; and
- require payments to be made by direct debit.

Where the rates debtor fails to adhere to a payment agreement and has not contacted the Town to discuss the payment agreement or negotiate an amended payment agreement, the Town may commence debt recovery in accordance with this Policy. Where legal action had commenced, but had been suspended due to the rates debtor entering into a payment agreement, the legal action may be reactivated.

The Town may decline to enter into a payment agreement with a rates debtor.

The Manager Finance may enter into payment agreements with rates debtors for the Town where the payment agreement will result in payment of the outstanding debt within twelve (12) months. Payment agreements outside of these terms will be at the discretion of the Director Corporate Services.

Interest will continue to be payable on outstanding rates debts that are subject to a payment agreement with the Town.

3 Financial Hardship

Where a rates debtor is experiencing financial hardship and is unable to enter into a payment agreement to pay outstanding rates within twelve (12) months, application can be made for financial hardship support under the Town's Financial Hardship 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

Town of Bassendean – Schedule of Fees & Charges

Town of Bassendean – Financial Hardship Policy.

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