

Policy

Debt management and financial hardship

Approved by Council: 17/08/2022

To establish a fair and equitable approach to the recovery of debt, the assessment of financial hardship and outline the circumstances when debt can be considered for write-off.

Safety

Teamwork

Accountability

Respect

Definitions

To assist in the interpretation, the following definitions apply:

Act	<i>Local Government Act 1993</i>
Council	Rous County Council
Customer	1. Property owner(s) with a direct retail water service connection with Council, or 2. An individual, business, company or government entity who have procured products or services from Council or RWL
Debt	Monies due and payable to Council or RWL
Default	Failure by a customer to abide by an agreed payment arrangement for the payment of a debt
Financial hardship	Where a customer wishes to pay monies due and payable to Council or RWL but does not have the financial capacity to do so
Payment arrangement	An agreement entered into by Council and a customer for the payment of a debt by instalment amounts paid over a defined period of time
Regulation	<i>Local Government (General) Regulation 2005</i>
RWL	Richmond Water Laboratories

Background

Council's main functions are providing bulk water supply, weed biosecurity and flood mitigation services to the community. Council also operates a commercial laboratory specialising in sampling and analysis of water quality, a network of retail water filling stations, direct retail water service connections and commercial properties.

Most customers pay monies owed when it falls due. Council acts to collect overdue monies to ensure good financial management and to be fair to the majority of customers who pay promptly within terms.

The Act requires Council to be diligent in the collection and management of public funds, while also making provision for financial assistance to customers experiencing genuine financial hardship.

Policy statement

Council is committed to the efficient and effective collection of overdue monies and the fair and equitable treatment of customers.

Council will achieve this by:

- acting in accordance with the Office of Local Government Debt Management and Hardship Guidelines
- providing a timely and cost-effective process for the collection of debt;
- ensuring Council staff are trained in appropriate debt recovery, hardship and write-off procedures;
- maintaining fair and respectful dealings with customers and applying the principles of integrity and confidentiality;
- establishing circumstances in which financial assistance will be provided to customers facing hardship pursuant to the provisions of the Act; and
- fulfilling the statutory requirements of the Act and other relevant legislation in relation to the recovery of debt.

Financial hardship

Council will consider customers experiencing financial hardship on an individual basis. Customers will need to confirm in writing the nature of the hardship and the estimated time the hardship will be experienced.

Customers will need to demonstrate a willingness to pay by maintaining contact with relevant Council staff regarding their circumstances and by agreeing to a payment arrangement which will be documented in writing and be issued to the customer.

Where a payment arrangement is requested that is considered unreasonable or uneconomic from Council's perspective to administer, staff may request the customer to:

- attend an interview with Council to assist in the understanding of the issues causing hardship and/or,
- provide supporting documentation from a recognised financial counsellor such as a member of the Financial Counsellors Association or from a recognised accountant such as a member of the Institute of Public Accountants.

In addition to a payment arrangement:

- Customers with a direct retail water service connection with Council should also refer to the Retail Water Customer Account Assistance Policy and Guidelines as they may also be eligible for:
 - Writing off or reducing interest (section 564 and 567 of the Act);
 - Extension of pensioner concession to avoid hardship (section 577 of the Act);
 - Granting of financial assistance due to a concealed or undetected water leak or for the use of water dependent medical equipment (section 356 of the Act); and
 - Abandonment of pensioner rates and charges due to a concealed or undetected water leak (section 582 of the Act)
- Customers who have procured products or services from Council or RWL and have been charged a fee may request for the fee to be reduced or waived in accordance with section 610E of the Act. The General Manager will have delegated authority to make such decisions in accordance with the Act and Regulations.

All customers who request assistance due to hardship will be assessed with the same eligibility criteria.

Recovery action

When a customer fails to pay monies owed in full or contact Council to enter into a payment arrangement by the due date of a water account or tax invoice, a reminder notice/letter will be issued. Interest will apply to water accounts in accordance with section 566(3) of the Act.

If by the due date specified on the reminder notice/letter the customer does not pay the monies owed in full or fails to contact Council to enter into an acceptable payment arrangement the matter will be referred to an external debt recovery agency. In addition, applicable credit accounts and access to products/services will be suspended.

It is the responsibility of the customer to communicate with Council and to ensure that Council's contact details including daytime telephone number and postal address are correct. Where a customer defaults on a payment arrangement for a second time, the matter will be referred to an external debt recover agency.

Recovery actions undertaken by the external debt recovery agency may include:

- Letter of Demand
- Statement of Liquidated Claim
- Default Judgement
- Examinations Summons
- Writ of Execution
- Service of a rent order where the property is tenanted
- Garnishee
- Charge against the land

All legal costs incurred in recovering debts will be charged against the account of which the debt is owed.

Recovery action will continue until such time as the outstanding debt including all legal costs incurred by Council are paid in full, or a mutually agreeable payment arrangement is made with Council to pay the outstanding amount, including legal costs, as per this policy. (Council does not report debts to credit reporting agencies and is under no obligation to assist customers to remove factually correct court judgement history.)

Note: Council reserves the right to:

- no longer extend credit and require payment in advance of any product/service supplied where a credit account has been suspended due to recovery action, including instances where the debt has been repaid in full including all legal costs.
- restrict water supply to customers with a direct retail water service connection in accordance with the Guidelines, to prevent misuse of water and the level of debt owed to Council increasing.

Write-offs

In accordance with clause 131 of the Regulation rates and charges can be written off under this clause only:

- if there is an error in the assessment, or
- if the amount is not lawfully recoverable, or
- as a result of a decision of a court, or
- if the council or the general manager believes on reasonable grounds that an attempt to recover the amount would not be cost effective.

In accordance with clause 213 of the Regulation a debt can be written off under this clause only:

- if the debt is not lawfully recoverable, or
- as a result of a decision of a court, or
- if the council or the general manager believes on reasonable grounds that an attempt to recover the debt would not be cost effective.

The fact that a charge or debt is written off under clause 131 or 213 of the Regulation does not prevent Council from taking legal proceedings to recover the amount.

A write-off register will be maintained, and an information summary report will be submitted to Council on a bi-annual basis.

Informal dispute resolution

Where a customer owes a debt to Council and disputes the amount charged or outstanding, the customer is required to put the dispute in writing, stating reasons they believe the account to be incorrect. Council will investigate the complaint to determine if the dispute can be resolved informally and shall respond to the dispute in writing in a timely manner.

Council's Feedback and Complaints Handling Policy or the office of the NSW Ombudsman should be referred to for guidance on complaints.

If a customer is actively participating in a dispute resolution process, has made a request for financial hardship that has not yet been determined, or is complying with a payment arrangement made with Council in good faith, debt recovery proceedings and interest charges will be suspended.

Customers are encouraged to access support services to help resolve legal or financial issues and/or negotiate arrangements to manage debt. Community legal centres and financial counsellors provide a mix of social, financial and paralegal advice and advocacy on debt issues.

Support services

Customers suffering financial hardship or require legal support, may find the following organisations of assistance:

- ASIC's Moneysmart
www.moneysmart.gov.au
- Legal Aid NSW
www.legalaid.nsw.gov.au
Telephone: (02) 6885 4233
- Community Legal Centres NSW
www.clcnsw.org.au
Telephone: 1300 888 529
- Centrelink
www.centrelink.gov.au
Telephone: 13 63 57
- National Debt Hotline operated by Financial Counsellors Association of NSW
www.fcan.com.au
Telephone: 1800 007 007

Appendices

Debt recovery flowchart

Contact officer

Finance Manager

Related documents

Policies

'Retail water customers account assistance' policy

'Privacy' policy

Legislation

Local Government Act 1993

Local Government (General) Regulation 2021

Privacy and Personal Information Protection Act 1998

Other

NSW Office of Local Government Debt Management and Hardship Guidelines

Retail Water Customer Account Assistance Guidelines

Office use only	File no.: D21/404	Next review date: 2 years	
Version		Date adopted by Council	Resolution no.
1.0		21/04/2020	16/20
2.0	FOR PUBLIC EXHIBIT – Revised to remove reference to value of debts that may only be approved by Council resolution. Power to write-off debts below this threshold captured in the delegation issued to the General Manager.	17/08/2022	50/22
2.1	Revised policy deemed adopted following period of 28 days public exhibit during which no submissions were received.	17/08/2022	50/22

Downloading and printing this document will produce an uncontrolled copy, which may not be current

Debt recovery flowchart



A customer is:

1. Property owner with a direct water service connection with Council, or
2. An individual, business, company or government entity who've procured products or services from Council or RWL.

* Where a customer defaults on a payment arrangement for a second time, matter to be referred to debt collection agent