

COBAR SHIRE COUNCIL



Rate Recovery and Financial Hardship Policy

FILE: P5-84

Responsible Officer: RATES OFFICER

Contents

1. PURPOSE	3
2. SCOPE	3
3. DEFINITIONS	3
4. OBJECTIVES	4
5. POLICY	4
5.1. RATE RECOVERY	4
5.1.1. <i>Payment of Rates and Charges</i>	4
5.1.2. <i>Interest Charges</i>	4
5.1.3. <i>Instalment Payments for Supplementary Rate Issues</i>	4
5.1.4. <i>Reminder Notices</i>	5
5.1.5. <i>Final Notices</i>	5
5.1.6. <i>Payment Options</i>	5
5.1.7. <i>Flexible Payment Arrangements</i>	5
5.1.8. <i>Legal Recovery</i>	6
5.1.9. <i>Sale of Land for Unpaid Rates and Charges</i>	6
5.2. HARDSHIP	7
5.2.1. <i>Identifying and Assessing Hardship</i>	7
5.2.2. <i>Continuing Hardship</i>	8
5.2.3. <i>Hardship Assistance by Flexible Payment Arrangements</i>	8
5.2.4. <i>Hardship Assistance by Writing off or Reducing Accrued Interest and Costs</i>	8
5.2.5. <i>Hardship Assistance due to Certain Valuation Changes</i>	8
5.2.6. <i>Hardship Assistance for Eligible Pensioners</i>	8
5.2.7. <i>Cancelling Hardship Arrangements</i>	9
5.3. CONTACTING RATEPAYERS	9
5.4. COUNSELLING AND INFORMAL DISPUTE RESOLUTION	9
5.4.1. <i>Financial Support Services</i>	9
6. ACCOUNTABILITIES	10
7. REFERENCES, ASSOCIATED DOCUMENTS AND ANNEXURES	10

1. PURPOSE

Council must ensure that rates and charges are collected promptly, fairly and efficiently, while minimising the risk of debt from overdue payments. This policy provides a framework for actively managing the level of outstanding rates and charges owed to Council and provides guidelines for aiding ratepayers experiencing genuine financial hardship.

2. SCOPE

This policy extends to all rates and charges owed to Council.

3. DEFINITIONS

Term	Definition
Act	Local Government Act 1993 (NSW)
Centrepay	Centrepay is a voluntary bill-paying service which is free for Centrelink customers. Use Centrepay to arrange regular deductions from your Centrelink payment. You can start or change a deduction at any time. The quickest way to do it is through your Centrelink account online.
Council	Cobar Shire Council
Default Judgement	A default judgment is when the court makes a judgment against the defendant without having a hearing in court because the defendant did not respond to the statement of claim.
Examination Notice	An examination notice is a form that is posted to the defendant telling them to give information and documents about their income, assets and other debts to the mercantile recovery agent. The information will help to decide the best way to enforce the judgement.
Examination Order	If the defendant does not comply with the examination notice within the period specified, the mercantile recovery agent can ask the court to issue an examination order which is an order that the defendant must come to court to answer questions and show documents about their financial position.
Garnishee Order	A garnishee order is a court order that allows for the recovery of the judgement debt from the defendant's bank account or from someone else who owes the other party money.
Hardship	Hardship is any situation where an individual is having difficulty paying their legally owed debt.
Letter of Demand	A letter of demand is a letter to the other party asking for money to be paid. It warns the other party that if this is not done you may start a court case to recover the money they owe you.
Mercantile Recovery Agency	An organisation engaged by Council to recover a debt owed to Council.
Pensioner	An eligible pensioner as defined in Clause 134 of the Local Government (General) Regulations 2005.
Ratepayer	The person liable for payment of Rates and Charges for the property in accordance with section 560 of the Act.
Rates and Charges	Ordinary Rates and Annual Charges levied in accordance with the Act.
Rent for Rates	Under section 569 of the Act, the Council is permitted to order tenants of properties with overdue rates to pay rent to a Council in lieu of unpaid rates under specific circumstances.

Statement of Claim	A statement of claim is a court document that sets out how much or what is claimed that you owe the Council and why they are making the claim. The statement of claim starts a court case.
Warrant of Apprehension	A warrant of apprehension is an authorisation issued by the Court for police to apprehend, detain or extradite a person.
Writ of Execution (Levy of Property)	A writ for the levy of property is an order to a sheriff to seize and sell, at auction, personal property belonging to the defendant. The money from the sale of the goods is used to pay the judgement debt owed to the plaintiff.

4. OBJECTIVES

- Efficient and effective collection of rates and charges
- Engaging with ratepayers to minimise the risk of debt from overdue payments
- Ensuring compliance with the *Local Government Act 1993* (NSW) “the Act” and any other legislative requirements
- Ensure fair and equitable treatment of ratepayers, including those facing financial hardship

5. POLICY

5.1. RATE RECOVERY

5.1.1. Payment of Rates and Charges

Rates notices are issued by 1 August each year in accordance with section 562 of the Act. Rates and charges may be paid by a single instalment, payable by 31 August, or by quarterly instalments which are payable as follows:

Instalment One	Due 31 August
Instalment Two	Due 30 November
Instalment Three	Due 28 February
Instalment Four	Due 31 May

Council will issue an instalment notice at least 30 days prior to each due date. Rates and charges not paid by the due date will be considered outstanding and will be subject to interest charges.

5.1.2. Interest Charges

Under section 566 of the Act, Council will charge interest on rates and charges that remain unpaid after they become due and payable. Interest accrues on a daily basis. The rate of interest is determined by Council annually and will not exceed the rate specified by the Minister for Local Government. Accrued interest is, for the purpose of its recovery, taken to be a rate or charge which is due and payable. Interest charges which have been incorrectly raised by Council will be written off.

5.1.3. Instalment Payments for Supplementary Rate Issues

On occasions, Council must levy a rate notice after the main issue date, in which case a ratepayer is entitled to alternative arrangements for payment of the rate account.

If the supplementary issue is for the **current year’s rate levy only**, then Council will ask for quarterly payments based on the remaining due dates provided for under the Act. For example, if the rate issue was made during October, the next instalment date is 30 November and Council would ask for the

first two quarters to be paid by the date, with the remaining two quarters payable by 28th February and 31 May respectively.

If the supplementary rate issue involves **more than the current year's levy**, the ratepayer is asked to make payments, on a quarterly basis as per above, or on a monthly basis. Providing all payments of amounts due are made by 30 June of that financial year, no interest is payable.

5.1.4. Reminder Notices

Reminder notices will be issued between two and three weeks after the instalment is due, unless notice in writing requesting an extension is received from the rate payer.

The notice will call for the full amount outstanding, or for the making of a satisfactory arrangement to pay the outstanding amount if the ratepayer is unable to pay in full.

5.1.5. Final Notices

Final notices will be issued between four and five weeks after the instalment is due, unless notice in writing requesting an extension is received from the rate payer.

If full payment or a satisfactory arrangement is not made within fourteen (14) days of the final notice, then legal proceedings may be commenced which may result in legal and/or professional costs being added to the amounts due.

5.1.6. Payment Options

Council provides several payment options for ratepayers:

- BPAY
- Direct debit arrangements
- Credit card payments over the phone
- Payment in person by cash, cheque, EFTPOS or Cobar Quids
- Payment by mail with cheque
- Centrepay.

5.1.7. Flexible Payment Arrangements

Council recognises that from time to time, ratepayers are not able to meet mandatory instalment amounts by the due dates prescribed in section 562 of the Act. If a ratepayer is unable to pay an amount owed by the due date, they are encouraged to contact Council as soon as practicable to make alternative payment arrangements.

Council may offer:

- Extension of time to pay
- Alternative payment arrangements involving regular manageable payments.

Council endeavours to recover overdue amounts within three, six or twelve months at first instance. The terms of the arrangement will be considered and decided by the Rates Officer. In special circumstances and where payments are insufficient to recover the debt owed, arrangements may be subject to conditions, determined by the Rates Officer.

The payment arrangement will take into account the ratepayer's capacity to pay and will reflect a ratepayer's personal circumstances.

Council can reject arrangements due to insufficient payment amount offered, incomplete application forms, unreasonable time requested, or where a payment option is selected in which the customer's history shows dishonoured payments.

If the arrangement does not recover all overdue amounts, a new arrangement will need to be made at the end of the current arrangement.

It is Council's practice to obtain all arrangements in writing, preferably on the Council's standard form (Annexure 1).

In accordance with section 568 of the Act, payments will be applied towards the payment of rates and charges in the order in which they became due.

Normal interest charges will apply during the period of the arrangement where rates and charges are overdue.

If the ratepayer fails to make the periodical payments in accordance with the agreement or contact the Council about failing to pay, Council will send a reminder to make a payment or contact the Council. If the ratepayer does not respond within ten business days, the agreement may be cancelled with the decision communicated to the ratepayer in writing. Recovery action may then commence or continue. Full payment of the amount outstanding will be due immediately.

5.1.8. Legal Recovery

Legal proceedings for recovery of overdue amounts will only be used as a last resort and are subject to the following criteria;

- Rates and charges must have at least two full instalments outstanding; and
- The amount of the debt must be more than double the legal costs that would be incurred.

Prior to legal proceedings commencing, Council's mercantile recovery agency will issue a Letter of Demand and will attempt to contact the ratepayer via SMS and/or email. The ratepayer will be charged a \$15.00 Overdue Account Contact Fee for this process.

If full payment or a satisfactory arrangement is not made within fourteen days, the mercantile recovery agency will commence legal action after receiving approval from the Council. Legal action will commence with Council's mercantile recovery agency issuing a Statement of Claim. Legal costs associated with the Statement of Claim will be raised as a charge against the property.

If a Statement of Claim is served and the ratepayer either fails to pay the amount claimed including legal costs, does not contact Council or Council's mercantile recovery agency to establish a satisfactory arrangement, does not apply for a Court Instalment Order to repay the amount claimed including legal costs or does not lodge a defence with the court disputing the claim, within 28 days of serving the Statement of Claim, Default Judgement may be obtained.

Once Default Judgement has been entered against a ratepayer, various post judgement actions are enforceable, including, but not limited to, a Writ of Execution, Garnishee Order, Examination Notice, Examination Order, Rent for Rates and Warrant of Apprehension.

5.1.9. Sale of Land for Unpaid Rates and Charges

In accordance with Division 5 of Part 2 Chapter 17 of the Act, Council may sell any land where rates and charges have remained outstanding for more than one year for vacant land or more than five years for any other land.

Sale of land will only be initiated as a last resort where;

- The current address of the owner of the land is unknown and reasonable attempts have been made to locate them; and
- Rates and charges remain outstanding after debt recovery actions have been undertaken by Council.

Purchase money received by Council for the sale of land for unpaid rates and charges will be applied in the following order;

- The expenses incurred by the Council in connection with the sale
- Any rates and charges owing in respect of the land and any debt owing in respect of the land to the Crown as a consequence of the sale.

If the purchase money is insufficient to cover all amounts owing, the amount available will be divided between the rates, charges and debts in proportion to amounts owing on each. The rates, charges and debts will be considered fully satisfied.

If the purchase money exceeds the amount owing, the balance must be paid into the Council's trust fund and held by the Council in trust for the persons having estates or interests in the land immediately before the sale according to their respective estates and interests. Council may pay the balance of the purchase money or any part of the balance to or among the persons who are, in its opinion, clearly entitled to it, and the receipt of the person to whom any payment is so made, is an effectual discharge to the Council for it.

5.2. HARDSHIP

Council recognises that there may be times where a ratepayer experiences difficulty paying rates and charges due to exceptional circumstances. The Council provides the following assistance to ratepayers as stipulated by the Act:

- Flexible payment arrangements
- Writing off or reducing interest accrued on rates and charges
- Offering alternative payment arrangements and reasonable extensions to payment timetables due to increases in the value of rates payable resulting from a general revaluation, because of hardship
- Reducing rates and charges of eligible pensioners.

5.2.1. Identifying and Assessing Hardship

A ratepayer seeking consideration of financial hardship must make written application to the General Manager, providing reasonable proof of financial hardship. The application should contain but is not limited to the following information:

- The reason for the financial hardship
- The address and contact details of the ratepayer.

Council may also request:

- Details of assets, income and living expenses and such other information required to make a valid assessment (Annexure 2)
- That the ratepayer attends an interview to assist Council in understanding the issues causing hardship
- A statement from a financial advisor, financial counsellor or accountant.

A determination under this policy will be assessed against the information provided by the applicant. Each application will be considered on a case by case basis on its merits. The criteria for assessment will be, but is not limited to, the following:

- The financial status of the ratepayer
- The amount of any rate increase when compared to the average rate increase for the rate category
- Income from all sources
- Living expenses
- Reason for financial hardship
- Prior history with Council in respect to the payment of Rates and Charges
- Compliance with any previous periodic payment arrangements
- Length of ownership of the property.

The ratepayer will be informed of the Council's decision in writing.

5.2.2. Continuing Hardship

If the ratepayer continues to experience hardship after the concession period approved by Council, they will need to reapply in writing to the General Manager. The Council may require updated personal and financial information to confirm the ratepayer's continued financial hardship.

5.2.3. Hardship Assistance by Flexible Payment Arrangements

Section 564 of the Act provides that Council may enter into a formal agreement with a ratepayer for alternative payment arrangements. Details of payment arrangements are outlined in section 5.1.7 of this policy.

5.2.4. Hardship Assistance by Writing off or Reducing Accrued Interest and Costs

In accordance with section 567 of the Act, Council may write off accrued interest on rates and charges if the ratepayer is unable to pay the rates and charges or accrued interest for reasons beyond their control, or if payment of the accrued interest would cause the ratepayer hardship. Write offs are subject to the approval by the General Manager to the maximum amount allowable under Council's delegation register. Any amount above that may only be approved by Council resolution.

5.2.5. Hardship Assistance due to Certain Valuation Changes

Under section 601 of the Act, any ratepayer who incurs a rate increase following a new valuation of land values, may apply to Council for rate relief if the new rate payable causes the ratepayer to suffer substantial hardship.

Council may provide assistance by offering alternative payment arrangements and reasonable extensions to payment timetables. All payment arrangements must clear the balance owing within a reasonable time frame, not exceeding two years from the date of the arrangement being made and should include future rates and charges which will be levied during the arrangement period.

Council will encourage aggrieved ratepayers to make an appropriate application under the appeal provisions of the NSW Valuations of Land Act 1916.

5.2.6. Hardship Assistance for Eligible Pensioners

Please see the Pensioner Rebate Policy.

5.2.7. Cancelling Hardship Arrangements

A hardship arrangement may be cancelled if the ratepayer:

- Fails to comply with their payment plan
- No longer owns the land
- Advises the Council that financial hardship no longer applies
- Provides false or misleading evidence of financial hardship to Council.

5.3. CONTACTING RATEPAYERS

Council will endeavour to proactively contact ratepayers regarding outstanding rates and charges prior to escalating recovery action. Customer contact will be guided by the Office of Local Government Debt Management and Hardship Guidelines – Best practice procedures for contacting ratepayers (Annexure 3).

Council will contact ratepayers for a reasonable purpose and only to the extent necessary. It may be necessary and reasonable if the purpose is to:

- Notify them of outstanding rates and charges
- Offer a flexible payment arrangement
- Explain the consequences of non-payment
- Review existing arrangements after an agreed period
- Ascertain why earlier attempts to contact the ratepayer have not been responded to within a reasonable period
- Ascertain why an agreed payment arrangement has not been complied with
- Investigate whether a ratepayer has changed their postal address
- Other similar purposes.

It is the responsibility of ratepayers to ensure Council's contact details including the postal address for service of notices are correct.

Council Officers will conduct themselves with courtesy and respect when dealing with ratepayers and shall always maintain the privacy and confidentiality of ratepayer's personal circumstances.

5.4. COUNSELLING AND INFORMAL DISPUTE RESOLUTION

Where a ratepayer disputes the amount levied or outstanding, they are required to put the dispute in writing, stating why they believe the amount to be incorrect. The complaint will be investigated by Council to determine whether it can be resolved informally. Council will respond to the dispute in writing in a timely manner.

Council's Complaints Management Policy should be referred to for guidance on complaints.

Where a ratepayer is actively participating in a dispute resolution process, has made an application for financial hardship that has not yet been determined, or is complying with a payment arrangement made with the Council in good faith, any debt recovery action will be suspended.

5.4.1. Financial Support Services

The Council encourages ratepayers to access support services to help resolve legal or financial issues and/or negotiate arrangements to manage debt. Community legal centres and financial counsellors assist people to resolve debt issues by providing free, tailored expert advice. Solicitors from these centres or Legal Aid can provide legal assistance to ratepayers. Financial counsellors provide a mix of social, financial and paralegal advice and advocacy on debt issues.

Support services include:

- National Debt Help Line
 - 1800 007 007
 - ndh.org.au
- CatholicCare Wilcannia-Forbes
 - 02 6850 1777
 - ccwf.org.au
- Lifeline Central West Inc
 - 1300 798 258
 - www.lifelinecentralwest.org.au
- Money Smart
 - www.moneysmart.gov.au/managing-your-money/managing-debts
- Legal Aid Service
 - www.legalaid.nsw.gov.au/get-legal-help/find-a-service
- Community Legal Centres NSW
 - www.clcsw.org.au/find_legal_help

6. ACCOUNTABILITIES

The Rates Officer is responsible for debt recovery matters relating to the recovery of outstanding Rates and Charges in consultation with Council's Customer Service Manager, Director of Finance and Community Services and General Manager.

7. REFERENCES, ASSOCIATED DOCUMENTS AND ANNEXURES

- Local Government Act (NSW) 1993
- Local Government General Regulations (NSW) 2005
- Office of Local Government, Debt Management and Hardship Guidelines (November 2018)
- NSW Valuations of Land Act 1916
- NSW Government Revenue Raising Manual (2007)
- ACCC Debt Collection Guidelines 2016
- CSC Pensioner Rebate Policy (P5-75)
- CSC Complaints Management Policy (P5-34)
- Annexure 1: Application for Arrangement to Pay Rates and Charges
- Annexure 2: Hardship Rate Relief Application Form
- Annexure 3: Office of Local Government Debt Management and Hardship Guidelines – Best practice procedures for contacting ratepayers

ARRANGEMENT DETAILSCommencement Date: _____ Conditional Arrangement: Yes No

Financial Year(s) to which this Arrangement relates to: _____

Term of Arrangement: 3 Months 6 Months 12 Months Other

Rates and Charges: \$ _____

Frequency: Weekly Fortnightly Monthly

Water Usage: \$ _____

Frequency: Weekly Fortnightly Monthly

If Arrangement is Conditional, or Term of Arrangement is longer than 12 months, please specify conditions or reason:

PAYMENT OPTIONS

Please indicate which payment option you intend to use:

 BPAYBiller Code: Rates and Charges **807115**Water Usage **807180**

Reference Number: Your 11 digit Assessment Number (no dashes).

 Telephone - This method of payment must be made with a credit/debit card, please note American Express cards are not accepted. In person at Council's Administration Office - Payment can be made either by Cash, Cheque* or EFTPOS (please note American Express cards are not accepted). Direct Debit* - Council's direct debit request form will need to be completed and attached to this application. Centrepay Deduction (**Eligible Pensioners ONLY**) - Centrelink's deduction request form will need to be completed and attached to this application. Council will lodge this form on your behalf.

* Council may not accept this payment option if history indicates a record of dishonored or rejected payments.

DECLARATION

By signing this agreement I fully understand it, in its entirety; I understand my obligations and responsibilities under this agreement.

I have completed this application and attached documents (if any) to which I would like to submit with my application.

Applicants Signature_____
Date

Hardship Rate Relief Application Form

Application for hardship rate relief for the whole or part of the year commencing 1 July			
Assessment Number			
I, <i>(full name in block letters)</i>			
Of <i>(address)</i>			
Suburb		Postcode	
Date of birth		Phone	
Apply for hardship relief due to financial hardship			
I am the sole owner or part owner of the property		Yes / No	
I am liable for the payment of rates and charges on this property, together with others as listed below		Yes / No	
All other owners including your spouse or de facto partner should be listed			
Name		Relationship to Me	
Evidence of joint ownership is attached		Yes / No	
Note: if the rateable property is jointly owned, each owner who is seeking hardship relief must complete a Hardship Rate Relief Application Form.			
The property to which this hardship application applies is my sole/principal place of residence		Yes / No	
Is the property owned as shares in a company title?		Yes / No	
If yes to the above, please provide details and evidence			
Are there people living at the property other than those listed as owners?		Yes / No	
How many people live at the property?			
Please indicate who these people are			
Self	Spouse	Children <i>(state ages)</i>	
Boarders	Relatives	Other <i>(please specify)</i>	
What is the cause of financial hardship? <i>(Please attach extra page if necessary)</i>			
How long have you been experiencing the hardship?			

INCOME (weekly unless otherwise stated)	
Your average weekly income after tax from salary or wages	\$
Social security benefits/pensions (include family payments etc.)	\$
Compensation, superannuation insurance or retirement benefits	\$
All other income (e.g. self-employed income, interest, dividends, rent or trust distributions)	\$
TOTAL	\$

EMPLOYMENT DETAILS			
Employer Name			
Street Address			
Suburb		Post Code	
Is your salary or wage paid by your employer into an account in a bank or financial institution?			Yes / No
If yes, please provide the following;			
Institution		Branch	
BSB		Account Number	

PROPERTY OWNED BY YOU			
<i>Add extra lines if necessary, to ensure that all details of income and assets are disclosed</i>		CURRENT VALUE	
Home	PROPERTY ADDRESS	\$	
	VALUE OF EQUITY, IF ANY \$		
Other Property	PROPERTY ADDRESS	\$	
	VALUE OF EQUITY, IF ANY \$		
Funds in Banks & Financial Institutions, including funds held in off-set accounts	INSTITUTION	BRANCH	\$
	BSB	ACCOUNT NUMBER	
	INSTITUTION	BRANCH	\$
	BSB	ACCOUNT NUMBER	
Investments	NAME AND TYPE OF INVESTMENT		\$
Motor Vehicle	YEAR	MAKE	\$
	MODEL	REGISTRATION NUMBER	
Household Contents			\$
Other Personal Property	DESCRIPTION AND LOCATION		\$
TOTAL VALUE OF PROPERTY OWNED BY YOU			\$

LIABILITIES <i>Add extra lines if necessary, to ensure that all details of income and assets are disclosed</i>				
Average Weekly Expenses		Other Liabilities		
ITEM	WEEKLY AMOUNT	LIABILITIES	NAME OF BANK/INSTITUTION	TOTAL AMOUNT OWED
Food	\$	Home Mortgage		\$
Household Supplies	\$	Other Loans		\$
Mortgage/Rent	\$	Credit Cards		\$
Gas	\$	Credit Cards		\$
Electricity	\$	Other (specify)		\$
Heating Fuel	\$	TOTAL		\$
Rates/Levies	\$			
Telephone	\$			
Motor Vehicle				
- Petrol	\$			
- Maintenance	\$			
- Registration/Insurance	\$			
Medical/Hospital Funds	\$			
Other Insurance (specify)	\$			
Fares	\$			
Clothing and Shoes	\$			
Entertainment/Hobbies	\$			
Education/Childcare expenses, including fees and levies	\$			
Medical/Chemist/Pharmaceutical	\$			
Hire Purchase Payments	\$			
Credit Cards	\$			
Other necessary commitments, including weekly payments on other liabilities, listed above (specify)	\$			
TOTAL WEEKLY EXPENSES	\$			

Does anyone else contribute to paying these liabilities e.g. your spouse/partner?	Yes / No
If yes, please provide the following;	
Name of person	
Amount of contribution per week	
Do you have any dependants?	Yes / No
If yes, please provide details;	

ADDITIONAL QUESTIONS REGARDING FINANCIAL CIRCUMSTANCES	
Do you have any income, assets or liabilities not disclosed in this document?	Yes / No
If you answered yes to the previous question, please provide details of the other income, assets (including their location) or liabilities.	
What arrangements are you prepared to make to pay this debt?	

DOCUMENTS TO BE PRODUCED	
Copies of the following documents must be attached and returned with this notice to the Council.	
1. Copy of bank statement	
2. Any other evidence you have to explain your circumstances	

SIGNATURE OF RATEPAYER			
The information contained in this application form and any information requested for the purpose of assessing eligibility for hardship relief, is required under the Local Government Act 1993 and the Local Government (General) Regulation 2005.			
You have the right to withdraw your consent by contacting Council. The information is private and confidential and Council must not disclose the information to any person or body if it is not directly related to the purpose for which the information was collected. If you have a complaint about the use of your personal information, please contact Council's Public Officer. The information contained or referred to in this application form may be corrected and updated by you, by contacting Council.			
The information contained in the financial statement in this notice is true. I have attached copies of the documents that I have been asked to produce.			
Name		Telephone	
Signature		Date of Signature	

Cobar Shire Council is required under the Privacy and Personal Information Protection Act 1998 (PPIPA) to collect, maintain and use your personal information in accordance with the Privacy Principles and other relevant requirements of the PPI. You have the right to withdraw your consent by contacting Council. The information is private and confidential and Council must not disclose the information to any person or body if it is not directly related to the purpose for which the information was collected. If you have a complaint about the use of your personal information, please contact Council's Public Officer. The information contained or referred to in this application form may be corrected and updated by you, by contacting Council.

Appendix D

Best practice procedures for contacting ratepayers

Councils should contact ratepayers if they have not paid their rates after a reminder notice is issued, and potentially in other circumstances in which rates and charges are owed.

Council officers can contact local residents and ratepayers without breaching their obligation to protect their privacy.

The following is an overview of some issues and practical considerations when contacting ratepayers about outstanding debt. If there is any doubt, councils should seek and be guided by their own legal advice.

When can a ratepayer be contacted?

1. When you have a reasonable purpose for contacting a ratepayer

You must only contact a ratepayer for a *reasonable purpose* and only to the extent necessary. It may be necessary and reasonable if your purpose is to:

- make a demand for payment
- offer to work with the ratepayer to reach a flexible repayment arrangement
- accurately explain the consequences of non-payment, including any legal remedies available to the collector/creditor, and any service restrictions that may apply in the case of utilities
- make arrangements for repayment of a debt
- put a settlement proposal or alternative payment arrangement to the ratepayer
- review existing arrangements after an agreed period
- ascertain why earlier attempts to contact the ratepayer have not been responded to within a reasonable period, if this is the case
- ascertain why an agreed repayment arrangement has not been complied with, if this is the case

- investigate whether the ratepayer has changed their residential location without informing you, when there are grounds for believing this has occurred, or
- other similar purposes.

You may also contact a person at their request.

Whether or not a purpose is reasonable may depend on the personal circumstances of each ratepayer – e.g., if you know a person cannot make repayments (for example, because they are in jail) then continuing to contact them to demand payment is not reasonable or appropriate unless you know, or have good reason to think it is likely, that the ratepayer's financial situation has improved.

There may be circumstances where contact is made for a reasonable purpose, or contact is made initially for a reasonable purpose, and yet other relevant considerations mean the contact becomes unreasonable or unacceptable. Relevant considerations may include the ratepayer's mental illness or intellectual disability, or the ratepayer's incarceration.

If you make contact with a ratepayer in order to convey a demand for payment it may be contact for a reasonable purpose. However, if the ratepayer disputes liability and requests proof of a debt, and you continue to pursue that person without properly investigating the claims, then this will not be contact for a reasonable purpose.

2. It is necessary and reasonable to contact the ratepayer (again)

It is not acceptable to harass a ratepayer. Make a written record of all contact with ratepayers and check these records before contacting a ratepayer. For this purpose *contact* is interpreted widely and includes:

- telephone calls and text messages – whether or not the person receives the call if you leave a message;
- all written correspondence – for example, this includes letters, emails, text messages, faxes, social media, instant chats and other private messages; and
- face to face contact – including contact at their work, home or elsewhere.

Importantly, if you phone a ratepayer and leave a message on their voice mail, and you also send the ratepayer an email, and a text message, then you will have made three separate contacts with that person.

Once you have made contact, leave a reasonable interval before next contacting the ratepayer. Give the ratepayer time to respond to your previous communications, and/or to organise payments if this has been agreed.

If you have spoken to the ratepayer and it is understood that the ratepayer requires a few days to speak to third parties or consider options, then contacting the ratepayer on the following day may be considered unreasonable, even though it is within the recommended limits.

3. It is a reasonable time to contact the ratepayer, given their circumstances and reasonable wishes

The following table sets out general guidance on what may be a reasonable time to contact a ratepayer.

Type of contact	Day	Reasonable contact times
Contact by telephone	Monday to Friday	7:30am – 9pm
	Weekends	9am – 9pm
	National public holidays	No contact recommended
Face to face contact	Monday to Friday	9am – 9pm
	Weekends	9am – 9pm
	National public holidays	No contact recommended
All contact at the ratepayer's workplace	Ratepayer's normal working hours if known, or 9 am to 5 pm on weekdays	

There may be reasons why contact during the above times is unreasonable, or contact outside these times is reasonable. For example, a ratepayer may ask that contact be made at other or more restricted times for various reasons, such as, because he or she is a shift worker, is responsible for children, or caring for a family member. He or she may also not wish to be contacted when other family members are present. In these and other such cases, the reasonable wishes of the ratepayers should be respected, and contact limited to the times requested.

However, you may alter the time of contact if, after reasonable efforts over a reasonable period of time to contact the ratepayer during normal hours or at the times requested, you have not been able to do so.

Generally, you should not contact a ratepayer more than three times per week, or 10 times per month at most (when contact is actually made, as distinct from attempted contact) and only when it is necessary to do so. This does not apply to face-to-face contact – you should not make more than one face-to-face contact with a ratepayer per month.

Think carefully about where to contact a ratepayer. In general, face to face visits should be an option of last resort after less intrusive means have failed. Particular care should be taken in visiting a person's home or workplace.

Ensure the person is the correct ratepayer before discussing their debt

Before discussing the reason for making contact or any other confidential information, make sure you are speaking to the correct ratepayer. It is important that you do not reveal directly or indirectly that the ratepayer has a debt to another person. Particular care should be taken when calling a ratepayer's workplace.

If the ratepayer has requested contact by a particular means (such as email) or specifically asked not to be contacted a certain way, adopt that preference and avoid contacting them by other channels as far as possible.

Rate payers have the right to have an authorised representative (such as a financial counsellor, financial advisor, community worker, solicitor, guardian or carer) represent them or advocate on their behalf. Where possible, it is helpful if this advice is provided formally to council, such as in writing, to ensure council does not inadvertently discuss private information with unauthorised individuals.

If you know, or should know, a ratepayer has chosen to have another person represent them, you should not contact the ratepayer directly unless:

- the ratepayer specifically requests direct communication with you
- the representative does not consent to represent the ratepayer or tells you he or she does not have instructions from the ratepayer about their debt
- the representative does not respond to your communications within a reasonable time (normally seven days) and you advise the representative in writing after the reasonable time has passed that if they do not respond within the next seven days, you will make direct contact with the ratepayer; and
- you advised the ratepayer you require a written authority which states that you are only to communicate through his or her representative, and you do not receive this in a reasonable time (normally seven days).
Note: that this does not apply where the ratepayer's representative is a solicitor.

Further exceptions may apply where the representative is not a qualified legal practitioner, qualified accountant or a financial counsellor.

Provide the ratepayer with current information about their debt

Make sure the ratepayer is told what they owe, when it was due, any payments they have made and what the payment was for. He or she may then request further information or documents.

It is also important to make sure that the ratepayer has contact details for the person or team managing their debt for council, such as contact phone number, postal address and email address, and that this information is included in all written correspondence to them.

Conduct towards ratepayer must be respectful and appropriate at all times

A ratepayer approached about an outstanding debt is entitled to respect and courtesy at all times by a council, debt collector or any of their agents or representative.

Inappropriate conduct, as outlined below, is likely to breach the law and the council's Code of Conduct. Ratepayers should never be subjected to

- **abusive, offensive, obscene, discriminatory language or disrespectful or demeaning remarks** – about character, situation in life, financial position, physical appearance, intelligence or other characteristics or circumstances
- **embarrassment or humiliation** – for example, by sending open correspondence to the ratepayer via a shared post-box, posting messages in a public online forum, making employers or co-workers aware that the ratepayer is being pursued for a debt, or creating an impression that the ratepayer is under surveillance
- **aggressive, threatening or intimidating behaviour** – for example, by shouting at or continually interrupting the ratepayer, or by refusing to listen to what they say
- use, or threat of violence or physical force, or

- **misleading information** – about the nature or extent of a debt, consequences of non-payment, identity (for example, falsely stating you work for a solicitor, court or government agency), or action not legally permitted to take (for example, to seize goods).

Strategies for dealing with inappropriate behaviour by a ratepayer

Inappropriate behaviour by a ratepayer does not justify unprofessional conduct by the collector and council staff and agents should deal with this using strategies such as:

- ensuring appropriate training of staff
- attempting to defuse inappropriate behaviour and refocus discussion on the outstanding debt and arrangements for its repayment
- escalating the matter to a senior staff member who has authority and training to manage such situations
- attempts to propose a viable and achievable repayment arrangement, and
- in the event of violence or other extreme conduct, cease contact immediately and refer the matter to the police.

Ensuring contact details are up to date

Currency of contact details is a huge issue for collecting rates and charges. Many councils feel that there is little advantage in sending additional correspondence or notices requesting payment when the address is not current.

Council policies and procedures may specify what the council will do to keep contact details current. When rates and charges notices are returned to the council, some councils proactively check other business areas of the council for more recent contact details, send information to both postal and physical addresses (where known), use internet searches and databases to ascertain more recent contact details, contact real estate agencies, keep a return mail register and undertake other searches.

Keep accurate, up to date records and protect the ratepayer's privacy

You should ensure you maintain accurate, complete and up-to-date records of all communication with ratepayers, including the time, date and nature of calls, records of any face to face contact, all correspondence sent and all payments made.

Councils and other organisations acting on their behalf should always treat a ratepayer's personal information with respect and ensure that they meet the requirements of the *Privacy and Personal Information Protection Act 1998* (the PPIPA) and their Privacy Management Plan prepared under the Act. Personal information means information or an opinion, whether it is true or not, about an individual that can reasonably allow the individual to be identified.

Particular care should be taken in collecting information about the ratepayer and their financial circumstances as well as disclosing that information, whether directly or inadvertently, to other people. For example, telling a ratepayer's neighbour the reason for trying to find the ratepayer would inappropriately disclose personal information about the ratepayer, as would leaving messages with inappropriate detail that may be seen or accessed by other people.

Councils use *Privacy Notification/Consent Forms* to enable the collection and use of personal information from ratepayers. The information collected cannot be used or disclosed for a purpose other than that for which it was collected, unless the ratepayer has consented or another exception applies.

Councils may consider reviewing their Privacy Notification/Consent Forms to request consent from residents and ratepayers for their personal information to be shared between internal business units of the council for purposes specified in the consent form, including for general administrative purposes including the collection rates and charges.