# THE BAROSSA COUNCIL
# DEBT RECOVERY POLICY

| 1. | Purpose |
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1.1. The purpose of this Policy is to

1.1.1. to provide a clear and concise policy framework in which to pursue all outstanding debts (rates and sundry debtors) owed to The Barossa Council (the Council);

1.1.2. to ensure consistency, fairness, integrity and confidentiality for both the Council and the rate debts and sundry debtors; and

1.1.3. to assist in the efficient management of Council assets through the timely collection of outstanding monies.

| 2. | Scope |
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2.1. This Policy will apply to all rateable assessments and sundry debtors for monies owed to The Barossa Council.

| 3. | Policy Statement |
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**3.1. Rates Debts**

3.1.1. Rates Debts shall include all amounts owing including general rates, separate rates, differential rates, CWMS service charges, waste service charge amounts and any other charge levied by Council annually and issued on a quarterly rate notice.

**3.2. Arrangements**

3.2.1. All Arrangements shall be determined on the merits of each individual case. Recovery action for overdue rates will be suspended whilst the terms/conditions of the Arrangement to pay are being met.

3.2.2. Each Arrangement shall specify the amounts of each regular payment and the dates by which each payment must be made to Council. Payments under an Arrangement should be of regular amounts and be payable at regular intervals.

3.2.3. Payment defaults will result in a default arrangement letter being issued with a request to pay any missed payments. If a ratepayer fails to make up these payments or contact Council, the arrangement may be terminated and the full amount of the outstanding rates and charges and accrued interest shall be due and payable. Recovery action may be taken for recovery of the amount due. A maximum of three defaults applies for any one financial year.

3.2.4. Fines and interest will not be applied provided:

3.2.4.1. The arrangement is made before the due date; and

3.2.4.2. payment terms are met; and

3.2.4.3. the Arrangement will clear the balance outstanding (including arrears) by the end of the current quarter for instalment only payments and the end of the financial year for full year arrangements; or

3.2.4.4. as determined on a case by case basis for reasons including but not limited to settlement pending, deceased estates, compassionate grounds, or Council decision, approved hardship application

3.2.4.5. In most cases arrangements will be confirmed in writing by Council and will contain an end and/or review date.

## 3.3. Fines and Interest

3.3.1. If an instalment of rates is not paid on or before the date on which it falls due it will:

3.3.1.1. will be regarded as being in arrears;

3.3.1.2. will incur a fine of 2 per cent of the amount of the instalment; and

3.3.1.3. incur interest at the prescribed percentage of the amount in arrears (including the amount of any previous unpaid fine and including interest from any previous month) on the expiration of each full month from that date.

## 3.4. Reminder Notice

3.4.1. A Rates Reminder Notice shall be issued within 14 days after the due date of an instalment to those Ratepayers who have not made satisfactory Arrangements. This Reminder Notice provides the Ratepayer a summary of the outstanding debt (including any previous fines and interest) detailing options of paying this debt via a suitable payment method and includes options available if in financial hardship.

3.4.2. The Reminder Notice will also advise Ratepayers that failure to pay or make a suitable arrangement to pay will result in the debt being referred to Council's Debt Collection Agency for recovery.

## 3.5. Final Notice

3.5.1. A Final Notice shall be issued 30 days after the issue of the Reminder Notice for non-payment or to those ratepayers who have not made satisfactory payment arrangements. This Final Notice provides the ratepayer a total of the outstanding debt (including any fines, interest and legal fees), including options available if in financial hardship, the option of paying, or making a suitable payment arrangement.

## 3.6. Legal Action

3.6.1. Legal action will be initiated by referring the account to Council's Debt Collection Agency 30 days after the issue of the Final Notice who will send a Letter of Demand to the Ratepayer. Council is then to be guided by the Collection agency as to the most suitable form of recovery action.

3.6.2. Once the debt has been referred to the Debt Collection Agency all communication is to be directed to them. All costs incurred in the fees and charges policy incurred by Council recovering the debt for the collection of outstanding rates and charges will be charged against the ratepayer's property.

### 3.7. Sale of Land for Unpaid Rates and Charges

3.7.1. Once the legal action process in 3.6 has been exhausted and before any other legal action in terms of Section 184 of The Act has commenced.

3.7.1.1. A copy of the Certificate of Title for the property is to be obtained
3.7.1.2. Council will advise the Ratepayer in writing of the debt outstanding; and
3.7.1.3. A copy will be sent to the Registered Mortgagee to establish the option of refinancing or paying the arrears outstanding.

3.7.2. If the registered mortgagee advises that this is not an option then the Sale of Land for unpaid rates and charges process may begin.

3.7.3. Council may proceed to sell the land where any rate or charge is overdue and has remained in arrears for more than three (3) years from the date on which it became payable and comply with the legislative requirements in Section 184 of the Act.

3.7.4. Prior to instigating any action, the Ratepayer will be given the opportunity to make an application for rate relief due to financial hardship under the Councils Hardship Policy.

3.7.5. In agreement with the Chief Executive Officer, the Manager Financial Services will advise Council on any rate debts that have remained unpaid following implementation of recovery action as detailed above and where Officers seek direction from Council rather than exercising Delegated Powers under the Act.

### 3.8. Deceased Estates

When notification in writing is received from lawyers or family members acting on behalf of that person's estate, fines and interest will be suspended until probate is granted or outstanding debt is repaid.

### 3.9. Small Balance Adjustments

On the 30th June each financial year small debit and credit balances will be adjusted unless regular payments are being made.

### 3.10. Sundry Debtors

3.10.1. Sundry Debtors include people owing Council money for food inspections, on-charging of utilities, donations, search requests, recurring charges or any other monies owed to Council.

3.10.2. Invoices

3.10.2.1. Invoices will be sent for any debt raised providing 30 days for payment

3.10.3. Monthly Statement

3.10.3.1. A monthly Statement shall be issued at the beginning of each month. The Statement gives the debtor a summary of the outstanding debt.

3.10.4. Arrangements to Pay

3.10.4.1. All Arrangements shall be determined on the merits of each individual case. Recovery action for overdue debts will be suspended whilst the terms/conditions of the Arrangement to pay are being met.

3.10.4.2. Payment defaults will result in a default arrangement letter being issued with a request to pay any missed payments.

3.10.5. <u>Final Notice</u>

3.10.5.1. A final notice shall be issued where applicable after the non-payment or to those debtors who have not made satisfactory payment Arrangements of debt following the issue of the monthly statement. This Final Notice gives the debtor a total of the outstanding debt and the option of paying within 14 days, or making suitable payment arrangement.

3.10.5.2. If Council receives no response from the debtor for the final notice, the debt may be referred to Council's Debt Collection Agency for recovery or if the debt relates to a property. Where applicable, the debt will be transferred to the debtors rates assessment as per Section 144 of the Act and fines and interest will then be payable on the overdue amount(s).

3.10.6. <u>Legal Action</u>

3.10.6.1. Legal action will be initiated by referring the account to Council's Debt Collection Agency who will subsequently send a letter of demand to the debtor. Council is then to be guided by the Collection Agency as to the most suitable form of recovery action.

3.10.6.2. Once the debt has been referred to the Debt Collection Agency all communication is to be directed to them.

3.10.6.3. All costs incurred in the fees and charges policy incurred by Council from the collection of outstanding debts may be charged to the debtor and against the debtor's property if applicable

3.10.7. <u>Delegations – Write Offs</u>

3.10.7.1. Debtor amounts outstanding shall be written off only when all reasonable attempts at recovery have been taken. Council's instruments of delegation set out authority for designated Officers to write off sundry debtors.

3.10.8. <u>Disputing a debt</u>

3.10.8.1. In the event that a sundry debt is in dispute, the debtor will be referred to the relevant approving officer for clarification of the debt charged. If the dispute cannot be resolved, the approving officer should refer to Council's Complaint Handling Policy for direction.

| 4. | Supporting Processes and Documents |
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4.1. Debt Recovery Process - Ref: 17/93908*
4.2. Rating Process - Ref: 18/19833*
4.3. Property Process - Ref: 21/1921*
4.4. Journal Process - Ref: 20/15971*

4.5. Debtor– Invoice/Credit Note/Recurring Charge Request Process – Ref: 17/81722*

## 5. Related Policies

5.1. Funding Policy – 15/28475*
5.2. Rating Policy – 15/24314*
5.3. Complaint Handling Policy – 18/16770*
5.4. Records Management Policy – 15/50280*
5.5. Rates Hardship Policy – 20/16286*
5.6. Rates Hardship Supplementary Policy - 17/32474*

## 6. Legislation and References

6.1. Local Government Act 1999
6.2. Instrument of Sub-delegation under the Local Government Act 1999 at section 143(1)

## 7. Review

7.1 This Policy will be reviewed by [the Council / Document Control Officer] in consultation with the relevant stakeholders, within four (4) years or more frequently if legislation or Council's need changes.

## 8. Further Information

8.1. This Policy is available on Council's website at www.barossa.sa.gov.au. It can also be viewed electronically at Council's principal office at 43-51 Tanunda Road, Nuriootpa and all Council branches, during ordinary business hours. A copy of this Policy can be obtained at those venues upon payment of a fixed fee.

8.2. Complaints regarding this Policy or its application can be made to the Customer Service team on 8563 8444 or barossa@barossa.sa.gov.au at first instance, who will refer you to the most appropriate officer according to Council's *Customer Service Policy* (see clause 8.1 above for availability).

## 9. Document Control

<table>
<tr><td>Corporate] Plan Link:</td><td colspan="5">6.2 Ensure that Council's policy and process frameworks are based on principles of sound governance and meet legislative requirements.<br><br>6.10 Embed a culture of continuous improvement across Council, with tools, processes and systems being used to achieve business efficiencies and customer service improvements.<br><br>6.16 Provide contemporary internal administrative and business support services in accordance with mandated legislative standards and good practice principles.</td></tr>
<tr><td>Document Owner:</td><td colspan="3">Chief Executive Officer</td><td>Document Control Officer:</td><td>Manager Financial Services</td></tr>
<tr><td>Consultation Rating:</td><td>A</td><td>Audience:</td><td>External</td><td>Next Review Date:</td><td>21/06/2026</td></tr>
<tr><td colspan="6">Version history</td></tr>
</table>

| Version No. | Date | Description of Change |
|---|---|---|
| 2.0 | 21/06/2022 | Review of overdue debts process |
| 1.0 | 21/7/15 | New Policy |

## 10. Definitions

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| Arrangement | An agreement between Council and a Ratepayer or Debtor to repay an amount of money within a time frame according to an agreed schedule. |
| Owner | The registered proprietor of a rateable property |
| Prescribed Percentage (P) | "the prescribed percentage" is to be calculated as follows: $P = \frac{CADR + 3\%}{12}$ where "P" is the prescribed percentage and "CADR" is the cash advance debenture rate for that financial year |
| Ratepayer/s | Person/persons who appears in the assessment record as the owner/s or occupier/s of rateable property |
| Rate Debts | Persons with outstanding amounts for their assessment, also known as ratepayers |
| Sundry Debtors or Accounts Receivable | Person/s owing money for goods and/or services rendered to them by Council and for this Policy referred as a "debtor" |
| Recurring Charges | Charges that are charged on a set frequency ie lease fees |
| The Local Government Act 1999 | Known as "The Act" |