



## 4. FINANCE POLICIES

### 4.1 Business

#### 4.1.7 Collection of Outstanding Rates

#### Background and Issues

It is imperative that money owed to the Shire of Manjimup is collected in a efficient and effective manner. The collection of outstanding rates is necessary to achieve a balanced budget and to facilitate cash flow in the organisation.

#### Objectives

- To maintain a fair and transparent approach to the collection and recovery of outstanding rates and service charges.
- To provide ratepayers with clear guidelines relating to outstanding rates and charges.
- To provide staff guidelines that assist in ensuring any rates or service charges owing to the Shire of Manjimup are collected in a timely manner.

#### Area of Application

This policy is applicable to all ratepayers within the Shire of Manjimup.

#### Definitions

“**Minor Case Claim**” means the claim lodged with the Magistrates Court where the value of the debt or damages you are claiming does not exceed \$10,000.

“**General Procedure Claim (GPC)**” means the claim lodged with the Magistrates Court where the value of the claim or relief claimed does not exceed \$75,000

“**Property Seizure and Sale Order (PSSO)**” is a court order that authorises a bailiff to seize and sell as much of the judgment debtor’s real or personal property as necessary to satisfy the judgement debt wholly or partially.

“**Special Payment Arrangement**” means an arrangement between the ratepayer and the Shire to pay outstanding rates, outside of the formal instalment options stated on the rates notice.

#### Policy Measures

- 1) Any rates payments due to the Shire of Manjimup that have not been received by the due date shall be recovered in accordance with this policy and any such action shall comply with relevant legislation and regulations.

Interest on outstanding rates and charges shall be calculated on a daily basis at a level set at Council’s annual budget for a period greater than thirty-five (35) days in accordance with section 6.13(13) of the *Local Government Act 1995* and Section 70 of the *Local Government (Financial Management) Regulations 1996*.

- 2) The actions taken against outstanding amounts due to the Shire will be as follows:

- a) At the expiration of the thirty-five (35) day period, the Shire shall issue one final notice giving the ratepayer a further fourteen (14) days to rectify the debt, unless an agreed Special Payment Arrangement has been entered into with the Shire.
- b) At the expiration of the fourteen (14) day period, if a payment has not been forthcoming, the Shire will refer all outstanding rates with amounts outstanding for a period greater than forty-nine (49) days to its Solicitor or Debt Collection Agency for follow up action.
- c) A Letter of Demand will be issued by the Shire's Debt Collection Agency, demanding immediate payment.
- d) Where amounts remain outstanding, three attempts to contact the ratepayer will be made by telephone and email (where provided) before further action is taken.
- e) Legal action will commence on current year's rates after the earliest possible time in January of the new calendar year.
- f) For payment of rates outstanding between \$3,000 to \$10,000, the Shire may lodge a Minor Case Claim, in accordance with section 6.56 of the *Local Government Act 1995*.
- g) If the Minor Case Claim is not served and the debtor cannot be located, the Shire may instruct an agent to undertake a Skip Trace.
- h) Should a Minor Case Claim be lodged but there is no response within fourteen (14) days of issuing the claim, default judgement can be requested.
- i) For debts outstanding over \$10,000 the Shire may lodge a GPC and commence legal proceedings, in accordance with section 6.56 of the *Local Government Act 1995*.
- j) Should a GPC be lodged and there is no response to the GPC within fourteen (14) days of issue of the claim, default judgement can be entered into the Magistrates Court and a Property Seizure and Sale Order (PSSO) will be lodged at the Magistrates Court at the same time and served by an appropriate process server.
  - I. The PSSO authorises the Bailiff to seize and sell as much of the debtor's real and personal property as necessary to satisfy the debt wholly.
  - II. Where the PSSO involves the seizure of land a report to Council will be submitted for endorsement prior to the seizure of land.

- k) All costs incurred as a result of proceeding with legal action on rates debts are to be charged to the property's rates account as per section 6.56 of the *Local Government Act 1995*, excluding the GST charged by the Shires Debt Collection Agency and the document-handling fee charged by the court.
- 3) Other Debt recovery actions that the Shire will undertake when the nature of the debt is of such that it is in the Shire's interest to do so:
- a) **Seizure of Rent for Non Payment of Rates**  
Where the property owner of a leased or rented property on which rates and charges are outstanding cannot be located or refuses to settle rates and service charges owed, a notice may be served on the lessee or tenant under the provisions of section 6.60 of the *Local Government Act 1995*, requiring the lessee or tenant to pay the Shire rent due that they would otherwise pay under the lease/tenancy agreement as it becomes due, until the amount in arrears has been paid in full.
  - b) **Lodging a Caveat on the Title for Land**  
If rates and service charges which are due to the Shire in respect of any rateable land remain unpaid, a caveat may be registered on the title for land under the provisions of section 6.64(3) of the *Local Government Act 1995*. The cost of lodging a caveat cannot be debited to the rate account. This option may be exercised where it is deemed necessary to protect the Shire's interest.
  - c) **Sale of Land**  
If rates and service charges which are due to the Shire in respect of any rateable land remain unpaid for at least three (3) years, and reasonable attempts to commence legal action have been made, the Shire may take possession of the land under the provisions of section 6.64 of the *Local Government Act 1995*. The approval of Council is required to be obtained before this course of action is undertaken.

### **Discontinuance of further legal action**

If it happens that a course of legal action that is lodged with the Magistrates Court was lodged in error by the Shire, a Notice of Discontinuance or Memorandum of Consent, whichever is appropriate, will be prepared and lodged at the Magistrates Court at the Shire's expense.

If the debt has been settled with the Shire, a Notice of Discontinuance or Memorandum of Consent may be prepared on request. An administration fee as per Shire's adopted Fees and Charges will be charged and must be paid in full prior to the Notice of Discontinuance or Memorandum of Consent being released by the Shire.

- 4) The Shire will not proceed with further legal action if the debt has been settled in full or an approved arrangement to clear the debt is entered into and adhered to.

## **Special Payment Arrangement**

Payment by arrangement (outside of the formal instalment options specified on the rates notice) to clear outstanding rates must be made in writing.

An administration fee as per the Shire's adopted Fees and Charges plus penalty interest at a rate prescribed in Section 70 of the *Local Government (Financial Management) Regulations 1996*, calculated daily will be charged upon successful application.

Acceptance of the special payment arrangement will be for regular instalments with all outstanding amounts to be finalised by 30 June of that financial year. Arrangements outside of these terms will be at the discretion of the Chief Executive Officer or the relevant Director.

## **Small Balances**

Where a rates account has a balance equal to or less than \$5.00, the balance owing is to be written off:

- Immediately after the due date for rates collection where rates have been paid in full;
- Immediately after the due date for the final rates instalment; and
- As at 30th June each year.

The authority to write off debts is employed under Section 6.12 (1)(c) of the Local Government Act 1995. Upon writing off the small balances, a record shall be kept of the amount written off. In July each year, the Rates Officer shall provide to the Chief Executive Officer the total amount of outstanding small rates balances written off for the preceding financial year.

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**The Administration of this Policy is by Business Division.**