

3.7 C-3DMP07– Debt Management Policy

PART A- Policy

OBJECTIVE

To establish a clear, fair, and consistent framework for the recovery and management of debts owed to the Shire of Dandaragan (the Shire), including rates, service charges, and sundry debts. This policy complements C-3FHP06 Financial Hardship Policy by outlining processes for debt recovery while maintaining fairness and transparency.

DEFINITIONS

Account	Any amount of money owed to the Shire
Debtor	A person or entity responsible for the payment of services rendered by the Shire of Dandaragan
Financial Hardship	Where payment would affect the debtor's ability to meet basic living needs
Payment Arrangement	A formal agreement between the Shire and debtor to pay outstanding amounts over time
Ratepayer	A person or entity responsible for the payment of rates to the Shire of Dandaragan
Write Off	The accounting removal of a debt after all reasonable recovery steps have been taken

POLICY STATEMENT

1. Guiding principles

In achieving this, the following principles will be followed:

- Fairness and consistency
- Early engagement
- Proportionality
- Confidentiality and respect
- Compliance with legislation

2. Relationship to C-3FHP06 Financial Hardship Policy

The Financial Hardship Policy governs hardship assessments and assistance. This policy focuses on recovery processes and governance while pausing enforcement during hardship arrangements.

3. Roles and responsibilities

- Executive Manage Corporate Services will oversee all matters relating to Debt Management.
- Chief Executive Officer will oversee all matters relating to write-offs or as sub-delegated.
- Debt Collection Agency or Lawyers will execute recovery of debt under the Shire's instruction.

4. Debt Recovery Process

If the Account is not paid by the due date set out in the Letter of Demand, the Shire will institute legal proceedings against the ratepayer in a court of the appropriate jurisdiction. This will normally be within the jurisdiction of the Magistrates' Court of Western Australia but may be issued out of another court where appropriate. Legal fees may be added to the Account at this stage in accordance with s 6.56 Local Government Act 1995 (WA)

After judgment is obtained in the Shire's favour, the Shire will enforce judgment in accordance with the Civil Judgments Enforcement Act 2004 (WA). This includes but is not limited to:

- a. means inquiry;
- b. property seizure and sale order over goods; and
- c. property seizure and sale order over land.

If the above methods are unable to satisfy the Account, or the Shire otherwise elects, the Shire may pursue payment of the debt by the following means:

- a. in the case of a corporation: issuing a statutory demand, and if the demand remains unpaid, issuing proceedings for an order winding up the company; or
- b. in the case of a natural person: issuing a bankruptcy notice, and if the notice remains unpaid, issuing proceedings for a sequestration order; or
- c. local government action as described below.

5. Local Government Action

Where the Account is unpaid, and:

- a. identifying or locating the ratepayer is frustrated; or
- b. the ratepayer has a poor compliance history; or
- c. the Account is not indebted enough to warrant legal proceedings

The Shire may use methods prescribed in s 6.60 and 6.64 Local Government Act 1995 (WA) to recover the amount unpaid. These methods are:

- a. garnishing the rent payable by the lessee;
- b. leasing the land;
- c. sell the land;
- d. transfer the land to the Crown; and
- e. transferring the land to the Shire.

6. Concession Holders

For the purposes of this policy Concession Holder means recognised under the *Rates and Charges (Rebates and Deferments) Act 1992* (WA) as eligible for a state government rebate or to defer their rates.

The Account, if held by a Concession Holder will only be sent for legal action after rubbish charges are two or more years in arrears. Legal action may be commenced on an Account held by Concession Holder if there is another ratepayer on the Account who is not a Concession Holder.

Any legal action to be commenced by the Shire against a Concession Holder will be approved by the Executive Manager Corporate Services.

7. Payment Arrangements

The Shire encourages ratepayers to contact them on (08) 9652 0800 if they are unable to meet their obligations set out in their rates notice in order to negotiate a payment arrangement.

In assessing a payment arrangement, the Shire will consider:

- a. the time over which payment will be made (preferably within 12 months);
- b. the compliance history of the ratepayer;
- c. the time between the when the Account became unpaid and contact from the ratepayer;
- d. the reason for non-payment of the Account; and
- e. any other factors deemed relevant by the Shire.

The Shire in assessing cl 7(a) will prefer arrangements that are completed within the financial year it begins. The Shire in assessing cl 7(b) will prefer arrangements with ratepayers with a good compliance history. The Shire in assessing cl 7(c) will prefer arrangements where contact with the Shire has been made without recovery processes beginning. The Shire in assessing cl 7(d) will prefer arrangements that are required due to events which are unforeseeable and unlikely to continue.

Payment arrangements only exist if a letter confirming the arrangement has been issued by the Shire. That is to say, valid payment arrangements are not entered into by the Shire's acquiescence, silence, non-response or by accepting payments.

Statutory interest, administration and recovery costs may apply. These may be waived as per C-3FHP06 – Financial Hardship Policy.

8. Communication and Confidentiality

The Shire will maintain strict confidential communications and will only communicate with a nominated support person or other third party at the ratepayers/debtors written request.

The Shire will advise ratepayers/debtors of this Policy and its application, when communicating in any format (i.e. verbal or written) with a ratepayer/debtor with an outstanding rate or service charge debt.

The Shire recognises that applicants for hardship consideration are experiencing additional stressors and may have complex needs. The Shire will provide additional time to respond to communication and will communicate in alternative formats where appropriate. The Shire will ensure all communication with applicants is clear and respectful at all times.

9. Related Documentation / Legislation

- a) Local Government Act 1995
- b) Local Government (Financial Management) Regulations 1996
- c) Shire of Dandaragan Financial Hardship Application Form

d) Ombudsman Western Australia publication: 'Local Government collection of overdue rates for people in situations of vulnerability: Good Practice Guidance'

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Amended	