

Code title	Debt Recovery
Responsible manager(s)	Chief Financial Officer
Contact officer(s)	Revenue Manager
Directorate	General Manager
Approval date	11 October 2022
Outcome area	5 Our engaged community with progressive leadership
Delivery Program link	5.3.1 Provide strong corporate and financial management that is ethical, fair, transparent and accountable
Operational Plan link	5.3.1.2 Collect rates and charges

Purpose

The purpose of this Code of Practice is to provide guidance in the recovery of debt owing to Eurobodalla Shire Council and ensure ethical, effective and efficient debt recovery of rates, charges and other debts to Council.

Debt recovery procedures of Council and any agent employed by Council must meet the highest ethical and professional standards, such as the Debt Collection Guideline for collectors and creditors, developed jointly by the Australian Competition and Consumer Commission (ACCC) and Australian Securities and Investments Commission (ASIC), in 2010.

Code aims

This Code aims to:

- ✓ Provide clear guidelines for the recovery of debts to Eurobodalla Shire Council
- ✓ Ensure consistency and fairness in the way Council deals with debt recovery
- ✓ Ensure compliance with legislative requirements and financial industry guidelines
- ✓ Take such steps as are appropriate to minimise the impact of outstanding debts on Council's financial position
- ✓ Make Council's policy and requirements regarding debt recovery readily accessible and understandable to the public
- ✓ Recognise and assist genuine cases of financial hardship and respond with respect and compassion.

Code details

1	Application This Code of Practice applies to Eurobodalla Shire Council, its ratepayers and its debtors.
2	Legislation Eurobodalla Shire Council is compliant with the <i>Local Government Act 1993</i> (LGA) and follows ACCC and ASIC debt collection guidelines.

3.	<p>Debt Recovery – Rates, Water and Other Sundry Debts</p> <p>Commercial debt recovery procedures will be pursued in order to minimise the impact of outstanding debts on Council’s financial position.</p> <p>Council will adhere to ethical guidelines in respect of debt recovery procedures.</p> <p>Debtors will be advised of the likely additional legal costs prior to the issue of any summons.</p>
4	<p>Rates, Water and Property Debts</p> <p>All rates, water and property debts are to be recorded so that they are correctly and automatically included within any S603 certificate (or like certificate) and therefore correctly dealt with and settled during any property sale process.</p> <p>Land may be sold, with Council approval, where rates or other property debt arrears are greater than the land value of the property, or rates are in arrears for five years.</p>
5	<p>Rates and Charges Notices and Water Accounts</p> <ul style="list-style-type: none"> • Rates and Charges Notices are issued prior to 31 July each year in accordance with Section 562 ‘Payment of rates and annual charges’ of the LGA. • As a provider of water and sewer services in the community, Council also includes annual charges for these services on the Rates and Charges Notice. • Instalment notices are issued one month prior to the instalment due date in accordance with Section 562 of the LGA and are due no later than 31 August, 30 November, 28 February and 31 May each year. The whole of the year’s rates and charges can be paid in one sum, by 31 August each year. • Water usage accounts are issued three times per year in August, December and April and are due approximately one month after issue. • If payment is overdue and a payment arrangement has not been agreed, recovery actions may follow. <p><i>At any time, payment arrangements or implementation of the Financial Hardship Policy may be agreed upon.</i></p>
6	<p>Interest on overdue Rates and Water Accounts</p> <p>Interest is charged in accordance with Section 566 of the LGA.</p> <p>Interest is calculated daily on overdue rates and charged at the maximum rate announced by the Minister for Local Government each year.</p>
7	<p>Sundry outstanding debts</p> <ul style="list-style-type: none"> • Invoices are issued as required • Due date for payment is thirty days from date of issue, except for Private Works for which payment is due seven days from date of issue • Statements are issued monthly on outstanding amounts. <p><i>At any time, payment arrangements or implementation of the Financial Hardship Policy may be agreed upon.</i></p>

Implementation

1 Recovery of overdue rates and water accounts		Responsibility
1.1	<ul style="list-style-type: none"> Approximately seven days after the due date of each instalment or water account, Council will forward an internal overdue notice to the property owner. If, after 14 days of the overdue notice being issued, no arrangements have been made and no monies paid, Council may issue a Letter of Demand from its nominated debt recovery agency. <p><i>Note: referral to Debt Recovery is at the discretion of council and may be done four times per year on overdue accounts.</i></p> <ul style="list-style-type: none"> Seven days after the Letter of Demand is sent from Council's chosen Debt Recovery Agency, further relevant legal action may proceed at the discretion of the Revenue Manager or Chief Financial Officer and in consultation with Council's nominated Debt Recovery Agency. <p><i>At any time, payment arrangements or the implementation of the Financial Hardship Policy may be agreed upon.</i></p>	Revenue Manager
1.2	<p>It is not Council practice to contact individual ratepayers concerning their overdue rates and water account balances other than to provide overdue notices.</p> <p>It would be resource intensive to consider individual contact with all Council debtors, and an unreasonable cost to ratepayers.</p> <p>Rates and Water Accounts and Overdue Notices provide advice to the ratepayer of any outstanding amounts and provide information on what to do if experiencing difficulty in paying the outstanding amounts.</p>	Revenue Manager
2 Interest charges		Responsibility
2.1	<p>Council may write off accrued interest on rates and water accounts payable by a person if, in Council's opinion, the person is unable to pay 'for reasons beyond the person's control' or payment of the accrued interest would cause the person 'hardship' as per the Financial Hardship Policy, which can be found at:</p> <p>www.esc.nsw.gov.au/council/governance/council-policies</p> <p><i>At any time, payment arrangements or the implementation of the Financial Hardship Policy may be agreed upon.</i></p>	Revenue Manager

3 Recovery of sundry debts (monthly statements)		Responsibility
3.1	<ul style="list-style-type: none"> Approximately 30 days (or less than 60) from the invoice date of issue, a monthly statement will be forwarded for any sundry outstanding debt. If after 90 days, the debt is still outstanding, a reminder letter may be issued from Council's chosen Debt Recovery Agency. After the reminder letter, and if the debt is still outstanding, Council may issue a Letter of Demand from its nominated Debt Recovery Agency. Referral to Council's chosen Debt Recovery Agency will be at the discretion of the Revenue Manager or Chief Financial Officer and in consultation with Council's nominated Debt Recovery Agency. <p><i>At any time, payment arrangements or the implementation of the Financial Hardship Policy may be agreed upon.</i></p>	Revenue Manager

Review

This Code of Practice will be reviewed and updated as necessary when legislation requires it, or Council's functions, structure or activities change, or when technological advances or new systems change the way that Council manages Debt Recovery and relevant policies.

Relevant policies may be revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless Council updates or revokes it sooner.

Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Delivery Program/ Operational Plan outcomes achieved	Council reporting
Concerns or complaints registered	Council records
Customer feedback, survey responses	Surveys
Internal or external review	Audit

Governance

This Code of Practice should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation and policies

Name	Link
Financial Hardship Policy	www.esc.nsw.gov.au/council/governance/council-policies
Debt Recovery Policy	www.esc.nsw.gov.au/council/governance/council-policies
<i>Local Government Act 1993</i>	www.legislation.nsw.gov.au/maintop/view/inforce/act+30+1993+cd+0+N

Related external references

Name	Link
Office of Local Government	www.olg.nsw.gov.au
Australian Competition and Consumer Commissions (ACCC)	www.accc.gov.au
Australian Securities and Investments Commission (ASIC)	www.asic.gov.au

Change history

Version	Approved date	Approved by	Min No	File	Change
1	14 Nov 2017	Director Corporate and Commercial Services/ ARIC		E05.9513	New Code commenced – approved at Audit Risk and Improvement Committee (ARIC) meeting
2	11 Oct 2022	Council	22/265	S004-T00060	Reviewed and updated as per report GMR22/099

Internal use

Responsible officer		Director Corporate and Commercial Services		Approved by	Director Corporate and Commercial Services / ARIC	
Minute	NA	Report	ARIC 14 11 2017		Effective date	14 Nov 2017
File	E05.9513	Review date	Sep 2020		Pages	5
File	E05.9513	Review date	Oct 2022		Pages	5
Min No	22/265	Report No	GMR22/099		Effective date	11 Oct 2022

