

<b>Responsible Directorate</b>	<b>Corporate Services</b>
<b>Responsible Business Unit/s</b>	<b>Finance Services</b>
<b>Responsible Officer</b>	<b>Manager Finance</b>
<b>Affected Business Unit/s</b>	<b>Finance Services</b>

## Objective

This policy outlines the City of Stirling’s (“the City”) process for efficient and effective collection of unpaid rates and service charges including the Department of Fire & Emergency Services’ Emergency Services Levy.

This policy has been formulated to treat all ratepayers fairly and consistently while recognising Council has the responsibility to recover all outstanding rates and charges in a timely manner to finance its operations and ensure effective cash flow.

## Scope

This policy applies to all:

- ratepayers of the City of Stirling; and
- overdue rates and charges above a threshold set by the Senior Rates and Receivables Team Leader and settled by the Manager Finance reviewable yearly.

## Policy

When an account remains unpaid (“the Account”) after the due date set out in the Final Rate and Service Charges Notice, the City will follow the procedures set out in this policy.

### 1. Letter of Demand

At first instance a letter of demand outlining the property address and the amount payable will be issued by the City’s debt collection agency with a due date for compliance of no more than 14 days from the date the letter was issued.

### 2. Legal Proceedings

If the Account is not paid by the due date set out in the Letter of Demand, the City 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).

### **3. Judgment Enforcement**

After judgment is obtained in the City's favour, the City 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 City otherwise elects, the City 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.

### **4. 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 City 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 City.

### **5. 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 City against a Concession Holder will be approved by the Manager Finance.

### **6. Payment Arrangements**

The City encourages ratepayers to contact them on (08) 9205 8558 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 City 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 City.

The City in assessing cl 6(a) will prefer arrangements that are completed within the financial year it begins. The City in assessing cl 6(b) will prefer arrangements with ratepayers with a good compliance history. The City in assessing cl 6(c) will prefer arrangements where contact with the City has been made without recovery processes beginning. The City in assessing cl 6(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 City. That is to say, valid payment arrangements are not entered into by the City's acquiescence, silence, non-response or by accepting payments.

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## Definitions

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

**Local Government Action** means action the City may undertake by exercising its powers under the *Local Government Act 1995 (WA)*.

**Means Inquiry** has the same meaning that it does under the *Civil Judgments Enforcement Act 2004 (WA)*.

**Property Seizure and Sale Order** has the same meaning that it does under the *Civil Judgments Enforcement Act 2004 (WA)*.

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## Relevant management practices/documents

Nil

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## Legislation/local law requirements

*Civil Judgments Enforcement Act 2004 (WA)*

*Local Government Act 1995 (WA)*

*Local Government (Financial Management) Regulations 1996 (WA)*

*Rates and Charges (Rebates and Deferments) Act 1992 (WA)*

### Office use only

<b>Relevant delegations</b>	Not applicable			
<b>Initial Council adoption</b>	<b>Date</b>	9 April 2013	<b>Resolution #</b>	0413/010
<b>Last reviewed</b>	<b>Date</b>	26 May 2020	<b>Resolution #</b>	0520/027
<b>Next review due</b>	<b>Date</b>	2021		