



8. FINANCE

Policy 8.4

DEBT RECOVERY

Version 3

8. FINANCE

8.4 DEBT RECOVERY

Objective of this Policy

The objective of this Debt Recovery Policy is to ensure consistency, fairness, integrity and confidentiality of all proceedings for both Council and the relevant debtor as well as to maximize the collection of outstanding debts and optimize Council's cash flow.

Council's aim is to be sympathetic and helpful to debtors suffering genuine financial hardship.

Council at all times will comply with relevant legislation, including the *Local Government Act 1993 (NSW)* ("the Act").

Scope of this Policy

This policy relates to all parties that owe monies to Council (debtors), including but not limited to:

- Ratepayers (including other charges linked to the property); and
- Sundry Debtors

Some aspects of the debt recovery procedure will differ according to the type of debtor so they are treated separately in this policy.

Rates and Charges

Payment of Rates and Charges

Council will levy rates and charges by service of a rates notice in accordance with section 546 of the Act. Council will endeavour to serve those rates notices in the month of July of every year.

If the rates notice is served in July, under section 562(3) of the Act ratepayers have the option of making payment of the amounts owing in those rates notices by one lump sum (which is to be paid by 31 August) or by four quarterly instalments due on the last day of the following months:

- August
- November
- February
- May

If Council serves the rates notice after 1 August then the provisions of section 562(4) of the Act apply.

Instalment Reminder Notices

Under section 562(5) of the Act, Council must send instalment reminder notices to each person who is paying their rates and charges by instalment on or before 31 October, 31 January and 30 April.

Final Notice

A Final Notice (in a form to be approved) is to be sent to any ratepayer who has not, within fourteen days of the due date:

- (a) Paid the amount of any instalment; or
- (b) Come to an arrangement for payment of the instalment by instalments; or
- (c) Made written application for waiver, credit or reduction of the instalment; or
- (d) Taken some action to dispute that the amount is payable.

The Final Notice will:

- (a) Set out the amount of the instalment;
- (b) Demand payment of the instalment within fourteen days of the date of the notice (though fourteen days will actually be allowed);
- (c) Urge the ratepayer to contact Council if they believe that the instalment has been paid or is not payable; and
- (d) Urge the ratepayer to contact Council to come to a suitable arrangement if they are unable to make payment of the instalment amount within the time allowed.

Demand Letter

A Demand Letter is to be sent to any ratepayer who has not, within fourteen days of the Final Notice:

- (a) Paid the amount of any instalment; or
- (b) Come to an arrangement for payment of the instalment by periodical payments; or
- (c) Made written application for waiver, credit or reduction of the instalment; or
- (d) Taken some action to dispute that the amount is payable.

As Council has retained the services of an external law practice to assist them with the debt recovery function that law practice is to prepare and send the Demand Letters on their letterhead.

The Demand Letter will:

- (a) Set out the amount of the instalment;
- (b) Demand payment of the instalment within seven days of the date of the notice;

- (c) Urge the ratepayer to contact Council's external law practice if they believe that the instalment has been paid or is not payable; and
- (d) Urge the ratepayer to contact Council's external law practice to come to a suitable arrangement if they are unable to make payment of the instalment amount within the time allowed.

Commencement of Legal Action

Council is to instruct the external law practice to commence legal action with the issue and service of a statement of claim against any ratepayer who is not a pensioner, with an instalment (or instalments) unpaid and owing greater than \$500.00 (including any accrued interest); and who has not:

- (a) Come to an arrangement for payment of the instalment by periodical payments; or
- (b) Made written application for waiver, credit or reduction of the instalment; or
- (c) Taken some action to dispute that the amount is payable.

Service of Statements of Claim

Council's lawyers are to be instructed to serve statements of claim by post where possible. If postal service is unsuccessful for any reason personal service is to be attempted.

Costs of Legal Action

Council is to ensure that the costs of any legal action taken are legally recoverable as a charge on the property pursuant to section 550 of the Act and to upload those costs to the property as required.

Obtaining Judgement

Council is to instruct their external law firm to make application for judgment if, within the time allowed by the relevant legislation (currently twenty-eight days after service of the statement of claim), the ratepayer has not:

- (a) Paid the debt and costs claimed; or
- (b) Filed a defence; or
- (c) Filed an acknowledgement of claim; or
- (d) Come to an arrangement to pay by instalments; or
- (e) Taken any other action that means Council is unable to apply for judgment.

Enforcing Judgement

Council is to instruct their external law firm to enforce any judgment obtained by one or more of the following methods as advised by their external law firm:

- (a) Writ against property;

- (b) Examination;
- (c) Garnishee of bank accounts;
- (d) Garnishee of wages or other debts;
- (e) Bankruptcy;
- (f) Winding up of companies;
- (g) "Rent for Rates" under section 569 of the Act; or
- (h) Such other method as Council is advised.

Duplicate Matters

As ratepayers who have not paid instalments as required will be referred for action quarterly, in the interest of keeping the costs they have to pay should legal action be required to a minimum, Council adopts the following:

1. If legal action has already commenced to recover the previous instalment then no further legal action is to be taken on later instalments until such time as the amount claimed in those legal proceedings (including costs) have been paid.
2. If legal action has not already commenced to recover the previous instalment then the amount of any later instalment is to be added to the earlier instalment for the taking of that legal action.

Payment of Debt and not Costs

If, after the commencement of legal proceedings, a ratepayer makes payment of the instalment claimed but not the costs of those proceedings, Council's external law firm is to send the relevant ratepayer a letter setting out the amount payable for costs and demanding payment of same within seven days (though fourteen days will be allowed).

If the ratepayer does not make payment of those costs within fourteen days of the sending of the letter legal action is to be continued for the recovery of those costs.

Arrangements

Under section 564 of the Act Council is able to come to an arrangement for the payment of amounts owing by way of periodical payment.

Council is to negotiate such arrangements with the aim to be that, where possible, all arrears (including any costs incurred in legal proceedings) are to be paid within the current rating year – together with the current year's rates and charges. Where the calculated arrangement payment would cause the ratepayer to suffer hardship, the arrangement payments should be calculated over the 12 month period from the date of the arrangement, with the arrangement period not to exceed 24 months from the date of the arrangement.

Any arrangement is to be confirmed in writing to the address for service of the ratepayer. The confirmation is to:

1. Set out the amount payable under the arrangement;

2. Confirm that the arrangement only applies to that amount payable;
3. Set out the arrangement itself;
4. If applicable, confirm that it is a condition of the arrangement that all future rates and charges will be paid when due;
5. Urge the ratepayer to contact Council prior to the due date for payment should they be unable to comply with the arrangement; and
6. Advise that Council reserves the right to continue action without notice should the ratepayer default on the arrangement.

Council is to send the confirmation letter on its letterhead - unless the matter has already been referred to its external law firm for action, in which case the external law firm is to send the confirmation letter.

Council is to record the arrangement in the System and Property file for each relevant property.

Defaulted Arrangements

Should a ratepayer default on a payment arrangement then:

- (a) If the ratepayer has not been referred to the external law firm for action, recovery action will continue from the last stage it reached; and
- (b) If the ratepayer has been referred to the external law firm for action, that external law firm will send a letter demanding payment of the missed instalment within seven days and if it is not complied with, unless the ratepayer has taken some step that delays the process, recovery action will be continued from the last stage it reached.

Hardship

The Act provides a number of circumstances where a discretion is available to Council to release ratepayers from some (or all) of their obligations due to what has come to be termed hardship. The sections include:

- Section 567 – writing off accrued interest
- Section 577 – concessions for pensioners
- Section 582 – waiver or reduction of amounts owing by pensioners

Any application by a ratepayer on the grounds of hardship, which must be written, are to be referred to the Chief Financial and Information Officer (CFIO) following a recommendation from the Financial Services Manager for consideration by Council in accordance with Council's adopted procedures.

Sale of Land for Rates

Council is to avail itself of the procedure for sale of land for rates and charges provided by Part 2 Division 5 of the Act where appropriate.

Interest

In accordance with section 566 of the Act, interest will accrue daily on any overdue rates and charges at the maximum allowable rate.\

Sundry Debtors

Invoicing & Statements

Council will issue invoices to sundry debtors weekly.
Council will provide a monthly statement to sundry debtors.

Due Date for Payment

Invoices sent to sundry debtors are due for payment thirty days from the date of issue of the invoice.

Reminder Letter

A Reminder Letter is to be sent to any sundry debtor who has not made payment of any invoice within fourteen days of the due date for payment. The Reminder Letter, which is to be on Council letterhead, will set out the amount owing and demand payment of same within seven days.

Demand Letter

A Demand Letter is to be sent by Council's legal firm to any sundry debtor who has not made payment of the amount owing within fourteen days of the date of the Reminder Letter. The Demand Letter will demand payment within seven days and advise that Council may take legal action to recover the amount without further notice if it is not paid within that time.

Commencement of Legal Action

Council is to instruct its external law practice to commence legal action with the issue and service of a statement of claim against any sundry debtor with an amount owing greater than \$500.00 and who has not:

- (a) Come to an arrangement for payment of the debt; or
- (b) Made written application for waiver, credit or reduction of the debt; or
- (d) Taken some action to dispute that the amount is payable.

Service of Statements of Claim

Council's lawyers are to be instructed to serve statements of claim by post where possible. If postal service is unsuccessful for any reason personal service is to be attempted.

Obtaining Judgement

Council is to instruct their external law firm to make application for judgment if, within the time allowed by the relevant legislation (currently twenty-eight days after service of the statement of claim), the ratepayer has not:

- (a) Paid the debt and costs claimed; or
- (b) Filed a defence; or
- (c) Filed an acknowledgement of claim; or
- (d) Come to an arrangement to pay by instalments; or
- (e) Taken any other action that means Council is unable to apply for judgment.

Enforcing Judgement

Council is to instruct their external law firm to enforce any judgment obtained by one or more of the following methods as advised by their external law firm:

- (a) Writ against property;
- (b) Examination;
- (c) Garnishee of bank accounts;
- (d) Garnishee of wages or other debts;
- (e) Bankruptcy;
- (f) Winding up of companies;
- (g) Such other method as Council is advised.

Arrangements

Council is able to come to an arrangement with any sundry debtor for payment of the amount owing (including any costs and interest).

Any request for an instalment arrangement from a sundry debtor must be in writing and Council will not consider any request until it has been submitted in writing.

Whether or not Council agrees to any arrangement proposal is entirely at the discretion of Council and the following should be taken into account:

- (a) The debt size;
- (b) The debt age;
- (c) The time it will take to pay;

- (d) The conduct of the debtor, including any previous arrangements and their outcome;
- (e) The amount of costs incurred;
- (f) The financial circumstances of the debtor, to the extent that Council is aware of them; and
- (g) Any other matter Council considers relevant.

If Council accepts a proposal from a sundry debtor for payment of a debt by instalments, that acceptance is to be confirmed in writing. The confirmation is to:

1. Refer to the written offer to pay by instalments received;
2. Set out the amount payable under the arrangement;
3. Confirm that the arrangement only applies to that amount payable;
4. Set out the arrangement itself;
5. Urge the debtor to contact Council prior to the due date for payment should they be unable to comply with the arrangement; and
6. Advise that Council reserves the right to continue action without notice should the debtor default on the arrangement.

Council is to send the confirmation letter on its letterhead - unless the matter has already been referred to its external law firm for action, in which case the external law firm is to send the confirmation letter.

Defaulted Arrangements

Should a sundry debtor default on a payment arrangement then recovery action is to continue from the last stage it reached prior to the arrangement being entered into.

Interest

If the agreement by which Council provided the services that led to the sundry debt being incurred does not provide for interest to be charged, Council is to claim interest in any legal proceedings taken as allowed under relevant legislation at the applicable rate.

If the agreement by which Council provided the services that led to the sundry debt being incurred provides for interest to be charged, Council is to charge the interest under the agreement to the sundry debtor. However, Council at its discretion may choose to alternatively claim interest in any legal proceedings taken as allowed under relevant legislation at the applicable rate.

Inbound Contact

To avoid confusion, double-handling and adverse legal issues, once a matter has been referred to Council's external law firm for collection all inbound contact from debtors is to be handled by them. Council staff are to advise such debtors to deal directly with Council's external law firm and, if necessary, provide appropriate contact details for same.

Delegation of Authority

Council hereby expressly authorises its General Manager, CFIO, Financial Services Manager or such person as any of them delegates such authority to take such action as they deem fit to achieve the purposes of this policy with the adherence to same.

Maintained by Department:	Corporate & Community	Approved by:	Council		
Reference:	Dataworks: Policy Register	Council Policy No:	8.4	Effective Date:	21 Oct 2008
Min No:	V1- 06-349 V2-008-165 V3 - 14-367	Version No:	3	Reviewed Date:	Oct 2009 August 2013 September 2014
Attachments:					



8. FINANCE

Policy 8.5

PENSION REBATES

Version 4

8. FINANCE

8.5 PENSION REBATES

OBJECTIVE

To provide assistance to eligible pensioners with the payment of their rates and charges.

POLICY

Council will provide a rebate of rates to eligible pensioners under Section 575 of the Local Government Act 1993.

1. Guidelines

For the purpose of the Local Government Act (1993) and consequently, this policy an eligible pensioner is defined as;

- (a) persons who receive a pension, benefit or allowance under Chapter 2 of the Social Security Act 1991 of the Commonwealth, or a service pension under Part III of the Veterans' Entitlements Act 1986 of the Commonwealth, and who are entitled to a pensioner concession card issued by or on behalf of the Commonwealth Government,
- (b) persons who receive a pension from the Commonwealth Department of Veterans' Affairs as:
 - (i) a war widow or war widower within the meaning of the Veterans' Entitlements Act 1986 of the Commonwealth, or
 - (ii) the unmarried mother of a deceased unmarried member of the Australian Defence or Peacekeeping Forces, or
 - (iii) the widowed mother of a deceased unmarried member of the Australian Defence or Peacekeeping Forces, and does not have income and assets that would prevent them from being granted a pensioner concession card (assuming they were eligible for such a card),
- (b1) persons who have received a lump sum mentioned in section 234 (1) (b) of the Military Rehabilitation and Compensation Act 2004 of the Commonwealth or are receiving a weekly amount mentioned in that paragraph, and do not have income and assets that would prevent them from being granted a pensioner concession card (assuming they were eligible for such a card),
- (c) persons who receive a general rate of pension adjusted for extreme disablement under section 22 (4) of the Veterans' Entitlements Act 1986 of the Commonwealth, or a special rate of pension under section 24 of that Act,
- (d) persons who receive, or who at some point in their life have been eligible for, a Special Rate Disability Pension under the Military Rehabilitation and Compensation Act 2004 of the Commonwealth."

The rebate available to eligible pensioners is set out in Section 575(3) of the Local Government Act (1993). The total amount by which:

- (a) all ordinary rates and charges for domestic waste management services levied on any land for the same year are reduced is not to exceed \$250, and
- (b) all water supply special rates and charges so levied are reduced is not to exceed \$87.50, and
- (c) all sewerage special rates or charges so levied are reduced is not to exceed \$87.50

An application for pensioner rebates is to be made on a form approved by the Director General of the Office of Local Government.

The rebate will be shown on the Rates and Charges notice and will be deducted from the total amount payable.

On land that is jointly owned and the liability for payment of the rates is shared with ratepayers who are not eligible pensioners, the rebate amount will be calculated proportionally according to the ratio that the eligible pensioners bears to the total number of owners. There will be an exception where a legal agreement exists that makes the eligible pensioners solely liable for payment of the rates. In this case the full rebate will apply.

If an eligible pensioner becomes ineligible for any reason, the Council rebate will be written back proportionally according to the number of full quarters left in the rating year (Section 58 of the Local Government Act 1993).

2. Hardship

Eligible pensioners can apply to Council for assistance at any time within the current rating year if they are suffering financial hardship and are having difficulty paying their rates and charges. The procedure to apply is set out in the Council's Hardship Policy.

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Reference:	Dataworks: Policy Register	Policy No:	8.5	Effective Date:	21 Oct 08
Min No:	V1 - 06-349 V2 - 008-165 V3- 14-367	Version No:	4	Review Date:	Oct 2009 Aug 2011 Sept 2014
Attachments:					



8. FINANCE

Policy 8.6

HARDSHIP POLICY

Version 3

8. FINANCE

8.6 HARDSHIP POLICY

OBJECTIVE:

To provide assistance to ratepayers suffering financial hardship, with outstanding debts due to council and to provide an administration process to determine applications promptly.

POLICY:

A debtor who cannot pay a debt due to Council for the reason of financial hardship can apply for assistance at any time.

Each individual case will be considered on its merits. The criteria for assessment is contained in the Hardship Application form, attachment 1, including but not limited to, the following:

- The amount of any rate increase when compared to the average rate increase for the rate category
- Income from all sources
- Living expenses
- Reason for financial hardship
- Length of occupancy

The assistance provided will be determined under the legal requirements of the Local Government Act 1993.

DEFINITIONS

- LGA, 1993 - refers to the Local Government Act 1993.
- Pensioner - means an eligible pensioner as defined in clause 135 of the Local Government (General) regulations 2005.
- Hardship Application form will be used for the purpose of applying for assistance under this policy.
- Hardship Committee will review hardship applications and will include the Finance Manager and a Rating Officer.
- The workgroup will make recommendations to the Chief Financial and Information Officer (CFIO) and prepare reports to Council if amounts exceed the General Manager's delegations.

HARDSHIP PROVISIONS

The Local Government Act 1993 provides Council with three (3) options for providing assistance to ratepayers who are finding it difficult to pay their rates and charges because of financial hardship. A summary of the options is as follows:

Section 601 LGA 1993

Any ratepayer who incurs a rate increase in the first year following a revaluation of land values can apply to Council for rate relief if the increase in the amount of rates payable would cause them substantial hardship.

Council has discretion to waive, reduce or defer the payment of the whole or any part of the increase in the amount of the rate payable.

Council can set the period of time for when applications can be made under this Section.

Applications under Section 601 LGA 1993 must be made during the first year a new land value is used for rating purposes. Where an application is made in the first year, an application can also be made in subsequent years of the valuation base date.

Section 582 LGA 1993

Council can provide assistance to pensioners under this Section. Council may defer payment of all or part of the rates and charges payable after rebates have been deducted.

Sections 564 and 567 LGA 1993

Council can enter into payment agreements with rate payers, who cannot meet their normal instalment payments as provided by the LGA 1993.

- Council will provide an application form for the purpose of applying for assistance
- The Hardship Committee will review the application and recommend to the CFIO any offer of assistance as provided by the Local Government Act 1993 having regard to the circumstances of the applicant
- The CFIO can approve or not approve the Committee's recommendation
- The ratepayer will be informed of Council's decision in writing and if not satisfied with the outcome can request the Council to reconsider its decision
- After the Council considers the application and makes a decision the ratepayer has no further right to appeal.

Delegated Officers of Council can enter into payment agreements with ratepayers (Sections 564 and 567 LGA 1993).

Accrued interest on rates and charges may be written off where payment of the accrued interest would cause the person hardship. The Hardship Committee may request the ratepayer to come to an interview if it is necessary to understand the issues causing hardship.

HARDSHIP RESULTING FROM A GENERAL REVALUATION GOVERNMENT AREA

In accordance with Section 601 of the Local Government Act a rate payer that suffers substantial hardship as the consequence of the making and levying of a rate on the most recent valuation, may apply to Council for relief. Assistance is only available in the first year new valuations are used to calculate rates. The criteria used to determine eligibility are:

- The rates payable must be more than 5% of the gross household income
- The applicant must be an owner and an occupier of the property to which the rates relate and the dwelling must be the applicants sole or principle place of living

- The ordinary rate increase must be more in percentage terms than the amount determined by Council at each revaluation. The ordinary rate increase is calculated as the ordinary rates payable for the new rating year (being the first year in which revaluations are used) minus the ordinary rates payable in the previous rating year increased by the allowed rate pegging increase for the year
- The maximum amount of assistance in aggregate for all ratepayers is \$20,000.

Only applications on the approved Hardship Application form, attachment 1, with certified supporting documentation will be considered. Applications with insufficient documentation will be referred back to the applicant. Completed applications will be assessed within 10 working days from lodgement with Council. Applications will be considered by the Hardship Committee. A ratepayer dissatisfied with a decision of the CFIO- may have that decision reviewed by the General Manager . If an application is refused, the applicant will be provided with reasons for such refusal by the CFIO. Applicants may appeal, in writing, to the General Manager.

PRIVACY

Privacy in relation to any consideration of hardship will be preserved in accordance with Council's Privacy Management Plan.

ATTACHMENTS

- 1 Hardship Application Form

Maintained by Department:	Corporate & Community	Approved by:	Council		
Reference:	Dataworks: Policy Register	Council Policy No:	8.6	Effective Date:	21 Oct 2008
Min No:	V1 - 06-349 V2 - 008-165 V3 - 12-49 V4 - 14-367	Version No:	4	Review Date:	Oct 2009 Aug 2011 Feb 2013 Oct 2013 Sept 2014
Attachments:					

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Email: council@lithgow.nsw.gov.au
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ABN: 59 986 092 492



RATES & CHARGES HARDSHIP APPLICATION

I (Ratepayer Name)
of (Ratepayer Address)

hereby make application to council for relief from payment of rates and charges upon the basis of hardship with respect to the following property:

Property Address:

Property Assessment Number:

The relief I seek is as follows (set out the specific relief sought – examples include extension of time to pay and waiver/deferral of interest for a specified period):

The grounds relied upon for this application are:

- Financial (in which case complete the Financial Questionnaire that follows and provide council with supporting documents);
- Non-financial (in which case provide the relevant information on the following page and provide council with supporting documents);
- Both financial and non-financial (in which case provide the information and documents for both categories above).

SIGNATURE OF RATEPAYER

The information contained in this application is true. I understand that information provided in this application will be better supported if I provide documents to council proving same and I have attached copies of all documents I want council to consider to this application.

Signature

Date of signature

Telephone

Email Address

Pensioner Allowance Information (if applicable)

Do you have a current Pensioner Concession Card (PCC) issued by the Commonwealth Government?

Yes

No

If 'Yes', type of pension or benefit

If 'Yes', PCC Number (attach copy)

Date of Grant

Have you claimed a Pension Concession on any other property this year in any other local government area?

Yes

No

If 'Yes', state the address of the property

Information for Non-financially Based Applications (if applicable)

I put forward the following information for Council's consideration

(if there is not enough space please attach further information as desired)

Financial Questionnaire for Financially Based Applications (if applicable)

INCOME (weekly unless otherwise stated)

Your average weekly income after tax from salary or wages	\$
Social security benefits/pensions (include family payments etc)	\$
All other income (eg self-employed income, interest, dividends, rent or trust distributions)	\$
TOTAL	\$
Income of your spouse or partner	\$

EMPLOYMENT DETAILS

What is the name of your principal employer?

What is the address of your principal employer?

SUBURB POSTCODE

What is the institution name, branch, BSB and account number of the account into which your salary or wage is paid by your employer (if applicable)?

PROPERTY OWNED BY YOU

Home	Property Address	CURRENT VALUE
		\$
	Value of equity, if any	\$
Other property	Property Address	\$
	Value of equity, if any	\$
Funds in banks/ financial institutions, including funds held in off-set accounts	Institution, branch, BSB and account number	\$
	Institution, branch, BSB and account number	\$
Investments	Name and type of investment	\$
Motor vehicle	Year Make	\$
	Model Registration	\$
Household contents	Description	\$
Other personal property	Description and location	\$
TOTAL VALUE OF PROPERTY OWNED BY YOU		\$

LIABILITIES

Average weekly expenses:

ITEM	WEEKLY AMOUNT
Food	\$
Household supplies	\$
Mortgage/rent	\$
Gas	\$
Electricity	\$
Heating fuel	\$
Rates/levies	\$
Telephone	\$
Motor vehicle	
• Petrol	\$
• Maintenance	\$
• Registration/insurance	\$
Medical/hospital funds	\$
Other insurance (specify)	\$
Fares	\$
Clothing and shoes	\$
Entertainment/hobbies	\$
Education/childcare expenses, including fees and levies	\$
Medical/chemist /pharmaceutical	\$
Hire purchase payments	\$
Credit cards	\$
Other necessary commitments, including weekly payments on other liabilities, listed above (specify)	\$
TOTAL WEEKLY EXPENSES	\$

Other liabilities:

LIABILITIES	NAME OF BANK/INSTITUTION	TOTAL AMOUNT OWED
Home mortgage		\$
Other loans		\$
Credit cards		\$
Credit cards		\$
Other liabilities (specify)		\$
TOTAL		\$

Does anyone contribute to paying these liabilities (eg your spouse/partner)? If yes, give the person's details:

Name of person

Amount of contribution per week

Do you have any dependants? If yes, give details:



8. FINANCE

Policy 8.7

INVESTMENT POLICY

Version 5

8. FINANCE

8.7 INVESTMENT POLICY

OBJECTIVE

1. To undertake investment of surplus funds.
2. To maximise earnings from authorised investments.
3. To ensure the security of Council funds.

POLICY

1. AUTHORITY FOR INVESTMENT

All investments are to be made in accordance with:

- a) Local Government Act 1993 – Section 625
- b) Local Government Act 1993 – Order (of the Minister) dated 12 January 2011
- c) The Trustee Amendment (Discretionary Investments) Act 1997
- d) Local Government (General) Regulation 2005.

2. DELEGATION OF AUTHORITY

The General Manager is given delegated authority under the Local Government Act to invest temporary surplus funds in accordance with Council policy.

This authority may be sub-delegated by the General Manager.

3. AUTHORISED INVESTMENTS

All of the Council's investments must be denominated in Australian Dollars. The council may only invest money in the forms of investments, as taken directly from the Local Government Act 1993 – Order (of the Minister) Circular No: 11-01 gazetted on 11 February 2011.

- (a) Any public funds or securities issued by or guaranteed by, the Commonwealth, any State of the Commonwealth or a Territory
- (b) Any debentures or securities issued by a council (within the meaning of the Local Government Act 1993 (NSW))
- (c) Interest bearing deposits with, or any debentures or bonds issued by, an authorised deposit-taking institution (as defined in the Banking Act 1959 (Cwth)), but excluding subordinated debt obligations
- (d) Any bill of exchange which has a maturity date of not more than 200 days; and if purchased for value confers on the holder in due course a right of recourse against a bank which has been designated as an authorised deposit-taking institution by the Australian Prudential Regulation Authority (APRA)

- (e) A deposit with the New South Wales Treasury Corporation or investments in an Hour-Glass investment facility of the New South Wales Treasury Corporation.

All investment instruments (excluding short term discount instruments) referred to above include principal and investment income (interest).

Prohibited Investments

This investment policy prohibits any investment carried out for speculative purposes including, but not limited to:

- i. Derivative based instruments
- ii. Principal only investments or securities that provide potentially nil or negative cash flow and
- iii. Stand-alone securities issued that have underlying futures, options forward contracts or swaps of any kind.

This policy also prohibits the use of leveraging (borrowing to invest) of an instrument. However, nothing in this previous paragraph will limit the grandfathering clause pertaining to already purchased investments.

4. GUIDELINES

Diversification

Deposits with any one financial institution shall be limited to 50% of Council's total portfolio, with investments held with a minimum of three financial institutions.

The Diversification limit above shall be assessed at the time of making a new investment. Any subsequent reduction in portfolio size shall be disregarded in relation to assessing diversification limits of existing investments where there are likely to be significant costs or losses for terminating or disposing of an investment.

Term to Maturity Framework

The investment portfolio is to be invested within the following maturity constraints:

Maturity Profile	Minimum Percentage	Maximum Percentage
Maturity < 1 year	40%	100%
Maturity > 1 year < 3 years	0%	50%
Maturity > 3 year < 5 years	0%	50%
Maturity > 5 year	0%	10%

5. REPORTING

A monthly report shall be provided to Council, detailing the investment portfolio including individual amounts invested, financial institution name, maturity date, interest rate, percentage exposure within the total portfolio and current market value. The report is to include a certificate as to whether or not the investments have been made in accordance with the Act, regulations and Council's investment policy.

For audit purposes certificates must be obtained from banks and investment brokers confirming the amounts of investments held on Council's behalf and their current market value as at 30 June each year.

6. VARIATION TO POLICY

The General Manager be authorised to approve variations to this policy if the investment is to Council's advantage and/or due to revised legislation.

All changes to this policy are to be reported to Council.

7. REVIEW

This Policy will be reviewed as required and at a minimum at least once during the term of Council.

Maintained by Department:	Finance	Approved by:	Council		
Reference:	Dataworks: Policy Register	Council Policy No:	8.7	Effective Date:	21 Oct 2008
Min No:	V1 - 06-349 V2 - 008-165 V3 - 12-49 V4 - 14-428	Version No:	4	Reviewed Date:	Oct 2009 Aug 2011 13 Feb 2012 Oct 2014
Attachments:					



LITHGOW CITY COUNCIL

9. GOVERNANCE

Policy 9.8

RECORDS MANAGEMENT POLICY

Version 5

Maintained by Department:	Finance	Approved by EMT:	23 July 2012	Approved by CMT:	
Reference:	ECM Policy Register	Council Date:		Effective Date:	
Min No:	V1:Min 06-349 V2:Min 07-542 V3:Min O 08-165 V4: Min 13-64 Min 13-132 V5:	Version No:	5	Review Date:	
Attachments:	Nil				

9. GOVERNANCE

9.12 RECORDS MANAGEMENT POLICY

OBJECTIVES:

- To establish the framework for, and accountabilities of, Lithgow City Council's Records Management Program;
- To ensure compliance with relevant legislative requirements.

RELATED REFERENCES, POLICIES & PROCEDURES

Lithgow City Council's:

- Records Strategic Plan
- Access to Information Held Policy 9.17
- Various Recordkeeping Standard Working Procedures/SWPs
- Code of Conduct
- ECM User Manual
- ECM Procedures
- Legal Documents Manual
- Appendices A and B of the Records Management Policy

AUTHORITY OF THIS POLICY

This policy has been authorised by Council and is available to all staff. It has been developed in consultation with staff and will be revised as required and at a minimum at least once during the term of Council. Ownership of the policy rests with the delegated Corporate Records Manager/s, being the Group Manager Corporate and Community and the Finance Manager, who are responsible for Council's Records Management Program, ensuring compliance with legislative requirements and recordkeeping standards.

All staff must comply with this policy, and associated Records Management Procedures, in their conduct of official business for Council. This policy applies to records in all formats, including electronic records.

RECORDS AS A RESOURCE

Lithgow City Council recognises that records are a vital asset to:

- facilitate information accessibility, and enhance business by supporting program delivery, management and administration
- deliver customer service in an efficient, fair and equitable manner
- provide evidence of actions and decisions and precedents for future decision making, and
- protect the rights and interests of Government, Council and its clients and citizens.

A small percentage of Council's records will become archives, part of the cultural resources of the State.

PROCEDURE:

1. GENERAL

RECORDS MANAGEMENT PROGRAM

OBJECTIVES OF THE RECORDS MANAGEMENT PROGRAM

A records management program is a planned, co-ordinated set of policies, procedures, people, systems and activities that are required to manage records.

Lithgow City Council's Records Management Program seeks to ensure that:

- it has the records it needs to support and enhance ongoing business and customer service, meet accountability requirements and community expectations
- these records are managed efficiently and can be easily accessed and used for as long as they are required
- records are stored as cost-effectively as possible and, when no longer required, they are disposed of in a timely and efficient manner
- all staff are educated in their responsibilities under legislation and Government directives.
- this policy applies across a number of corporate systems (e.g. those used for storing property and finance information) and to information in applications such as email and faxes. The changing nature of the corporate information systems requires the ability to deliver records management in an adaptive manner.
- as a significant part of Lithgow City Council's corporate memory, records enable informed decisions based on precedents and organisational experience. Records management principles support consistency, efficiency and productivity in program delivery, management and administration.
- the Council is committed to managing its records effectively and efficiently to promote informed decision-making, better performance of business activities, improved customer service, and protection and support in litigation and management of risk.
- Council complies with all requirements concerning records and records management practices including the NSW Government's objectives for recordkeeping (see Appendix A)
- records of longer term value are identified and protected for historical and other research.

A goal of particular note is that the organisation is committed, through its Records Management Program, to maintaining digital and other technology dependent records in authentic and accessible form for as long as they are required in accordance with s.14 of the State Records Act 1998 (NSW).

ELEMENTS OF THE RECORDS MANAGEMENT PROGRAM

Creation and Capture

Council has endorsed the use of a number of standard, open source file formats outlined in the ECM User Manual. These formats have been chosen to streamline the ongoing management of Council's records and should be the only formats used for the creation of records.

Staff should ensure that they create official records of all decisions and actions made in the course of their official business. For example, if business is transacted by telephone, file notes of the key points in the conversation should be documented. Official meetings should include the taking of minutes.

To assist in promoting the responsible creation of records, the capture of essential information and the management of records over time, Council has developed the following:

- paper and electronic templates
- definition of recordkeeping requirements and business rules

- procedures, standard creation rules and other guidelines

All records defined by the organisation as important to create should be captured into ECM, Council's electronic recordkeeping system, so they can be managed appropriately. The information required to be recorded about each record on capture is described in the *ECM User Manual*.

Records are registered in ECM and automatically assigned a unique number. They are indexed to the relevant subject/s and the document is assigned a meaningful précis.

Storage

Current hardcopy records scanned in ECM are filed in day boxes and stored in the Records Office while older hard copy ECM records are stored in the locked Archives Room in day boxes. Other current hard copy records are filed on Development Application, Building Application and Septic Tank Application Files.

State Archive, Confidential and Legal documents are stored in the Hartley Building strongroom.

Digital records should be stored and maintained in ECM until they can be disposed of. Records of short term value will be disposed of regularly by the Senior Records Officer. Records of long term or archival value should be retained online wherever possible and managed in accordance with the *Records Management Procedures*.

Removable media should be forwarded to the Senior Records Officer when rarely or no longer used for official purposes.

Maintenance and Monitoring

The location of each record needs to be recorded and updated at every movement of the record. This ensures that records, as assets, can be accounted for in the same way that the other assets of Council are. Staff members should notify a Records Officer when passing hard copy files on to another officer.

The Senior Records Officer is responsible for ensuring that records and environmental conditions are monitored regularly to protect records. This includes checking temperature and humidity levels in dedicated records storage areas for paper records and ensuring that digital records are refreshed or replicated when scheduled, when new storage devices and media are being installed or when degradation is detected.

Maintenance of digital records can also entail the migration of data. Migrations must be authorised by the Corporate Records Manager/s and must produce authentic, complete, accessible and useable records. For more information on procedures for migration, see the State Records NSW *General Retention and Disposal Authority – Source Records that have been Migrated* (GA33)

Council has implemented a number of security and counter disaster measures for safeguarding its information assets. Staff should abide by these measures at all times.

Disposal

Council has authorised Retention and Disposal Authorities (GA39 - *General Authority for Local Government and GA 36 – Imaged Records*) covering records relating to its core functions and activities. Council recommends that disposal actions are assigned to records in all formats on creation to ensure they are managed appropriately.

No Council records can be disposed of unless in accordance with GA39. Any sentencing of records must be supervised by the Senior Records Officer. Approval and signed authorisation for destruction of records must be sought from the General Manager before any disposal takes place.

Transfer

The transfer of records required as State archives in GA39 to State Records NSW when no longer in use for official purposes will be managed by the Senior Records Officer.

In the event of administrative change, e.g. the transfer of functions from Council to another organisation, the Senior Records Officer will advise staff on transfer procedures for records.

Access

Records must be available to all authorised staff that require access to them for business purposes. All access to Council's records by members of the public, including Government Information (Public Access) or GIPA requests, will be in accordance with Lithgow City Council's Policy 9.17 - Access to Information Held and State Records Access Directions.

Contractors and Outsourced Functions

All records created by contractors performing work on behalf of Council belong to Council and are State records under the *State Records Act 1998 (NSW)*. This includes the records of contract staff working on the premises as well as external service providers.

Contracts should clearly state that ownership of records resides with Council, and instructions regarding creation, management, and access to the records created. The Corporate Records Manager/s should be consulted during the formulation of the contract.

2. ACCOUNTABILITY REQUIREMENTS

- Lithgow City Council records are *state records*.
- The requirements and regulations of the State Records Act 1998 (NSW), which set out specific practices with which we must comply and will be audited against, bind Council.
- Other standards and legislation, such as the Evidence Act 1995, Government Information Public Access Act 2009 (commonly referred to as the GIPA Act), etc, will be complied with.
- A corporate standard will be set for records management that can be monitored and audited throughout Council that complies with AS ISO 15489 – Records Management.

3. RESPONSIBILITIES

GENERAL MANAGER

- Ensures that Council complies with the requirements of the State Records Act 1998 (NSW) and the standards and requirements issued under the Act. This includes the requirement for the public office to ensure that any records requiring technology to be read and understood remain readable and available for as long as they are required.
- Authorises disposal of records, in accordance with legislation.

CORPORATE RECORDS MANAGER/S (Chief Financial and Information Officer & Finance Manager)

- Has ownership of the Records Management Policy
- Develops strategic and operational plans for the Records Management Program
- In liaison with the IT Manager, ensures that the essential characteristics of digital records are identified prior to any preservation process taking place
- Provides support and infrastructure to ensure that records kept in electronic form are managed so that they are accessible, readable, inviolate, complete, comprehensive, and authentic for as long as required

FINANCE MANAGER

- Ensures the overall management of the Records Department

- Holds the role of Senior Responsible Officer for records management matters, including responding to requests for information on conformity with legislative requirements (i.e. responding to State Records records management surveys)
- Ensures that Council complies with the State Records Act 1998 (NSW) and other legislation relating to records management and recordkeeping
- Ensures that Records Management is adequately resourced
- Reports to the Executive on Records Management

COUNCILLORS

- All Councillors must comply with the Records Management for Councillors Standard Working Procedure in their conduct of official business for Council. Official business includes business relevant to the performance of the function and duties of the office of Councillor. The Standard Working Procedure applies to records in all formats, including electronic records.

SENIOR RECORDS OFFICER

- Provides leadership, supervision and co-ordinates Council's Records Unit and reports to the Finance Manager
- Provides strategic focus for recordkeeping and monitors/audits compliance with legislative requirements that impact upon the management of the Records Unit, including Equal Opportunity and WHS, whilst keeping abreast of new developments and technologies in the records and archives field
- Responsible for the conduct of records management operations, supervising the efficient and effective day to day management of records and daily work tasks to ensure that performance standards are met
- Oversees the effective operation, administration and development of Council EDRMS whilst maintaining the capture, retention, storage, retrieval, disposal, protection and preservation of Council Records and archives in a timely, confidential and accurate manner, in accordance with the State Records Act NSW 1998, other legislative requirements and best practice
- Develops policies, procedures, plans and standards in relation to all aspects of records management
- Acts as the Appropriate Person to manage the process of ensuring Tenders are placed in the Tender box and that the process to open Tenders is conducted in accordance with the Local Government Act and its associated Regulation(s)
- Maintains the functional disposal schedule to ensure that is up to date and reflects Council business needs
- Ensures preservation of confidentiality at all times
- Ensures that systems are in place to provide adequate security for and the appropriate access to, current and archived records
- Ensures the preservation of digital records is addressed in policy, planning and implementation of the public office's records management program
- Ensures levels of customer service for the Records Unit are met and maintained whilst overseeing effective team based philosophy to promote an effective service environment
- Ensures provision for the education/training of all Council officers in relation to recordkeeping responsibilities and when necessary, co-ordinates and delivers records management training
- Efficiently responds to requests for information, assistance and files to promote support for the recordkeeping system and to demonstrate its efficiency
- In conjunction with IT staff, establishes and maintains a customised recordkeeping metadata schema and business rules regarding how metadata is to be managed
- Provides reports and undertakes audits requested by management
- Organises the disposal of records, in liaison with relevant authorising manager
- Formulates and maintains vital records lists and counter disaster plans
- Coordinates and when necessary, delivers the records management training program

- Maintains ECM administration security
- Assists other Records officers as workload and/or special projects dictate
- Assists the Group Manager Corporate and Community, in ensuring robust governance systems related to the processing of requests for information under GIPA legislation, providing advice and recommendations in relation to the release of information
- Coordinates and delivers the records management training program
- Ensures that all staff are aware of their recordkeeping responsibilities
- Ensures preservation of confidentiality at all times
- Maintains GA39 specifically for Lithgow City Council
- Maintains Council's Legal Documents
- Minutes Index entry for both current and older Council meeting minutes
- Regularly check, capture or distribute emails from Council
- Efficiently responds to customer requests for information, assistance and files, to promote support for the recordkeeping system and to demonstrate its efficiency
- Creates new customers in Customer Index
- Undertakes allocated ECM audits which include: To be indexed, Pending items, Note headings, Personnel Classifications, Confidential Classifications, incorrect Index level links, spell check and End of day audit
- Link all documents to the functional Subject Index, including Council Meeting reports
- Prepare acknowledgement letters for complaints and submissions

RECORDS OFFICER

- Contributes to the development of Council's records management policies, procedures, plans and standards
- Makes recommendations for the improvement or modification of practices
- Supports and contributes to the efficient and effective provision of consistently high quality records information management services, in the capture, maintenance, storage and distribution of records in a timely, confidential and accurate manner.
- Undertakes the accurate opening, sorting, coding, scanning, registering, summarising, tasking, storing, distributing incoming correspondence and internal emails and facsimiles
- Ensures preservation of confidentiality at all times
- Ensures and assists in monitoring of compliance with legislative requirements for recordkeeping within Council and other legislation, policies and practices that impact upon the management of the Records Unit, including Equal Opportunity and WHS
- Ensures levels of service for the Records Unit are met and maintained
- Maintains Council's Legal Documents
- Regularly check, capture or distribute emails from Council
- Maintains Council's Electronic Document and Records Management System (EDRMS), ECM.
- Undertakes allocated ECM audits which include: To be indexed, Pending items, Note headings, Personnel Classifications, Confidential Classifications, incorrect Index level links, spell check and End of day audit
- Link all documents to the functional Subject Index, including Council Meeting reports
- Minutes index entry for both current and older Council meeting minutes
- Creates new customers in Customer Index
- Prepare acknowledgement letters for complaints and submissions
- Efficiently responds to customer requests for information, assistance and files, to promote support for the recordkeeping system and to demonstrate its efficiency
- Assists other Records officers as workload and/or special projects dictate
- When required, undertakes position/duties of Senior Records Officer
- When required, assists in delivering the records management training
- When required, files documents in day boxes

MANAGERS

- Ensure that records are created and managed within their program in a way which complies with the Records Management Policy and Procedures.
- Provide feedback on the successful migration processes to help ensure that records remain authentic, complete, accessible and useable
- Ensure that staff are trained in how to create and manage records
- Determine legislative requirements for records relating to their specific activities. E.g. Environmental Planning and Assessment Act 1979, Food Act 2003, etc.
- Ensure that contracts with service providers contain records management clauses in accordance with this Records Management Policy

IT STAFF

- Network management
- Management of Council's recordkeeping systems to ensure Council can deliver its programmed activities in an optimal manner
- Manages data integrity management including back ups and internal audit procedures
- Maintenance of Council's hardware ensuring it meets all of Council's recordkeeping needs
- Management, maintenance and control of all peripherals (printers, scanners, photocopiers)
- Management and optimisation of remote access to improve performance and timeliness of officers working external to main administration building

ALL STAFF

- Comply with Records Management Policy and Procedures
- Create full and accurate records of their business activities, including records of all decisions and actions made in the course of their official business
- Ensure that all business related records are saved into the organisation's business recordkeeping systems. (e.g. ECM, GIS, T1 Property, T1 Financials)
- Prioritise and complete allocated recordkeeping activities within specified time frames

CONTRACTORS

- Manage records that they create on behalf of Council according to the terms of their contract

REVIEW

This Policy will be reviewed as required and at a minimum at least once during the term of Council.

APPENDIX A

Legislative and Government Requirements for Recordkeeping

- State Records Act 1998 (NSW) – including standards and retention and disposal authorities issued under the Act
- Government Information (Public Access) Act 2009
- Privacy and Protection of Personal Information Act 1998
- Evidence Act 1995
- Electronic Transactions Act 2000
- Environmental Planning and Assessment Act 1979
- Local Government Act 1993
- Public Sector Employment and Management Act 2002
- Public Finance and Audit Act, 1983
- Commonwealth Copyright Act 1968
- NSW Public Sector Code of Conduct
- NSW Treasurer's Directions
- Good Conduct and Administrative Practice: Guidelines for Public Authorities and Officials (NSW Ombudsman)
- Premier's Memoranda and Circulars, including M1998-16, C2003-17, M2004-14, M2007-08

Note: This list is not exhaustive. It is the responsibility of managers to examine legislation and government directions which govern their activities, and ensure that records arising from these activities conform with recordkeeping requirements.

APPENDIX B – GLOSSARY OF TERMS

This glossary has been compiled from the *State Records Glossary of Recordkeeping Terms*. Sources of terms include Australian and international standards on records management.

Access

Right, opportunity, means of finding, using or retrieving information. *AS ISO 15489 Part 1 Clause 3.1*

Appraisal

The process of evaluating business activities to determine which records need to be captured and how long the records need to be kept, to meet business needs, the requirements of organisational accountability and community expectations. *AS 4390 Part 1 Clause 4.3*

Archives

Those records that are appraised as having continuing value. *AS 4390 Part 1 Clause 4.5*

Classification

Systematic identification and arrangement of business activities and/or records into categories according to logically structured conventions, methods and procedural rules represented in a classification system. *AS ISO 15489 Part 1 Clause 3.5*

Counter Disaster Plan

A plan for measures to be taken for disaster prevention, disaster response and recovery and vital records protection.

Disposal

A range of processes associated with implementing appraisal decisions. These include the retention, deletion or destruction of records in or from recordkeeping systems. They may also include the migration or transmission of records between recordkeeping systems, and the transfer of custody or ownership of records. *AS 4390 Part 1 Clause 4.9*

Recordkeeping

Making and maintaining complete, accurate and reliable evidence of business transactions in the form of recorded information. *AS 4390 Part 1 Clause 4.19*

Recordkeeping Requirements

Requirements arising from regulatory sources, business needs and community expectations that identify the types of records that should be created and the management framework needed in order to have, and accountably manage, all the business information that is necessary for an organisation.

Recordkeeping Systems

Recordkeeping systems are business information systems capable of capturing, maintaining and providing access to records over time.

Records

Information created, received, and maintained as evidence and information by an organisation or person, in pursuance of legal obligations or in the transaction of business. *AS ISO 15489 Part 1 Clause 3.15*

Any document or other source of information compiled, recorded or stored in written form or on film, or by electronic process, or in any other manner or by any other means. State Records Act 1998 (NSW)

Records Management

Field of management responsible for the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including processes for capturing and maintaining evidence of and information about business activities and transactions in the form of records. *AS ISO 15489 Part 1 Clause 3.16*

Records Management Program

A records management program encompasses the management framework, the people and the systems required within an organisation to manage full and accurate records over time. This includes the identification and protection of records with longer-term value that may be required as State archives.

Retention and Disposal Authority

Documents authorised by the Board of State Records NSW that set out appropriate retention periods for classes of records. There are two main types:

- **Functional retention and disposal authorities** authorise the retention and disposal of records unique to a specific organisation.
- **General retention and disposal authorities** authorise the retention and disposal of records common to more than one organisation. Such records may include general administrative records, common records that relate to unique functions and records relating to the unique functions of like organisations such as local councils, universities and public health services.

State Archive

A State record that State Records Authority NSW has control of under the State Records Act, 1998 (NSW).

Vital Records

Those records that are essential for the ongoing business of an agency, and without which the agency could not continue to function effectively. The identification and protection of such records is a primary object of records management and disaster planning. Ellis (ed), *Keeping Archives*, p. 480.