Fines Rates Recovery Policy
PO44

Keywords: rates, debtors, fines, recovery

Corporate Plan:	*Accountable Leadership –* *1.3 Focus on delivering financial sustainability and responsible asset renewal* *2.3 Foster a culture of excellence and continuous improvement across all aspects of Council.* *3.4 Position Council as a trusted and reliable service provider for the community, with decision making based on the best outcomes for the Community.*
Classification:	*Corporate and Community Services – Fines/Rates Recovery Policy*
First Issued/Approved:	*July 2010*
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Responsible Officer(s):	*Rates Officer, Finance Manager, General Manager Corporate & Community Services*
Council File Reference:	*9.63.1*
Applicable Legislation:	*Local Government Act 1999, Part 1, Chapter 10 – Rates & Charges, Division 9 – Imposition and recovery of rates and charges*
Relevant Policies:	*Rate Policy Rate Capping Policy* *Rate Rebate Policy* *Rate Remission Policy* *Debt Recovery Policy*
Related Procedures:	*Subject to Annual Business Plan provisions/adoption – including Public Consultation – Section 151*
Delegations:	*Berri Barmera Council Delegations Register*

1. Purpose

This document sets out the Policy of the Berri Barmera Council for the process involved in running of fines and/or interest and the collection of outstanding Rates from its community.

The Policy Covers:

- Payment Arrangements
- Fines
- Fines – Write-Off
- Issuing of Overdue Rate Notices
- Debt Collection
- Sale of Land for Non-Payment of Rates

2. Definitions

Debt Collection	The process followed when the payment of rates notices are not received by the due date.
Fines	Also called overdue interest. A fee added to the rates account when rates notices are not paid by the due date.
Rates	Rates constitutes a system of taxation for local government purposes – LGA1999-sec150(a).
Rates Notice	The invoice sent to rate payers to notify them of the amount that needs to be paid to satisfy their responsibility of paying their rates.
Ratepayer	A person who appears in the assessment record as the owner or occupier of rateable property and is responsible for the payment of rates.
The Act	*Local Government Act 1999*

3. Principles

This Policy has been developed in accordance with the *Local Government Act 1999* (The Act), Chapter 10, Part 1, Division 9, and sets out the principals of the Berri Barmera Council to ensure consistency in the process of running fines and/or interest and the recovery of outstanding Rates.

4. Policy Statement

The Berri Barmera Council is committed to transparent decision-making processes and to providing access to a fair and objective procedure for the hearing or review of decisions.

Payment Arrangements
Applications can be made to the Berri Barmera Council under Sec 181 (15) of The Act to pay rates other than the four standard instalments. Applications may be approved on the condition that fines, costs and other charges applicable under The Act are also paid.

Any application made under this section must be of a reasonable amount as to ensure full payment of the outstanding amount by 30th June of that year or at the discretion of the Rates Officer taking the amount and time of year into account.

Fines
Fines and/or interest will be processed in accordance with the Section 181 (8) of The Act;

(8) If an instalment of rates is not paid on or before the date on which it falls due-
  (a) the instalment will be regarded as being in arrears; and
  (b) a fine of 2 per cent of the amount of the instalment is payable; and
  (c) on the expiration of each full month from that date, interest at the prescribed percentage of the amount in arrears (including the amount of any previous unpaid fine and including interest from any previous month) accrues.

(8a) Subsection (8) does not apply with respect to the postponement of the payment of rates under another section of The Act (while the postponement is occurring in accordance with the relevant section).

All fines/interest will be processed after giving five (5) working days grace from the due date that the instalment falls due.

Fines – Write-Off
The Berri Barmera Council may write off fines and/or interest levied on Rates as per the Section 181 (9) of The Act:

(9) A council may remit any amount payable under subsection (8) in whole or in part.

Applications can be made under the above Act to the Berri Barmera Council under the following circumstances only:

- Where the applicant can demonstrate that the rate notice was forwarded to the wrong address, the error being with the Berri Barmera Council.
- Where the applicant can demonstrate that special legal action prevented the rates from being paid by the due date.
- Where Council is of the opinion that such a write-off is appropriate using the following guidelines:
    1. Commencing 1 month after the relevant due date for payment of rates, or the final instalment if appropriate, and monthly thereafter, any account in the rates area with a total debt of less than $1.00, is to be written-off.
    2. Where the outstanding amount comprises only of fines, in the instance of a property settlement, the amount is to be written-off to clear the debt. This only applies to the amount being less than $20.00. If the amount exceeds $20.00 then the debt is to remain on the books for reimbursement to be sought from the Land Broker/Solicitor handling the transfer.
    3. Where the Council has made a decision pursuant to Section 182 of The Act.

Issuing of Overdue Rate Notices
The Berri Barmera Council may issue overdue rate notices to all ratepayers with an outstanding rate amount after each quarter has fallen due and the quarter remains unpaid.

The exception to the above being that no overdue rate notice may be issued to any property that is already in the process of legal action or has rates that have been postponed or deferred under the relevant acts.

Fourteen (14) working days shall be given for ratepayers with outstanding amounts to respond to an overdue rate notice.

Debt Collection
If no response or no payment or no payment arrangement has been received or made to any overdue rate notice that has been issued then those outstanding rate accounts will then be collated and forwarded on to the Berri Barmera Council's designated Debt Collection Agency.

Once the debt has been referred to the debt collection agency, Council officers may continue to communicate with customers who reach out to Council to set up a payment plan or to organise to pay in full unless the debt has been issued to the Court.

If the Court has issued an Investigation Summons, Examination Summons or Warrant of Arrest it is recommended that the ratepayer should attend as per the direction of the Court.

Where legal action is undertaken, including referral to a debt collection agency or court proceedings, all costs incurred by Council in the recovery of outstanding rates, including debt collection fees, legal costs, court fees and associated charges, will be applied and treated as a charge against the property.

Sale of Land for Non-Payment of Rates

Where rates have remained unpaid for a period of three (3) years or more the Berri Barmera Council will invoke the powers under Chapter 10, Part 1, Division 9, Section 184 of The Act and commence action of the sale of the property.

A full report is to be presented to Council documenting the processes taken prior to invoking the powers under Chapter 10 to fully apprise the Council and to mitigate any adverse community publicity that may ensue.

This process shall be instigated only after all reasonable attempts have been made with the ratepayer concerned.

Council will advise the ratepayer(s) in writing of the debt outstanding and also contact any registered mortgagee to advise them that rates remain unpaid for a period of (3) years or more. This is to give the ratepayer the opportunity to make a suitable payment arrangement in a reasonable effort to discharge the arrears on the property.

Where no contact can be made with the ratepayer(s) and/or no reasonable effort to discharge the arrears on the property has been made, Council may then resolve to proceed to sell the land via public auction where any rate or charge is overdue and has remained in arrears for more than three (3) years from the date on which it became payable, in accordance with Section 184 of the *Local Government Act 1999*.

All charges associated with the recovery of outstanding rates will become a charge upon the property and is recoverable as part of those rates.

The steps in this process will be fully documented to satisfy any ombudsman enquiry.

5. Further Information

For further information about the procedure and options available in relation to the above policy, please contact the Rates Officer, Berri Barmera Council, PO Box 229, Berri 5343, Telephone 8582 1922 or email: bbc@bbc.sa.gov.au.

VERSION CONTROL

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Version No.	Date Issued	Description of Change
1.0	July 2010	New Internal Document
1.1	May 2024	Minor changes
1.2	April 2026	Minor changes