

Document Name	Document Version Number	Review Date
Children Services – Debt Recovery Policy	1.0.0	March 2025
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21 July 2021	5947	New Policy

Purpose

The objective of this policy is to ensure monies owed to Council are recovered in a timely, efficient and effective manner in order to ensure we are financially viable at all times.

Whilst carrying out this responsibility Council will;

- Treat all people fairly and consistently under this policy;
- Treat all matters under this policy confidentially and
- Treat all people with respect and sensitivity in considering their circumstances

Scope

This policy applies to any person/s owing childcare fees to Council.

Definitions

Account Holder/s: The person liable for payment of the childcare fees to Council

Policy Content

This policy provides a framework for the effective and efficient collection of outstanding childcare fees and fulfils statutory requirements in relation to the recovery of fees and charges.

1. RECOVERY OF CHILDCARE FEES

1.1 Childcare Fees Invoices and Statements

Invoices are raised on a fortnightly basis, within seven (7) days of the close of a month a statement will be issued. The due date for payment is seven (7) days after the invoice date.

1.2 Reminder Phone Call

If an account is not paid within fourteen (14) days, the account holder/s will be contact by phone and given a verbal reminder. If they are not contactable via phone a friendly reminder will be emailed.

1.3 First Reminder Notice

If the account is not paid within twenty-one (21) days of the invoice date a reminder letter will be emailed and posted to the account holder/s.

1.4 Second Reminder Notice

If the account is outstanding at thirty (30) days of the invoice date, a second reminder will be emailed and posted to the account holder/s. The reminder notice will advise that the recovery of the outstanding childcare fees may be referred to Council's debt collection agency, if the overdue amount is not paid in full with the period specified on the reminder notice. The notice will also advise that arrangements may be made with Council to pay the overdue amount.

1.5 Final Reminder Notice

If the account is outstanding at thirty-five (35) days of the invoice date, a final reminder will be emailed and posted to the account holder/s. The final reminder notice will advise that if payment is not made in full within five (5) business days, care will cease for the child/ren.

1.6 Recovery Action – Debt Collection Agency

- a) The debt collection agency will as soon as practicable after receipt of a referral from Council will issue a notice to the account holder/s in relation to each overdue account advising that Council has referred the debt to the agency for collection and that payment is required within seven (7) days of the date of the notice, otherwise legal action will commence. The notice is to specify the minimum amount in legal costs that may be added to the account holder's account if legal action is commenced.
- b) Following the expiration of the seven (7) days as requested in the notice the debt collection agency is to issue a statement of liquidated claim following approval from Council to proceed with legal action.
- c) Following the statutory period after service of the statement of liquidated claim and with Council's approval the debt collection agency is to issue a pre-judgement notice. The notice advises the account holder/s that Council intends to proceed with Default Judgement against them unless payment is received within seven (7) days of the date of notice. The notice is to specify the minimum amount of legal costs that may be added to the account if judgement is entered against the account holder/s and information explaining to the account holder/s that a default judgement will be listed on their credit file for a period of five (5) years even if the amount is subsequently paid/finalised and that this listing may affect the success or failure of future applications for credit.
- d) Following the expiration of the seven (7) days as requested in the notice the debt collection agency is to then obtain judgement against the account holder/s following approval from Council to proceed with legal action.
- e) Once judgement is obtained against the account holder/s, the debt collection agency with Council's approval is to take the necessary proceeding to recover the debt including but not limited to;
 - A garnishee of income
 - Writ of execution on goods and chattels
 - Examination summons
 - Service of a rent order where property is tenanted
 - Bankruptcy proceeding (subject to resolution of Council)

1.7 Arrangement to repay Childcare Account

An account holder may at any time make an arrangement to pay of their outstanding account by regular payments, subject to the following guidelines

- Payments must be made on a weekly or fortnightly basis
- Arranged payments must be of an amount so that all amounts owing is paid in full by 30 June of that financial year.
- Extenuating circumstances can be taken into consideration if either of the above two conditions cannot be met, but must be referred to the Accounting Officer or Chief Financial Officer for approval.

Where the account holder/s has not honoured a previous arrangement the Accounting Officer has the discretion as to whether to accept a new payment arrangement or continue with further recovery action. Any new arrangement cannot be accepted until payment is received to show good faith.

In the event that an account holder/s fails to make a payment in full under an arrangement and does not notify Council of any financial difficulty, the total amount outstanding becomes payable and is subject to Council's normal recovery procedures without further notice to the account holder/s.

2. LEGAL COSTS

All debt recovery costs and fees associated with any course of action are to be borne by the owner of the debt.

All requests for a review of legal costs will be assessed and the facts of the case collated by the Accounting Officer with the final decision as to whether the costs will be written off to be made by the General Manager, subject to the amount in question being less than \$1,000. In cases where the amount being appealed is greater than \$1,000 the matter will be referred to Council for consideration.

3. THIRD PARTY REPORTING

Council will not supply private credit agencies with information regarding legal action it has taken in the recovery of overdue fees. However, Council recognises that judgement details are supplied to credit agencies by NSW courts.

If an account holder/s request proof that a debt owed to Council has been paid, a notice will be issued by Council or Council's debt recovery agency confirming payment has been made. Such notices will only be issued if all overdue debts have been paid in full.

Further, if an account holder requests a Notice of Discontinuance to finalise a judgement at the Court, Council will require all overdue debts to be paid in full. If this requirements is met, Council's debt collection agency will carry out the process for a Notice of Discontinuance urgently, they can apply for the Notice of Discontinuance themselves through the Court. Council will not commence the process if

Links to Policy

Hardship Policy

Links to Procedure

Fees Procedure

Links to Forms

Nil

Responsibility

Director Corporate & Community Services

Document Author

Accounting Officer

Relevant Legislation

Local Government Act 1993

Local Government (General) Regulations 2005

Associated Records

Nil