



POLICY NO	CP/FIN-3210	
POLICY	Notice of Discontinuance (Rates and Debtors)	
RESPONSIBLE DIRECTORATE	Corporate Services	
RESPONSIBLE OFFICER	Senior Rates Officer	
COUNCIL ADOPTION	Date: 18 March 2014	Resolution No: 10344
REVIEWED/MODIFIED	Date: 10 May 2016	Resolution No: 11351
	Date:	Resolution No:
REVIEW DUE	May 2018	
LEGISLATION	<ol style="list-style-type: none"> 1. <i>Local Government Act 1995 – Sections 6.12, 6.13, 6.16, 6.45, 6.56, 6.60, 6.64, 6.68</i> 2. <i>Local Government (Financial Management) Regulations - Regulations 19A, 19B, Regulations 58 to 66.</i> 3. <i>Magistrates Court (Civil Proceedings) Act 2004 – Section 12</i> 4. <i>Civil Judgments Enforcement Act 2004 – Section 8</i> 5. <i>Civil Judgments Enforcement Regulations 2005 – Regulation 4</i> 	
RELATED POLICIES	<ol style="list-style-type: none"> 1. CP/FIN-3212 Rates and Charges Debt Collection 2. CP/FIN-3214 Sundry Debt Collection 	
RELATED ORGANISATIONAL DIRECTIVES	<ol style="list-style-type: none"> 1. Code of Conduct for Council Members, Committee Members and Employees 2. Audit (Finance and Risk) Committee Terms of Reference 3. Organisational Directive – Rates and Charges Debt Collection (under development) 	

PURPOSE:

This policy provides a clear position to debtors (both general and rates) in relation to the process for requesting a Form 57 - Notice of Discontinuance, or a Form 49 – Memorandum of Consent. It also provides an equitable and clear position to debtors (both general and rates) as to when a Notice of Discontinuance of Claim or a Memorandum of Consent will be issue.

DEFINITIONS:

General procedure claim means a claim where the value of the claim or the relief claimed does not exceed \$75,000.

Local government is the Shire of Wyndham East Kimberley.

Judgment means —

- (a) a monetary judgment; or
- (b) a judgment or an order of a court that requires or has the effect of requiring a person —
 - (i) to give possession of any property to another person; or
 - (ii) to do an act, to not do an act, or to cease doing an act.

POLICY STATEMENTS:

The Shire of Wyndham East Kimberley will exercise its debt recovery powers in order to reduce the overall rates and general debt. It will be guided by the principles of:

- a) If rates or general debts remain unpaid after they become due and payable, the Shire of Wyndham East Kimberley will commence debt collection proceedings, in accordance with the Local Government Act 1995, which may result in the issuing of a General Procedure Claim;
- b) If subsequently, rates or general debts are paid in full, the ratepayer or debtor, at their request, will be issued with a letter confirming that overdue amounts relating to this claim have now been paid, however a Notice of Discontinuance will not be issued;
- c) In the event that a General Procedure Claim is issued in error, upon notification of the error, the Shire will promptly issue a Notice of Discontinuance;
- d) The Shire of Wyndham East Kimberley will not supply private credit agencies with information regarding legal action it has taken in the recovery of overdue amounts;
- e) The Shire of Wyndham East Kimberley does recognise that judgment details are accessed via public records through the Courts and that the issuing of a General Procedure Claim will impact on the ratepayer or debtor's credit rating for a 5 (five) year period;
- f) It is important that the debtor (rates and general) notify the credit agencies after the 5(five) year period has elapsed to ensure that the credit agencies have modified their records accordingly.

EXPLANATORY NOTES:

There are often debtors who request a Notice of Discontinuance be issued upon payment of their debt, irrespective of the fact that the payment may have been overdue.

From 11 May 2015, the issuing of a Notice of Discontinuance will not have the effect of removing any reference to the overdue debt from a debtor's credit rating. The reference to the debt will remain on the credit rating record, but will reflect that the debt has been paid.

A letter produced from the Shire and provided to credit data organisations such as Veda Advantage will ensure that the reference of the debt remains on their credit rating record, but that it is reflected as being paid.

Scope & Limitations

The policy applies to all general and rate debtors of the Shire of Wyndham East Kimberley.

RISK:

Risk: Non-collection of rates and debts resulting in financial and /or reputation loss.

Control: Review policies and procedures in accordance with review schedule.