

# Southland District Council Debt Recovery Policy

## DOCUMENT CONTROL

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## 1. Purpose

This policy will help ensure that Council is running effectively and efficiently, and operating in a financially responsible manner. It will also ensure that Council are managing the collection of revenue in a legally compliant manner.

This policy was developed to outline Council's approach to debt recovery. Council is committed to providing an equitable and transparent approach when debt is owed to Council.

The objective of this policy is to ensure that debts are collected promptly, efficiently and consistently.

## 2. Definitions and Abbreviations

TERM	MEANING
The Act	Local Government Act (Rating) Act 2002
Debt	The amount of money owed by a debtor as a result of a transaction with Council.
Debtor	Any individual, corporation, or organisation or other entity owing money to Council.
Write-off	The accounting process for cancelling debt that is no longer collectable is a cost to Council.
Doubtful debt	A debt that is considered uncollectable.
Provision for doubtful debts	The accounting procedure for recognising the estimated value of debts that may end up being uncollectable.
Default	Where a Council approved payment arrangement is in place and payments are not made as agreed by the ratepayer or debtor
Payment arrangement	A requested alternative arrangement for payment of the debt, outside the terms on the invoice. Council provides written acceptance of the arrangement.
Recover agency	An external party appointed by Council to recover funds that are past due or in default. Council may elect to use an internal resource to fulfil these duties if appropriate.
SIESA	Stewart Island Electrical Supply Authority

### 3. Scope

This policy applies to all revenue streams including:

- Rates and water rates
- SIESA electricity tariffs
- Other revenues, including but not limited to:
  - property licences,
  - rent payments from community housing,
  - resource management fees,
  - building consent fees,
  - animal impound fees,
  - interim bin charges,
  - hall hire,
  - interment fees,
  - airport landing fees, and
  - library fines.

#### Exceptions

Infringements are covered under the Summary Proceedings Act 1957 and are excluded from this policy. Collection of infringement revenue is managed by the District Court.

#### Other

In accordance with Section 221 of the Building Act 2004, Council may seek to recover costs from a property owner for remedial work Council carries out when there is a default, in relation to a dangerous/insanitary building. Where the costs remains unpaid after debt recovery processes have occurred, Council will place a charge on the land/a lien or caveat may be added to the certificate of title.

It is also important to note the Building Act 2004 allows Council to transfer debt in relation to a Code of Compliance, to another party (ie the owner).

### 4. Background

Council requires significant levels of income to provide an extensive range of services to the community and it receives this income from various parties including ratepayers, residents and businesses.

This income is received through different methods such as rates, water rates, user charges, consent fees, licence fees, statutory charges, grants and subsidies. To assist in delivering services effectively and efficiently, Council should receive this income in a timely manner to meet the costs of providing these services.

Council seeks a transparent and equitable approach to managing debt and it seeks to formally outline its approach to the collection of arrears.

## 5. Policy Details

### 5.1 Set-off

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In circumstances where a person makes an overpayment to Council or is due a refund, and that same person also owes money to the Council, settlement of the outstanding debt may be by set off where the debtor has agreed so in writing.

### 5.2 Application of interest charges

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#### Other debt

Council does not apply any interest charges on any overdue invoices.

### 5.3 Application of penalties

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#### Rates/Water rates (including metered water)

In accordance with section 57 and 58 of the Act, Council can apply penalties to rates and water rates that are not paid by the due date. A Council resolution is made in June each year establishing the penalties.

### 5.4 Restriction of supply

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#### Water rates (metered water only)

Council may restrict water supply to customers with outstanding arrears in accordance with section 193 of the Local Government Act 2002, section 69S of the Health Act 1956 and Council's Water Supply Bylaw 2017. Defect notices are issued to customers who have arrears in excess of 60 days from invoice date which outlines the actions required to avoid restriction. Restriction will result in Council installing a restrictor to reduce the flow rate of water. In restricting water supply, Council must continue to provide an adequate supply of drinking water and consider any vulnerable consumers (such as children under 5, elderly, residents with health concerns, stock etc).

#### SIESA electricity tariffs

Council may restrict electricity supply by disconnection. Disconnection notices are issued to customers who have arrears in excess of 60 days from invoice date which outlines the actions required to avoid disconnection. Council recognise that disconnection of medically dependent consumers is prohibited in accordance with the Electrical Authority guidelines.

#### Other debt

Council may restrict provision of services to customers with outstanding arrears where it is not restricted by legislation.

## 5.5 Collection via demand on mortgagee

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### Rates/Water rates (including metered water)

Where an owner defaults in paying rates and/or water rates on a property with a mortgage, Council will recover the arrears from the first mortgagee in accordance with section 62(1) of the Act.

Council staff will notify both the owner and the mortgagee of Council's intention to issue a formal demand to the mortgagee for payment of rates and/or water rates arrears, this typically occurs in August. Formal demand for payment from the mortgagee will be issued no earlier than legislatively possible (currently 1 November of the financial year following the year in which the rates were first assessed).

A flowchart outlining the rates recovery process is included as attachment A.

## 5.6 Collection via rating sale or lease

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### Rates/Water rates (including metered water)

If Council or a recovery agency have no success in recovering the rates and/or water rates arrears on properties without mortgage, then legal action will commence and a rating sale or lease is possible under section 67(1) of the Act.

Council staff are to proceed with legal action to collect rates and/or water rates arrears no later than 30 June of the year following when the rates became overdue. The first steps in the legal process are to lodge a statement of claim, followed by seeking judgement from the Court for rates and/or water rates arrears. Where judgement does not result in payment of rates and/or water rates arrears, staff will notify Council via a confidential report for their information, of the intention to progress to rating sale. Generally this will occur approximately 24 months after first commencing legal action.

Where a property is sold via rating sale or lease, and the proceeds received are insufficient to cover the full arrears and the associated costs, as prescribed in section 75 of the Act, any outstanding arrears will be written off.

A flow chart outlining the rating sale process is included as attachment B.

## 5.7 Collection via abandoned land sale or lease

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### Rates/Water rates (including metered water)

Section 77(1) of the Act permits Council to progress an abandoned land claim where:

1. Council or its representative have had no success in locating a property owner; and
2. no rates and/or water rates payments have been received for at least three years

In these instances Council will apply to the Court to have the land/property declared as abandoned.

Alternatively, property owners may give written notice to Council that they intend to abandon the land/property (voluntary abandonment).

Staff will notify Council via a confidential report, of the intention to pursue declaration as abandoned land.

Where a property is sold via abandoned land sale or lease, and the proceeds received are insufficient to cover the full rates arrears and the associated costs, as prescribed in section 82 of the Act, any outstanding arrears will be written off.

A flow chart outlining the abandoned land process is included as attachment C.

## **5.8 Write-off of bad debts**

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### **Rates/Water rates (including metered water)**

Where a property is sold via rating or abandoned land sale or lease, and the proceeds received are insufficient to cover the full rates arrears and the associated costs as prescribed in section 75 and 82 of the Act, any outstanding arrears will be written off.

Council staff will also consider write-off of rates/water rates arrears in accordance with the Remission and Postponement of Rates policy.

### **SIESA electricity tariffs**

Debts will only be written off when all reasonable attempts to recover outstanding amounts have been made (by both the Council and external recovery agencies), or the cost of recovery is likely to equal or exceed the amount to be recovered. The thresholds contained in the delegations section of this policy will be applied when approving the write-off of an existing debt.

All debt under \$50 in excess of 120 days past due will be written off without progressing to external recovery agencies.

The writing off of a debt and any associated debt recovery or legal costs will be charged to the SIESA activity.

The SIESA activity manager must confirm the appropriateness of all write-offs.

All write-offs will be reported to the Stewart Island/Rakiura Community Board on a six monthly basis and will include the amount written off, and reason for write-off.

### **Other debt**

Debts will only be written off when all reasonable attempts to recover outstanding amounts have been made (by both the Council and external recovery agencies), or the costs of recovery are likely to equal or exceed the amount to be recovered. The thresholds contained in the delegations section of this policy will be applied when approving the write-off of an existing debt.

All debt under \$50 in excess of 120 days past due will be written off without progressing to external recovery agencies.

The writing off of a debt and any associated debt recovery or legal costs will be charged to the activity where the invoice was originally raised.

## **6. Payment Arrangements**

### **Rates and Water Rates (including metered water)**

Payment arrangements for rates and water rates arrears are at the discretion of Council and are typically cleared by 30 June of the current rating year in which the arrangement is made. However, if a ratepayer includes the current year's rates with their rates arrears when making a payment arrangement, Council may extend the payment arrangement for up to 24 months.

### **Sundry debts**

Payment arrangements for sundry debts are at the discretion of Council and should be fully repaid within 120 days of the invoice date.

### **SIESA**

Payment arrangements for SIESA are at the discretion of Council and should be fully repaid within 60 days of the invoice date to avoid disconnection. Any payment arrangement offered in response to a disconnection notice requires approval in accordance with the delegations outlined in this policy. Customers must include the current electricity tariffs with their arrears when making a payment arrangement.

### **General**

Payment arrangements in excess of the periods set in this policy require approval in accordance with the delegations outlined in this policy.

## **7. Debt recovery costs**

Where legally possible, Council will seek to recover any costs associated with the collection of arrears from the relevant customer/ratepayer.

## **8. Professionalism**

Council staff will at all times respect the privacy of individuals and communicate in a courteous and professional manner. At the same time, staff have the right to terminate conversations with any ratepayer or customer who becomes abusive or threatening.

## **9. Roles, Responsibilities and Delegations**

PARTY/PARTIES	ROLES AND RESPONSIBILITIES
Chief Executive (CE)	<p>The Chief Executive has delegated authority to:</p> <ul style="list-style-type: none"> <li>▪ Approve/authorise legal proceedings in relation to rating sales/leases and abandoned land sales/leases.</li> <li>▪ Approve the write-off of rates, water rates, SIESA tariffs and other revenue, and associated charges (such as legal/collection fees, interest/penalties etc) up to \$50,000 per request.</li> </ul>

PARTY/PARTIES	ROLES AND RESPONSIBILITIES
Chief Financial Officer (CFO)	<p>The Chief Financial Officer is responsible for:</p> <ul style="list-style-type: none"> <li>▪ Developing and maintaining the governance and strategy aspects of this policy.</li> <li>▪ Overall ownership of this policy.</li> </ul> <p>The Chief Financial Officer has delegated authority to:</p> <ul style="list-style-type: none"> <li>▪ Approve the write-off of rates, water rates, SIESA tariffs and other revenue, and associated charges (such as legal/collection fees, interest/penalties etc) up to \$25,000 per request.</li> <li>▪ Approve payment arrangements outside normal Council terms.</li> <li>▪ Approve/authorise legal proceedings in relation to collection of all arrears, other than rating sales/leases and abandoned land sales/leases.</li> </ul>
Executive Leadership Team Members (not individually specified)	<p>The Executive Leadership Team Members have delegated authority to:</p> <ul style="list-style-type: none"> <li>▪ Approve the write-off of other revenue associated with their activity, and associated charges (such as legal/collection fees, interest/penalties etc) up to \$10,000 per request.</li> <li>▪ Approve payment arrangements outside normal Council terms.</li> </ul>
Finance Manager	<p>The Finance Manager is responsible for:</p> <ul style="list-style-type: none"> <li>▪ Developing, maintaining and implementing this policy.</li> <li>▪ Overall administration of this policy.</li> <li>▪ Oversight and review of the debt recovery agency and contract and debt recovery process.</li> </ul> <p>The Finance Manager has delegated authority to:</p> <ul style="list-style-type: none"> <li>▪ Approve the write-off of rates, water rates, SIESA tariffs and other revenue, and associated charges (such as legal/collection fees, interest/penalties etc) up to \$10,000 per request.</li> <li>▪ Approve payment arrangements outside normal Council terms up \$10,000 and/or 240 days.</li> <li>▪ Approve/authorise legal proceedings in relation to collection of all arrears, other than rating sales/leases and abandoned land sales/leases.</li> </ul>
SIESA Activity Manager	<p>The SIESA Activity Manager has delegated authority to:</p> <ul style="list-style-type: none"> <li>▪ Authorise disconnection of supply.</li> </ul>

PARTY/PARTIES	ROLES AND RESPONSIBILITIES
	<ul style="list-style-type: none"> <li>▪ Approve the write-off of SIESA tariffs, and associated charges (such as legal/collection fees, interest/penalties etc) up to \$10,000 per request.</li> <li>▪ Approve payment arrangements for SIESA arrears outside normal Council terms.</li> </ul>
Finance Officer/Debtors Officer	<p>The Finance Officer/Debtors Officer is responsible for:</p> <ul style="list-style-type: none"> <li>▪ Applying this policy.</li> <li>▪ Collecting arrears from ratepayers and customers.</li> <li>▪ Establishing, monitoring and following up payment arrangements in accordance with this policy.</li> <li>▪ Maintaining the debtor's ledger and associated records.</li> <li>▪ Liaising with Council's Debt Recovery agency.</li> <li>▪ Ensuring Council's debt management records are accurate and up to date.</li> <li>▪ Providing reports on debt recovery as required.</li> <li>▪ Keeping the Finance Manager advised of any significant issues with Council debtors.</li> <li>▪ Communicating established debt recovery policies and procedures.</li> <li>▪ Following up with customers/ratepayers.</li> <li>▪ Establishing payment arrangements with customers/ratepayers in accordance with this policy.</li> </ul> <p>The Finance Officer/Debtors Officer has delegated authority to:</p> <ul style="list-style-type: none"> <li>▪ Make demand on the mortgagee for unpaid rates and water rates.</li> <li>▪ Issue disconnection notices in accordance with this policy.</li> <li>▪ Apply penalty charges in accordance with this policy.</li> <li>▪ Lodge debts with recovery agencies as required.</li> <li>▪ Advise debt recovery agency or legal representative to proceed to legal recovery (once approved).</li> </ul>

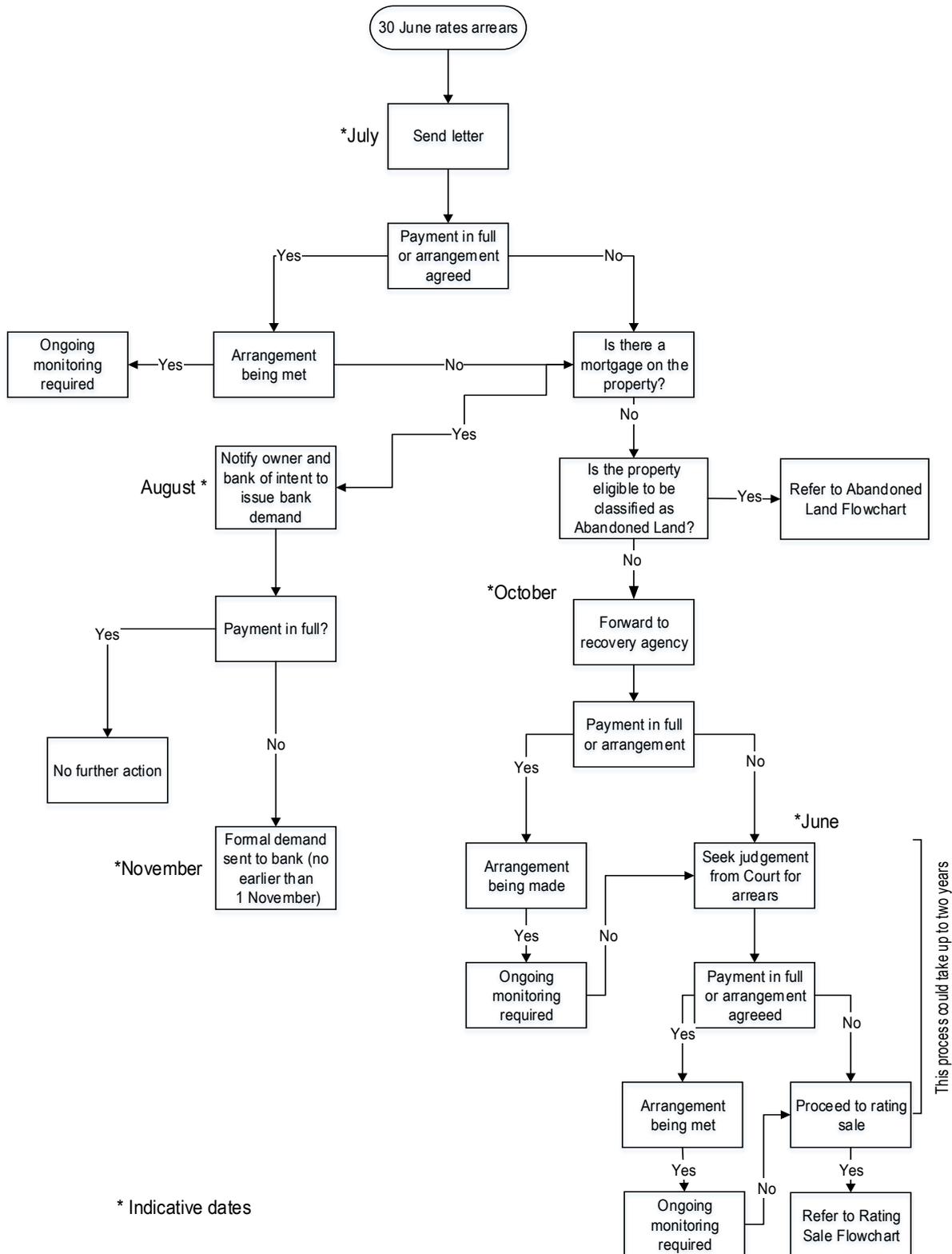
## 10. Associated Documents

Local Government Act (Rating) Act 2002	Remission and Postponement of Rates Policy
Local Government Act 2002	SIESA Customer Services Agreement
Contracts (Privity) Act 1982	Southland District Council Fees and Charges
Consumer Guarantees Act 1993	Water Supply Bylaw 2017
Summary Proceedings Act 1957	
Electricity Authority Regulations 2010	
Electricity Act 1992	
Health Act 1956	

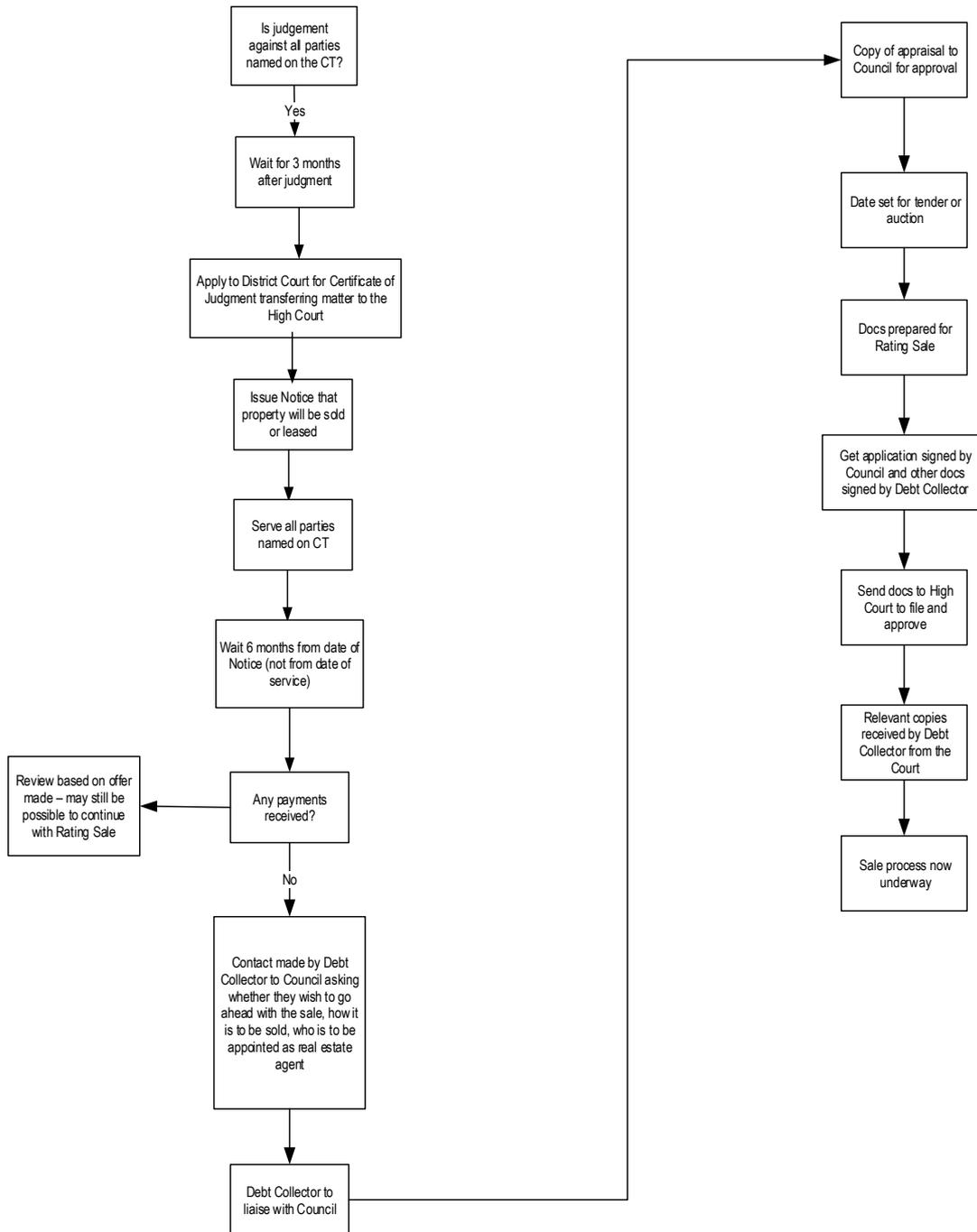
## 11. Revision Record

DATE	VERSION	REVISION DESCRIPTION
3/12/2018	1	Draft for ELT review and endorsement
4/12/2018	2	Draft for Finance and Audit committee review and endorsement
	3	Final for Council adoption

# Attachment A - Rates Arrears Recovery Process



## Attachment B - Rating Sale Process



## Attachment C - Abandoned Land Process

