

# RA072.2 Rates – Legal Recovery Questions and Answers



19/05/2020

## Objective

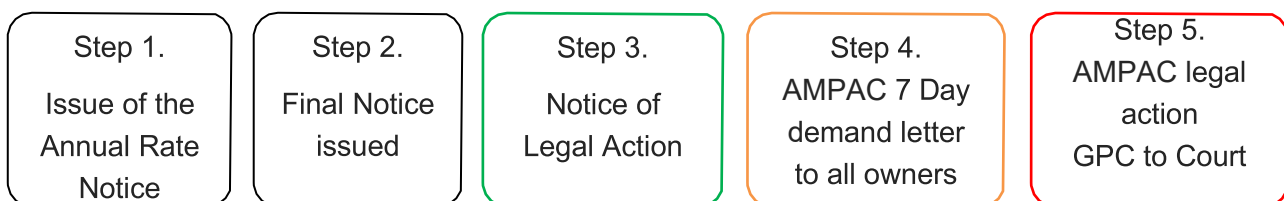
The purpose of this information sheet is to assist ratepayers of the Shire of Augusta Margaret River (Shire) with information and explanations on the steps the Shire undertakes to recovery outstanding rates and service charges.

## Frequently Asked Questions

1. What are the rates recovery steps?
2. What happens if I did not receive any of my notices?
3. I am having trouble paying my rates what should I do?
4. Why has legal action been taken against me?
5. I have been served with a General Procedure Claim (GPC) what does this mean?
6. I have been served with the GPC document, what do I have to do now?
7. Why do I have to pay extra legal fees?
8. What are the legal fees made up of?
9. What happens if I don't pay?
10. What is a default and how does it impact your credit rating?
11. What if you have paid off the debt?
12. I still have some questions, what can I do?

## 1. What are the rates recovery steps?

The following flow chart outlines the correspondence and steps that the Shire will take prior to commencing legal action to recover outstanding rates and service charges.



### Step 1 – Shire Annual Rate Notice

The Annual Rate Notice is issued between July to August each year. The due date for payment is 35 days from the date of issue. An instalment option is provided, whereby rates can be paid in four instalment payments with set due dates every 60 days.

Penalty interest starts to accumulate as soon as the due date passes.

Ratepayers can contact the Revenue Team to discuss a special arrangement at anytime [revenue@amrshire.wa.gov.au](mailto:revenue@amrshire.wa.gov.au) or phone 9780 5234.

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## **Step 2 – Shire Final Notice**

The Final Notice is issued between September to October and acts as a reminder notice. The due date for payment is 14 days after the issue date of the annual rate notice.

Penalty interest continues to accumulate until the rates are paid in full or overdue instalments.

Ratepayers can contact the Revenue Team to discuss a special arrangement at anytime [revenue@amrshire.wa.gov.au](mailto:revenue@amrshire.wa.gov.au) or phone 9780 5234.

## **Step 3 - Shire Notice of Legal Action (7 Day Demand)**

The 7 Day demand notice will be issued by email or letter to the owner who is flagged as the primary Ratepayer. The notice will request payment within 7 days and explains that failure to pay the outstanding balance or contact the Shire's Revenue Team will result in the commencement of legal action without any further notice.

Ratepayers can contact the Revenue Team to discuss a special arrangement at anytime [revenue@amrshire.wa.gov.au](mailto:revenue@amrshire.wa.gov.au) or phone 9780 5234.

## **Step 4 – AMPAC 7 Day Demand**

AMPAC will issue a 7 day demand notice to all owners, they are provided all your contact details including postal address, email, mobile and home phone number. This is so they can contact you by all communications options.

This communication explains that failure to pay or contact the Shire will result in the commencement of legal action without further notice to you.

At this time costs of recovery of rates are immediately incurred and will be added to your assessment. An estimate amount of the costs depends on what legal action is taken i.e.

- \$30 fee if debt is cleared within 7 days
- \$90 fee if debt is paid after the 7 days
- \$215.00 if skip trace is requested

## **Step 5 – AMPAC legal action**

If no contact or communication is received after the AMPAC 7 day demand communications, they will liaise with the Shire. If the Shire hasn't received any direct communication or payment of the debt, we will instruct AMPAC commence legal action immediately. AMPAC will make the arrangements to file the Form 3 - General Procedure Claim document with the Magistrate's Court.

At this stage costs of recovery of rates are immediately incurred and the amount can be anywhere between (\$500 to \$1,000) depending on the debt amount and your location.

Your personal credit record is immediately affected by the GPC which will remain there for a period of 5 years and won't be removed.

## 2. What happens if I did not receive any of my notices?

As a land owner you have a legal responsibility for paying rates and services charges that are issued on the Annual Rate Notice by the due date/s. Rates are levied at the end of July and we aim to post them out in August each year.

Keeping the Shire up to date with your contact details or circumstances is very important, so that this can be taken into consideration when attempting to contact you. For example, if you regularly leave the Shire for work, travel for extended periods of time, live overseas or have no fixed address then this is important information for us to know.

Contact details can be updated via the Shire's website, Change of Details page [www.amrshire.wa.gov.au](http://www.amrshire.wa.gov.au) or by emailing [amrshire@amrshire.wa.gov.au](mailto:amrshire@amrshire.wa.gov.au).

## 3. I am having trouble paying my rates what should I do?

The Shire understands that from time to time people experience financial difficulty due to a change in circumstance and are willing to take this into consideration. If you are having trouble paying your rates you should contact the Shire's Revenue team as soon as possible on 9780 5234 or [revenue@amrshire.wa.gov.au](mailto:revenue@amrshire.wa.gov.au).

A member of the Revenue Team will discuss a suitable payment plan with you. You should also advise the Revenue Team if payment is going to be late because this can prevent legal action being taken against you and fees incurred.

## 4. Why has legal action been taken against me

Because the debt hasn't been paid and the Shire and AMPAC have been unsuccessful in their attempts to contact you.

Prior to commencing Step 5 - Legal Action, the Shire provides many opportunities for the ratepayer to contact us or make arrangement to pay the debt.

- We may take additional measures to obtain updated details and contact you which is not legally required by the Shire, but is a courtesy the Shire extends to it's ratepayers.

**If previous legal action has been taken or overdue notices issued, courtesy contact won't be attempted after the Shire Notice of Legal Action.**

- Conduct an internal records search to identify any communicate with you on other Shire matters or Departments (e.g. dog registration, building licence, planning approval).
- Seek the assistance of external parties; Water Corporation, Telstra or Landgate to identify if you own any other property in a different Shire.
- Skip traces may be requested if the Shire believes you haven't got any communication i.e: moved address; new owner of land; building a new home. A skip trace does incur costs of recovery of rates, however is a courtesy process prior to legal action.

## 5. I have been served with a General Procedure Claim (GPC) what does this mean?

Form 3 General Procedure Claim (GPC) is a legal document filed in the WA Magistrates Court (Civil Jurisdiction), this legal document registers the debt with the Court.

A default has now been recorded against your personal credit record. It will remain there for a period of five years. If you seek assistance from a financial institution, (for example from a bank for a home loan), and a 'credit check' is required, the financial institution will be informed of the payment default and this may affect the outcome of your application.

The Shire can provide a confirmation of payment letter if required in this instance.

## 6. I have been served with the GPC document, what do I have to do now?

It is recommended you contact AMPAC immediately on 08 6267 3090 to make arrangements to clear the debt as soon as possible. AMPAC can also provide you with information on completion of the GPC document.

Ensure your contact details are correct with the Shire, you can update via the Shire's website, Change of Details page [www.amrshire.wa.gov.au](http://www.amrshire.wa.gov.au) or email [amrshire@amrshire.wa.gov.au](mailto:amrshire@amrshire.wa.gov.au).

## 7. Why do I have to pay extra legal fees?

The Shire has Statutory Authority under the Local Government Act 1995 (LG Act) Section 6.56 to on-charge any costs of recovery of rates incurred during the legal recovery process to recover outstanding rates debts.

This may include demand letters and communications; skip trace fees; legal action costs such as solicitor fees including travel; or Landgate Certificate of Title searches. Costs of recovery of rates will be added to your property assessment when invoices are received from AMPAC.

## 8. What are the legal fees made up of?

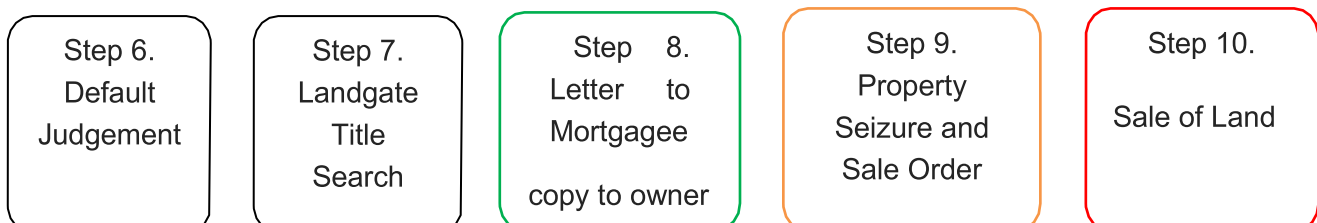
The service of the GPC document will incur the following fees:

- Court filing fee, WA Magistrates Court claim.
- Solicitor fee, WA Magistrates Court, WA Local Governments Association (WALGA) Claim.
- Process service fee in WA, WALGA claim.
- WA travel costs.

The solicitor's fee is not a WA Magistrates Court fee and is not included on the GPC document. However, under Section 6.56 of the LG Act it is due and payable to the Shire and will be on-charged

## 9. What happens if I don't pay?

If the debt remains unpaid and you have not contacted AMPAC, then legal recovery processes continue. The next steps are:



### **Step 6 - Application for Default Judgement**

AMPAC will liaise with the Shire when the GPC expires. If the debt remains unpaid the Shire will give the instruction to proceed with Judgement. Judgement means AMPAC will lodge Form 13 – Application for Default Judgement to the WA Magistrates Court (Civil Jurisdiction) to allow for the next step of legal action to occur which is PSSO.

Additional costs of recovery of rates will be incurred and added to your property assessment when invoices are received from AMPAC.

### **Step 7 - Landgate Title Search**

The Shire will conduct a Certificate of Title search to identify any Mortgagee, caveats or associated matters on the title.

### **Step 8 - Letter to Mortgagee copy to owner**

A letter will be sent to the Mortgagee, and a copy will also be sent to you. This letter will inform the Mortgagee of the rates payment default and request actions be taken to force payment of the outstanding rates debt.

### **Step 9 - Property Seizure and Sale Order on goods and/or land**

If the debt hasn't been finalized by the previous steps, the Shire will instruct AMPAC to proceed with a 'Property Seizure and Sale Order' (PSSO) on goods.

A PSSO on goods means the Court bailiff will visit your property to seize your personal goods (TV, Computers, Motor Vehicles) or collect money to pay the debt. The Bailiff will continue to visit until the debt amount is recovered.

If there are no goods of monetary value to sell to recover the debt, the Shire will proceed with Sale of Land.

### **Step 10 - Sale of Land**

The end result, if rates remain unpaid is that the Shire will proceed with sale of the land in accordance with the LG Act.

## **10. What is a default and how does it impact your credit rating?**

A payment default is basically an overdue debt that has not been addressed. When there is a payment default it may result in this being listed as a 'default'.

Defaults are listed by credit providers with credit reporting bodies like Equifax, and include the amount you owe, any accrued interest or fees, minus additional payments you have made.

When a default is recorded on your credit report, it remains there for five years.

During those five years, potential lenders may look unfavourably on your credit application, as the default indicates you have failed to pay off a debt in the past.

## **11. What if you have paid off the debt?**

Unfortunately, paying off a default after it is listed on your credit report does not negate the fact that it was an overdue debt in the first place.

The status of your default will be updated to paid, which can work in your favour - however, the default will still remain.

The best way to make sure a default doesn't find its way onto your credit report is to pay off the debt as soon as you receive a written notice from the credit provider.

Even though defaults can stem from small amounts, the impact they have on your financial future can be severe. To help stay in the clear, always keep your contact details up to date with credit providers, and ensure all elements of your credit report are correct.

For more information on defaults please follow the below link to Equifax website:

<https://www.equifax.com.au/>

## 12. I still have some questions, what can I do?

If you still have questions about any actions undertaken by the Shire you can contact the Revenue Coordinator for more information on 9780 5234.

Document and Version Control Table		
<b>Responsible Directorate</b>	Corporate and Community Services	
<b>Prepared by</b>	Vicki Scott, Co-Ordinator Revenue and Customer Service	
<b>Approved by Director</b>	Vicki Scott, Co-Ordinator Revenue and Customer Service	
Version	Date Issued	Brief Description
1.0	20/11/2019	Initial issue
1.1	19/05/2020	Information checked and updated