



**Local government collection of overdue rates for
people in situations of vulnerability:
Good Practice Guidance**

Ombudsman Western Australia
Serving Parliament – Serving Western Australians

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Our commitment to Aboriginal and Torres Strait Islanders

The office of the Ombudsman acknowledges Aboriginal and Torres Strait Islander people of Australia as the traditional custodians of Australia. We recognise and respect the exceptionally long history and ongoing cultural connection Aboriginal and Torres Strait Islander people have to Australia, recognise the strength, resilience and capacity of Aboriginal and Torres Strait Islander people and pay respect to Elders past, present and future.

The Office is committed to working in a collaborative and transparent manner and by respecting Aboriginal people's right to self-determination. The Office is committed to working with, and for, Aboriginal Western Australians to build understanding of the unique vulnerability and disadvantage faced by Aboriginal people due to past wrongs.

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1 Background

The office of the Western Australian Ombudsman (**the Office**) has, over a period of time, received complaints regarding the collection of overdue rates for people in situations of vulnerability. Following an investigation by the Office, including considering relevant legislative and regulatory requirements, a review of relevant literature, analysis of good practice and consultation with local governments, the Office has developed Good Practice Guidance for local governments regarding their role in collecting overdue rates owed by people in situations of vulnerability.

2 Local government rates

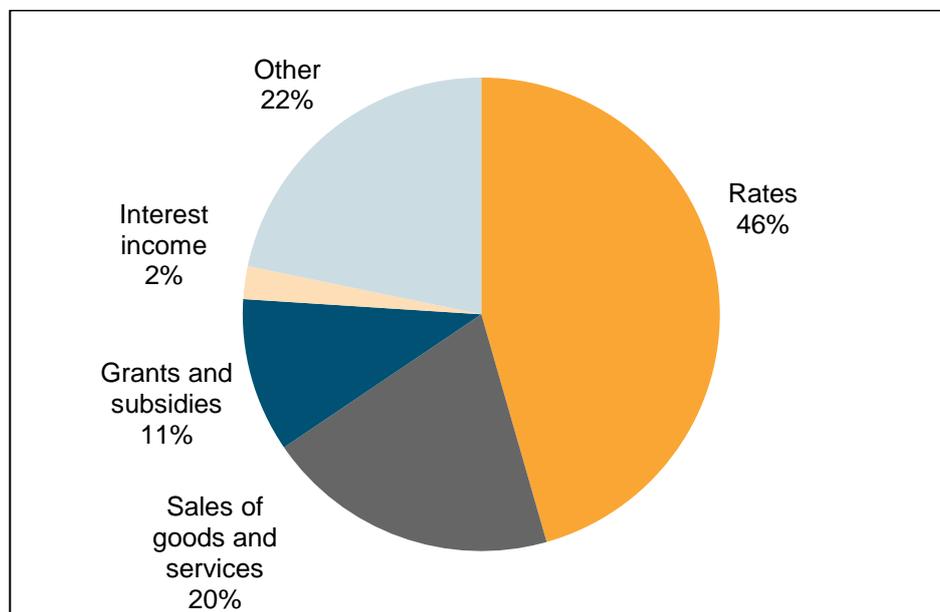
2.1 Collection of rates

A property owner's liability to pay local government rates arises from section 6.44(1) of the *Local Government Act 1995* (**Local Government Act**), which provides that:

The owner for the time being of land on which a rate or service charge has been imposed is liable to pay the rate or service charge to the local government.

Rates are the primary source of revenue for local governments. As shown in Figure 1, rates comprised 46 per cent (\$2.25 billion) of the \$4.9 billion in revenue of the 137 Western Australian local governments in 2016-17.¹

Figure 1: Sources of revenue for Western Australian local governments, 2016-17²



Source of data: Australian Bureau of Statistics, Government Finance Statistics Australia, 2016-17, (Cat. no. 5512.0)

For many households, rates represent a considerable annual expense. To assist ratepayers to meet their payment obligations, the *Local Government Act* empowers local governments to collect rates through a single payment (section 6.45(1)), four

¹ Australian Bureau of Statistics, *Government finance statistics, Australia, 2016-17*, cat. no. 5512.0, ABS, Canberra, April 2018.

² Percentages do not add to 100 due to rounding.

equal or nearly equal instalments (section 6.45(1)(a)) or, such other method of payment by instalments as is set forth in the local government's annual budget (section 6.45(1)(b)). Further, section 6.49 of the *Local Government Act* provides that a local government may accept payment in accordance with an agreement made with the person.

Payment by instalments can incur additional charges. Section 6.45(3) of the *Local Government Act* empowers a local government to impose an additional charge for the payment of rates by instalments, typically referred to as 'administration charges'.

2.2 Overdue rates

The *Local Government Act* specifies the due date of rates. Section 6.50(1) of the *Local Government Act* provides that '...a rate or service charge becomes due and payable on such date as is determined by the local government.' Section 6.50(2) further states that the due date '...is not to be earlier than 35 days after the date noted on the rate notice as the date the rate notice was issued'. Rates that remain unpaid after they are due and payable are referred to as 'overdue rates' in this report.

As rates are the primary source of revenue for local governments, overdue rates represent a significant opportunity cost for local governments and can impact adversely on their ability to fund the service delivery priorities identified in their annual budget.

2.2.1 Interest and rebates

Under section 6.51(1) of the *Local Government Act*, local governments can impose interest on overdue rates.

The *Local Government Act* also provides local governments with considerable discretion in relation to interest and additional charges. Section 6.51(4) of the *Local Government Act* provides that no interest is to accrue or additional charge to be imposed on a person 'if the local government in a particular case so resolves...'

The *Rates and Charges (Rebates and Deferments) Act 1992* permits '...administrative authorities to allow rebates on, or the deferral of payment of, certain amounts payable by way of rates or charges by pensioners and other eligible persons...'. Eligible pensioners and other eligible persons can pay rates by instalments without incurring additional charges and are not charged interest if their rates are overdue.

2.2.2 Means of collecting overdue rates

The *Local Government Act* provides local governments with significant powers in relation to the collection of overdue rates. These powers include:

- Garnishing of rent from the lessee of a property (section 6.60);
- Recovering rates and services charges, as well as the costs of proceedings, in a court of competent jurisdiction (section 6.56);
- Taking possession of the land to which the overdue rates apply, including the power to lease or sell the land (section 6.64);

- Lodging a caveat that precludes dealings in respect of land that it has an interest in (for example, selling or refinancing the property) until the overdue rates have been paid (section 6.64 (3)); and
- Writing off any amount of money owed (section 6.12(1)(c)).

3 People in situations of vulnerability

Local governments in Western Australia engage with ratepayers from a wide range of backgrounds and circumstances. Some ratepayers may be in situations of vulnerability and require a different approach from local government officers involved in collecting overdue rates.

A person in a situation of vulnerability may have low income or, as a result of their circumstances, be experiencing a financial shock, leading to difficulties in paying rates by the due date. This can take the form of 'payment difficulties' or 'financial hardship'.

Payment difficulties can be defined as:

a state of **immediate** financial disadvantage that results in a [debtor] being unable to pay an outstanding amount ... by reason of a *change in personal circumstances*.³
[Original emphasis]

Financial hardship can be defined as:

a state of **more than immediate** financial disadvantage which results in a [debtor] ... being unable to pay an outstanding amount ... without affecting the ability to meet the *basic living needs* [of the debtor] or a dependant...⁴ [Original emphasis]

Payment difficulties therefore reflect short term financial constraints while financial hardship may reflect financial constraints with longer term or broader implications. It is important to note that in both cases, there is willingness to pay, but an inability to do so. The Office's Good Practice Guidance is not designed to inform the collection of rates from people who are able, but unwilling, to pay their rates in accordance with their obligations under the *Local Government Act*.

³ Economic Regulation Authority Western Australia, *Financial Hardship Policy Guidelines - Electricity & Gas Licences*, Perth, March 2015, p. 4.

⁴ *Ibid*, p. 5.

What do we mean by vulnerability?

A person experiencing vulnerability is particularly susceptible to experiencing harm, loss or disadvantage.⁵ Vulnerability is influenced by a person's capacity to defend against, and cope with, harm, loss or disadvantage.⁶

Vulnerability arises from the interaction of individual characteristics, circumstances and the actions (or inaction) of institutions.⁷ The following risk factors are commonly associated with increasing the potential for vulnerability:

- Disability;
- Illiteracy/innumeracy;
- Unemployment;
- Serious or chronic illness;
- Bereavement;
- Exposure to family or domestic violence; and
- Low English language proficiency.⁸

Of course, such risk factors do not necessarily result in vulnerability, but are more prevalent in those people in our community in situations of vulnerability. This includes Aboriginal and Torres Strait Islander people, who as a result of historical and systemic wrongs are more likely to experience disadvantage and be in situations of vulnerability.

Why have we used the phrase 'people in situations of vulnerability'?

This report uses the phrase 'people in situations of vulnerability' to reflect the fact that anyone, given a certain combination of circumstances, can find themselves in a situation of vulnerability.

Ofwat, the economic regulator of the water sector in England and Wales, encourages this conceptualisation of vulnerability. Ofwat note that such language provides '...a foundation...to view vulnerability as a transient state without labelling customers, but also leaves room for companies to engage with their customers, develop agile, tailor made and inclusive services for their entire customer base'. They also note '...the term vulnerability may be a loaded one...customers do not want to be termed as vulnerable, and using the 'label' could lead to them feeling vulnerable and not seeking assistance'.⁹

⁵ Consumer Affairs Victoria, *Discussion Paper: What do we mean by 'vulnerable' and 'disadvantaged' consumers?*, 2004, p. 4; Fitch, C, Evans, J and Trend, C, *Vulnerability: a guide for debt collection: 21 questions, 21 steps*, 2017, Personal Finance Research Centre, University of Bristol, p. 8.

⁶ Consumer Affairs Victoria, *Discussion Paper: What do we mean by 'vulnerable' and 'disadvantaged' consumers?*, 2004, p. 4.

⁷ *Vulnerability: a guide for debt collection: 21 questions, 21 steps*, 2017, Personal Finance Research Centre, University of Bristol, pp. 8-9.

⁸ Financial Conduct Authority, *Consumer Vulnerability*, Occasional Paper No. 8, 2015. p. 23; Consumer Utilities Advocacy Centre Ltd., *Helping not hindering: Uncovering domestic violence and utility debt*, August 2014, p. 2.

⁹ Ofwat, *Vulnerability focus report*, 2016, p. 20.

Appendix A: Good Practice Guidance for the collection of overdue rates for people in situations of vulnerability

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Good Practice Guidance for the collection of overdue rates for people in situations of vulnerability

Overview of the guidance

The Office has identified four principles reflecting contemporary good practice in the collection of overdue rates for people in situations of vulnerability. These principles are:

1. Good culture;
2. Good decisions;
3. Good support; and
4. Good service.

For each principle, further underpinning guidance is presented. Where helpful, specific initiatives are suggested that reflect potential approaches to implement the guidance.

The Good Practice Guidance is designed to assist local governments to:

- Consider their own policies and practices for the collection of rates and overdue rates in respect to people in situations of vulnerability; and
- Identify any aspects of these policies and practices that may present opportunities for improvement to ensure that the process is efficient and effective for local governments and is fair and equitable for all ratepayers, subject to the following two overarching principles.

Overarching principles applicable to the Good Practice Guidance

Overarching Principle 1: Overdue rates must be paid, nonetheless, fair, reasonable and flexible approaches to payment are beneficial.

All ratepayers have a responsibility to pay overdue rates. The guidance in no way overrides, detracts from, or diminishes, the responsibility of ratepayers to pay overdue rates, consistent with the *Local Government Act*.¹⁰ Nonetheless, a large body of research demonstrates that a fair, reasonable and flexible approach leads to better repayment outcomes and fewer resources expended in the collection of payments.¹¹ Greater efficiency and predictability in the collection of rates thereby assists local governments to plan and fund their service delivery priorities. Furthermore, addressing overdue rates through an early intervention approach without resorting to court recovery processes minimises legal and court costs to individual ratepayers, councils and ultimately, to the wider community who fund the court system through the payment of taxes.¹²

Overarching Principle 2: Good Practice Guidance should not impose unreasonable regulatory cost burdens on local governments and should be fit for size and circumstance.

Implementation of the Good Practice Guidance can, and should, be done in a way that does not impose any unreasonable or inappropriate regulatory costs on local governments (which, of course, are paid for by ratepayers).

It is absolutely appropriate for local governments to consider the relevance, costs and benefits of implementing the four Good Practice Principles and tailor areas of the Good Practice Guidance to their specific circumstances. In particular:

1. Local governments may have already implemented good practice frameworks in relation to assisting people in situations of vulnerability, including in the collection of overdue rates. Where this is the case, the Good Practice Guidance can be used to ensure these existing frameworks adequately address the issues contained in the Good Practice Guidance, rather than the need to write new guidance;
2. Local governments may have either more or less ratepayers in situations of vulnerability and therefore the extent of adoption of guidance underpinning principles may appropriately vary; and
3. It is completely appropriate and reasonable for smaller local governments to consider the practicalities and resources required to tailor the guidance to their specific circumstances.

¹⁰ It is noted that the Department of Local Government, Sport and Cultural Industries is currently undertaking a review of the *Local Government Act 1995*.

¹¹ Financial Conduct Authority, *Consumer Vulnerability*, Occasional Paper No. 8, 2015, pp. 71-72.

¹² Footscray Community Legal Centre and Federation of Community Legal Centres (Victoria) Inc, *Council debt collection: Alternatives to suing ratepayers in hardship*, 2012, p. 3.

The good practice principles for the collection of overdue rates by local governments are summarised in Table 1.

Table 1: Good practice principles and guidance for the collection of overdue rates from people in situations of vulnerability

Principle	Guidance
<p>1. Good culture</p> <p><i>A culture of achieving positive outcomes in the collection of overdue rates from people in situations of vulnerability is embedded throughout the organisation and the subject of leadership.</i></p>	<ul style="list-style-type: none"> Local government senior management, including the CEO, should communicate, and model, the organisation's commitment to achieving positive outcomes for people in situations of vulnerability in respect to the collection of overdue rates. Governance frameworks and systems should reflect and support the local government's commitment to achieving positive outcomes for people in situations of vulnerability. Good practice should be shared internally and externally to promote continuous improvement in the support provided to people in situations of vulnerability.
<p>2. Good decisions</p> <p><i>Decisions in respect to overdue rates from people in situations of vulnerability are lawful, reasonable, transparent, result in proportionate outcomes, reflect contemporary practice and are capable of being reviewed.</i></p>	<ul style="list-style-type: none"> Local governments should ensure that decision making is consistent with applicable legislation and regulations and accord procedural fairness to people in situations of vulnerability. If they have not already done so, local governments should develop and publish a financial hardship policy that is responsive to the needs of people in situations of vulnerability, including Aboriginal and Torres Strait Islander people in situations of vulnerability. Local governments should ensure that policies and practices relating to the collection of overdue rates, including the practices of external collection agencies, follow a fair and transparent process that is supported by good record keeping. Ratepayers should be informed of their rights to internal and external review of decisions regarding overdue rates and their right to complain about the decision making process.
<p>3. Good support</p> <p><i>Staff are supported in all of their interactions with people in situations of vulnerability.</i></p>	<ul style="list-style-type: none"> Staff responsible for assisting people in situations of vulnerability should have access to training, be supported and recognised.
<p>4. Good service</p> <p><i>Accessible and flexible service provision supports the early identification and provision of support to people in situations of vulnerability.</i></p>	<ul style="list-style-type: none"> Local governments should encourage the proactive, early identification of people in situations of vulnerability to minimise the accumulation of debt. Where practicable and available, local governments should develop proactive working relationships with financial counsellors, community legal centres and other relevant organisations to facilitate timely referrals of ratepayers in situations of vulnerability. Local governments should be flexible and accessible in their communication methods. Wherever practicable, people in situations of vulnerability, including those with disability or who require translation services, should be able to use the channel that best reflects their individual needs and preferences. For ratepayers in situations of vulnerability, local governments should negotiate a flexible alternative payment arrangement that reflects their actual capacity to pay.

Principle 1: Good culture

A culture of achieving positive outcomes in the collection of overdue rates from people in situations of vulnerability is embedded throughout the organisation and the subject of leadership.

Overview of principle

A local government's efforts to improve outcomes for people in situations of vulnerability is underpinned by its organisational culture. Organisational culture can be defined as:

...the implicit values, beliefs, and assumptions that employees infer guide behaviour...[based] on the stories, myths, and socialization experiences they have and the behaviors they observe (especially on the part of leaders) that prove to be useful and promote success.¹³

Put simply, efforts to improve outcomes in relation to the collection of overdue rates from people in situations of vulnerability are unlikely to be successful if staff observe that it is not valued or considered an organisational priority.

There are many factors that contribute to the emergence or change in an organisation's culture. The research literature clearly supports the central role of leadership in embedding a culture that is committed to achieving positive outcomes for people in situations of vulnerability.¹⁴ Governance frameworks and systems should also reflect and support the organisation's commitment to achieving positive outcomes for people in situations of vulnerability. This includes, but is not limited to, a local government's strategic planning, delegations of authority, risk management, employee performance management, employee selection, policies and quality assurance processes. Senior management should also establish mechanisms for employees to collaborate and cooperate in order to minimise the emergence of cultural silos and promote continuous improvement.¹⁵

Good Practice Guidance underpinning principle

Good Practice Guidance 1

Local government senior management, including the CEO, should communicate, and model, the organisation's commitment to achieving positive outcomes for people in situations of vulnerability in respect to the collection of overdue rates.

In implementing this guidance, local governments could consider the following initiatives where practical to do so and resources allow:

- Reporting on progress in implementing vulnerability initiatives at senior leadership meetings; and

¹³ Schneider, B, Ehrhart, M and Macey, W, 'Organisational culture and climate', *Annual Review of Psychology*, vol. 64, 2013, p. 381.

¹⁴ Ofwat, *Vulnerability focus report*, 2016, p. 34; Financial Conduct Authority, *Consumer Vulnerability*, Occasional Paper No. 8, 2015. p. 85.

¹⁵ Victorian State Services Authority, *Organisational culture*, 2013, p. 14.

- Communicating the organisation's commitment to supporting people in situations of vulnerability during staff meetings and in organisation-wide correspondence.

Good Practice Guidance 2

Governance frameworks and systems should reflect and support the local government's commitment to achieving positive outcomes for people in situations of vulnerability.

In implementing this guidance, local governments could consider the following initiatives where practical to do so and resources allow:

- Ensuring that the values, priorities and measures of success in strategic planning reflect the local government's commitment to achieving positive outcomes for people in situations of vulnerability;
- Ensuring a process to assess and review policies on a periodic basis related to the collection of overdue rates from people in situations of vulnerability; and
- Developing relevant outcome measures that are reported at senior leadership meetings.

Good Practice Guidance 3

Good practice should be shared internally and externally to promote continuous improvement in the support provided to people in situations of vulnerability.

Principle 2: Good decisions

Decisions in respect to overdue rates from people in situations of vulnerability are lawful, reasonable, transparent, result in proportionate outcomes, reflect contemporary good practice and are capable of being reviewed.

Overview of principle

The *Local Government Act* provides local governments with considerable powers in relation to their collection of overdue rates. It is of course essential that the decision making of local governments in respect to overdue rates complies with all applicable legislation, regulations and established codes of conduct.

The *Local Government Act* also provides local governments with considerable discretion in their decision making. This includes the discretion to offer alternative payment arrangements and to impose (or not impose) additional charges and/or interest. Such decisions should be fair, transparent and consistent and be supported by clearly documented reasons, as well as complying with relevant statutory requirements and limitations.

Overall, the collection of overdue rates should reflect contemporary good practice and achieve a positive and proportionate outcome that is in the best interest of the individual ratepayer and all ratepayers in the local government district. Established practice and evidence demonstrates that a process that is respectful, fair and reasonable and takes into account individual circumstances is more likely to engage ratepayers with overdue rates and lead to outcomes that better serve organisational goals.¹⁶

Good Practice Guidance underpinning principle

Good Practice Guidance 4

Local governments should ensure that decision making is consistent with applicable legislation and regulations and accord procedural fairness to people in situations of vulnerability.

In implementing this guidance, local governments could consider the following initiatives:

- Clear instruments of delegation that ensure that decisions regarding overdue rates are made by staff with the power to do so;
- Clear policies and procedures on managing actual or perceived conflicts of interest between a decision maker and a person in a situation of vulnerability that is affected by the decision;
- Clear and consistent criteria for what constitutes 'financial hardship', including evidence requirements;

¹⁶ Financial Conduct Authority, *Consumer Vulnerability*, Occasional Paper No. 8, 2015. pp. 71-72.

- Clear guidance on the situations where staff can reduce, waive or defer additional charges and/or interest and the ability of the ratepayer to afford additional costs arising from the decision;
- Clear procedures on what steps are to be taken prior to further collections activity (such as legal proceedings) being commenced against a ratepayer and the cessation of further collections activity where the ratepayer is compliant with a payment arrangement or where a payment arrangement is in the process of being considered and in the context of commencing legal action, whether the legal costs are proportionate to the amount of overdue rates;
- Providing the ratepayer or their representative with timely written confirmation of any payment agreement to minimise any ambiguities or misunderstandings; and
- Providing the ratepayer with the opportunity to contact the local government to clarify any aspect of a payment agreement or if their circumstances change.

Good Practice Guidance 5

If they have not already done so, local governments should develop and publish a financial hardship policy that is responsive to the needs of people in situations of vulnerability, including Aboriginal and Torres Strait Islander people in situations of vulnerability.

In implementing this guidance, local governments could consider the following initiatives where practical to do so and resources allow:

- Developing the policy in consultation with key community stakeholders such as financial counsellors, other non-government organisations and community legal centres;
- Conducting a gap analysis of the policy compared to best practice in other sectors;
- Providing training to staff on the practical implementation of the policy to enable them to achieve the best outcomes for the recovery of overdue rates;
- Publishing the policy in an easy to find location on the local government's website, such as under its own page and/or accessible via a prominent link on the homepage; and
- Working with Aboriginal and Torres Strait Islander people in the development of the policy and subsequent training of staff to ensure that the local government's practices are culturally informed and appropriate.

Aboriginal and Torres Strait Islander people

Aboriginal and Torres Strait Islander communities are particularly at risk of experiencing vulnerability. The research literature indicates that Aboriginal and Torres Strait Islander people experience traumatic events at significantly higher rates than non-Aboriginal Australians.¹⁷

In considering ways to work with Aboriginal and Torres Strait Islander people in situations of vulnerability in respect to overdue rates, local governments should ensure that Aboriginal and Torres Strait Islander people lead any work that involves Aboriginal and Torres Strait Islander communities and that Aboriginal and Torres Strait Islander people are listened to, respectfully engaged, involved in the development, delivery and evaluation of services.

Good Practice Guidance 6

Local governments should ensure that policies and practices relating to the collection of overdue rates, including the practices of external collection agencies, follow a fair and transparent process that is supported by good record keeping.

In implementing this guidance, local governments should note that this includes, but is not limited to:

- Communicating with ratepayers about overdue rates only for reasonable purposes associated with the debt collection process;
- Using a means of contact that is appropriate and reasonable for the purposes of the debt collection process and has been agreed with the ratepayer;
- Contacting the ratepayer or a third party by telephone at reasonable times, or in accordance with their reasonable wishes (for example, the ratepayer is a shift worker, or a carer, or does not wish to be contacted when other people are present);
- Ensuring the privacy of ratepayers in a manner consistent with privacy legislation;
- Ensuring that authorised agents acting on behalf of a ratepayer (such as a financial counsellor or advisor, a community worker, solicitor, guardian or carer) have provided reasonable evidence of their authority to act; and
- Ensuring that external collection agencies are provided with accurate and up-to-date information in respect to overdue rates.

¹⁷ For example, Aboriginal and Torres Strait Islander people are two to five times more likely than non-Aboriginal people to experience violence as victims or offenders. See Willis, M, "Non-disclosure of violence in Australian Indigenous Communities," Australian Institute of Criminology, Trends & Issues in Crime and Criminal Justice, No, 405, Canberra, 2011, viewed 21 August 2018, <<http://www.aic.gov.au/publications/current%20series/tandi/401-420/tandi405.html>>.

Good Practice Guidance 7

Ratepayers should be informed of their rights to internal and external review of decisions regarding overdue rates and their right to complain about the decision making process.

In implementing this guidance, local governments should provide ratepayers who are dissatisfied with a decision regarding rates with:

- Information about, and access to, an internal review process;
- Information about, and access to, a complaints management system that conforms to the principles of the Australian and New Zealand Standard, *Guidelines for complaint management in organizations* (AS/NZS 10002:2014) and the *Public Sector Commissioner's Circular 2009:27: Complaints Management*;
- An explanation of the outcomes of the complaints handling and internal review procedures, including clear reasons for the decision; and
- Information about the availability of any external review of the outcomes of the complaints handling and internal review procedures, including the correct agency and procedure for seeking such a review.

Principle 3: Good support

Staff are supported in all of their interactions with people in situations of vulnerability.

Overview of principle

Given a certain combination of circumstances, anyone can find themselves in a situation of vulnerability. Vulnerability can arise as result of any number of difficult life events, including bereavement, serious illness, unemployment and exposure to family or domestic violence. Accordingly, people in situations of vulnerability should be treated in a compassionate, supportive and non-judgemental manner. This not only contributes to the wellbeing of the person approaching the local government for assistance; it also encourages full disclosure of their circumstances and needs.¹⁸

At the same time, staff have an important and challenging task in responding to disclosures of vulnerability. If staff are inadequately equipped for this task, there is the potential for vicarious trauma, poor staff retention and a failure to appropriately respond to disclosures.¹⁹ As part of an organisation's duty of care to staff and in order to attain optimal outcomes for ratepayers and the organisation, it is essential that staff are appropriately trained, supported and recognised.

Good Practice Guidance underpinning principle

Good Practice Guidance 8

Staff responsible for assisting people in situations of vulnerability should have access to training, be supported and recognised.

In implementing this guidance, local governments could consider the following initiatives:

- Ensuring training for staff in recognising people in situations of vulnerability and effectively communicating with people in situations of vulnerability;
- Having peer support and debriefing opportunities;
- Recognising the work of staff who assist people in situations of vulnerability (for example, senior management acknowledgement in staff meetings); and
- Having training and support for staff that may be subject to unreasonable behaviour of ratepayers.

¹⁸ Ofwat, *Practitioner's pack for water companies: To accompany Ofwat's vulnerability focus report*, 2016, p. 8; British Banker's Association, *Improving outcomes for customers in vulnerable circumstances*, 2016, p. 8.

¹⁹ Financial Conduct Authority, *Consumer Vulnerability*, Occasional Paper No. 8, 2015, p. 73.

Support for women experiencing family or domestic violence

Women experiencing family and domestic violence require specific support from local governments to ensure their often complex and vulnerable circumstances are managed sensitively and appropriately. This may include support in relation to financial abuse.

Women are primarily the victims of family and domestic violence and men are primarily the perpetrators.²⁰ It is also acknowledged that certain groups are at an increased risk of experiencing family and domestic violence, including Aboriginal and Torres Strait Islander Australians, people with disability and lesbian, gay, bisexual, transgender and intersex people.²¹

Processes and systems that are appropriate and responsive to the particular needs of women experiencing family and domestic violence may involve:

- Ensuring confidentiality so that updated contact details are not accidentally passed on to the alleged perpetrator of violence;
- Being aware of the potential difficulties in accessing mail or certain documentation due to homelessness;
- Being aware of the risk of vicarious trauma among staff; and
- Having systems in place that minimise the likelihood of people having to disclose their circumstances multiple times.²²

In order to support staff to appropriately assist women experiencing family or domestic violence, local governments should consider conducting specific staff training and developing family and domestic violence guidance material and policies.

²⁰ The Australian Institute of Health and Welfare note that 1 in 6 women have experienced physical and/or sexual violence by a current or previous partner compared to 1 in 16 men. In addition, 3 in 4 victims of domestic violence reported the perpetrator as male, while 1 in 4 reported the perpetrator as female. See Australian Institute of Health and Welfare, *Family, domestic and sexual violence in Australia*, 2018, Cat. no. FDV 2. Canberra: AIHW, pp. ix, 31.

²¹ *ibid*, p. xii.

²² The Consumer Utilities Advocacy Centre provides extensive guidance on the management of debts of women experiencing family or domestic violence, see Consumer Utilities Advocacy Centre Ltd., *Helping not hindering: Uncovering domestic violence and utility debt*, August 2014, pp. 37-40.

Principle 4: Good service

Flexible and accessible service provision supports the early identification and provision of support to people in situations of vulnerability.

Overview of principle

Local governments are in a strong position to make a positive difference to the lives of people in situations of vulnerability. However, many people in situations of vulnerability are unable or unwilling to disclose their circumstances. Research and industry guidance indicate that people in situations of vulnerability often do not consider themselves 'vulnerable' or proactively seek out assistance.²³ Compassionate and well trained staff are essential in overcoming such barriers, but it is also important that the systems themselves are flexible and accessible to encourage self-identification and reduce the accumulation of debt.

Ideally, local government processes should support early identification and intervention, avoiding the need for more expensive and stressful debt collection and legal proceedings. Strong working relationships with independent financial counsellors, community legal services and other relevant non-government organisations are key to achieving early and sustainable resolution of debt issues.

A flexible and accessible approach should be present in all aspects of service, including communication methods and payment arrangements. An approach raised during the procedural fairness process was the possibility for payment of rates on a periodic basis or a greater frequency, for example, monthly. Certain local governments at the moment allow ratepayers to 'smooth' payments over the course of the year by weekly, fortnightly or monthly payments.

An approach that is tailored to the specific needs of people in situations of vulnerability is more likely to lead to positive outcomes for both the person experiencing vulnerability and the local government in their recovery of debt. In contrast, an inflexible approach is likely to exacerbate existing health concerns or stress, further entrench disadvantage and result in unsustainable payment arrangements.²⁴

²³ ESRO Ltd, *Vulnerability exposed: The consumer experience of vulnerability in financial services*, 2014, p. 3; Insurance Council of Australia, *Interim Report: Review of the General Insurance Code of Practice*, 2017, p. 80; Australian Banker's Association Inc., *Industry guideline - Promoting understanding about banks' financial hardship programs*, Version 2.0, 2015, p. 12.

²⁴ Footscray Community Legal Centre and Federation of Community Legal Centres (Victoria) Inc, *Council debt collection: Alternatives to suing ratepayers in hardship*, 2012, p. 21.

Good Practice Guidance underpinning principle

Good Practice Guidance 9

Local governments should encourage the proactive, early identification of people in situations of vulnerability to minimise the accumulation of debt.

In implementing this guidance, local governments could consider the following initiatives:

- Ensuring guidance state that ratepayers do not have to already be in debt before assistance is made available;
- Encouraging ratepayers to disclose difficulty in paying rates by the due date on the website and rates notices, reassuring them that disclosures will be treated seriously, non-judgementally and taken into account;
- Setting up an alert on the ratepayer record system that shows when rates are overdue and advising ratepayers (and the availability of assistance) accordingly; and
- Wherever practicable to do so, proactively contacting ratepayers in areas affected by natural disasters or economic events to see if they require any hardship assistance.

Good Practice Guidance 10

Where practicable and available, local governments should develop proactive working relationships with financial counsellors, community legal centres and other relevant organisations to facilitate timely referrals of ratepayers in situations of vulnerability.

In implementing this guidance, local governments could consider the following initiatives:

- Developing a protocol for the sensitive referral of ratepayers to financial counselling and community legal services;
- Developing memoranda of understanding with financial counsellors, community legal centres and other relevant stakeholders;
- Conducting engagement and awareness activities in partnership with relevant organisations, including organisations relevant to Aboriginal and Torres Strait Islander Australians and people from culturally and linguistically diverse backgrounds; and
- Ensuring policies stipulate that it is unnecessary for people to be referred to fee-charging debt management firms given the existence of free (to ratepayer) services.

Good Practice Guidance 11

Local governments should be flexible and accessible in their communication methods. Wherever practicable, people in situations of vulnerability, including those with disability or who require translation services, should be able to use the channel that best reflects their individual needs and preferences.

In implementing this guidance, local governments could consider the following initiatives wherever resourcing allows:

- Ensuring policies and communications are written in simple and clear language;
- Providing a free-call number or a call-back service for customers who cannot afford the cost of being placed on hold;
- Providing longer appointment times and agreeing to talk at specific times of the day in order to meet the specific needs of ratepayers;
- Making financial hardship policies and communications with ratepayers available in alternative formats (for example, large print, audio) on request;
- Providing financial hardship policies and communications in other languages;
- Providing an interpreting service and ensuring staff are trained to recognise when an interpreter may be required; and
- In consultation with the local Aboriginal and Torres Strait Islander community, designing information sheets about the rates recovery process that is culturally appropriate for Aboriginal and Torres Strait Islander people.

Good Practice Guidance 12

For ratepayers in situations of vulnerability, local governments should negotiate a flexible alternative payment arrangement that reflects their actual capacity to pay.

In implementing this guidance, local government staff could consider the following during the decision making process:

- The likelihood that the ratepayer may have other debts;
- The likely impact of the proposed payment arrangement on the basic living needs of the ratepayer and any dependents;
- The ratepayer's eligibility for any concessions or rebates;
- The availability, costs and benefits of rate smoothing options, including Centrepay; and
- Any advice received from an independent financial counsellor.

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