



# FGG 3 – FINANCIAL GOVERNANCE GUIDELINES ON ACT GOVERNMENT DEBTOR MANAGEMENT POLICY

Chief Minister, Treasury and  
Economic Development  
Directorate

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# 1. INTRODUCTION

This ACT Government Debtor Management Policy (the Policy) outlines principles associated with the management of debts owed to ACT Government entities, specifically debts owed by non-ACT Government entities.

This Policy has been prepared for the information of ACT Government entities and aims to:

- > provide frameworks for financial and management authorisations and delegations for debt management;
- > clearly articulate roles and responsibilities for debt management and collection;
- > clearly articulate a debt recovery strategy, options for recovering outstanding debts and articulate requirements for the monitoring of debts;
- > provide guidance on procedures for the write-off and waiver of debts; and
- > provide guidance and propose appropriate authorisations and delegations for the use of external debt collection agencies.

The term 'entity' or 'entities' refers to Directorates and/or Territory Authorities.

## 2. APPLICATION OF THE POLICY

This Policy applies to all ACT Government entities excluding Territory-owned Corporations. It is expected that each entity will:

- > act in accordance with its Director-General Instructions on accounts receivable and debt management or equivalent, alongside existing internally managed debt management procedures and guidelines;
- > review existing internally managed debt management procedures and guidelines and take necessary action to comply with the principles outlined in this Policy;
- > consider engaging Shared Services in implementing the centralised end-to-end debt management model discussed under Section 6 of this Policy, where appropriate; and
- > ensure that the appropriate delegations are established, and considerations taken into account in the engagement of the Whole of Government (WhoG) mercantile agent.

Due to the variable nature of debts, not all the principles outlined in this policy will apply to every type of debt. Different strategies may need to be implemented to suit specific debt. The design and scope of the arrangement and specific roles in implementing the policy may vary depending on the type of debt and the distinct issues associated with its management. This Policy does not apply to loans receivable which are subject to separate terms and conditions.

The application of this Policy by each entity should be considered on a case by case basis taking into account a range of factors including legislative requirements, social sensitivities, technical capabilities and financial considerations. Therefore, entities should be directed by this policy and only modify its applicability in entity specific guidance consistent with the principles outlined in section 6.1.

This Policy is to be read in conjunction with the following:

- > Section 31 (Responsibilities of Directors-General of directorates), Section 55 (Responsibilities of Chief Executive Officers of territory authorities), Section 56 (Responsibilities of governing boards of territory authorities) and Section 131 (Waiver of debts etc) of the *Financial Management Act 1996*,
  - <https://www.legislation.act.gov.au/a/1996-22/>
- > Model Financial Statements (ACT)
- > Guide to the Performance Management Framework (ACT)
- > Services and Performance Measures Catalogue for Shared Services – Finance Services
- > AASB 101 Presentation of Financial Statements
- > AASB 9 Financial Instruments
- > Directors-General Instructions – Debt Management and Invoicing (or equivalent)

#### **Additional Reference**

- > Debt Collection Guideline: for collectors and creditors (by Australian Competition and Consumer Commission and the Australian Securities and Investments Commission)
  - [https://www.accc.gov.au/system/files/776\\_Debt%20collection%20guideline\\_July%202017\\_FA.PDF](https://www.accc.gov.au/system/files/776_Debt%20collection%20guideline_July%202017_FA.PDF)

#### **Other ACT Legislation**

- > *Information Privacy Act 2014* <https://www.legislation.act.gov.au/a/2014-24/>
- > *Health Records (Privacy and Access) Act 1997* <https://www.legislation.act.gov.au/a/1997-125/>
- > *Limitation Act 1985* <https://www.legislation.act.gov.au/a/1985-66/>
- > *Bankruptcy Act 1996* (Cwth) <https://www.legislation.gov.au/Details/C2020C00130>
- > ACT Government Bill Payment Policy
  - [https://www.act.gov.au/\\_\\_data/assets/pdf\\_file/0020/610508/ACT-Government-Bill-Payment-Policy-April-2015.pdf](https://www.act.gov.au/__data/assets/pdf_file/0020/610508/ACT-Government-Bill-Payment-Policy-April-2015.pdf)

For more information on this Policy, please contact the Financial Reporting and Framework branch within the Chief Minister, Treasury and Economic Development Directorate.

## **3. BACKGROUND**

Generally, a 'debt' is a sum of money owed by one party (the debtor), to another party, for instance the relevant ACT Government entity (the creditor), in exchange for goods or services provided. Debt is usually subject to contractual terms regarding the amount and timing of repayment of the amount owed. However, debts owed to the government which are associated with taxes, fees and fines are based on legislation and may not be subject to contractual requirements. Debt must be capable of being pursued legally.

The primary objective of debtor management as outlined in this policy is to ensure that debts owing to ACT Government entities are collected in a timely manner while respecting the rights of the debtor.

## 4. RESPONSIBILITY FOR DEBTOR MANAGEMENT

The responsibility for the management of debts owing to ACT Government entities is included within the wider responsibilities of Directors-General for the efficient and effective financial management of directorate resources, under Section 31 of the *Financial Management Act 1996* (FMA). These legislative responsibilities should guide decision-making about the management of debts for which the Directors-General are responsible whether directly related to the delivery of services by the directorate (controlled) or administered by the directorate on behalf of the Territory (territorial).

Corresponding provisions for Chief Executive Officers and governing boards of territory authorities are covered under Sections 55 and 56, respectively, of the FMA.

Under Section 20 (1)(b) of the *Public Sector Management Act 1994*, the Director-General may delegate functions under law to officers of the directorate. A fundamental effect of delegating a function is that a person to whom the function is delegated must use discretion when exercising that function. The Directors-General responsibility for the efficient and effective financial management of the directorate is generally delegated to the Chief Finance Officer (or equivalent), as detailed in the respective Directors-General/Chief Executive Officer Instructions.

Shared Services has contractual arrangements in place to engage a WhoG mercantile agent for third party debt collection and consultancy services. Entities must exercise careful and considered discretion when nominating appropriate levels of delegation to engage the WhoG mercantile agent. Given the sensitivities that must be considered, an appropriate level of delegation may be considered at the Chief Finance Officer/Chief Operating Officer (or equivalent) level. More information can be found at 10.2 Recovery through Mercantile agents (External Debt Collector Services) and Appendix B.

## 5. DEBTOR MANAGEMENT

Efficient and effective debtor management can be achieved by implementing better work practices at various stages of the debt collection cycle, where feasible. The following better practices present opportunities to improve the debt management function:

- > Redesigning debt management
- > Risk assessment
- > Use of advanced technology
- > Debt collection processes
- > Monitoring and reporting

## 6. REDESIGNING DEBT MANAGEMENT

Redesigning debt management involves a review of existing procedures and implementing better work practices where considered appropriate.

Reconfiguration of processes should aim to achieve value for money outcomes within the various complexities and constraints associated with management of government debt. Key factors to consider when exploring the feasibility of a process to be employed will depend on the type and amount of debt, applicable policy, legislative requirements and social sensitivities. ICT capabilities and the cost of implementing the necessary system and procedural changes would also be an important consideration in redesigning debt management.

Debt management strategies should be flexible enough to accommodate debtors who may be vulnerable and/or experiencing financial difficulties. See discussion in Section 8 for strategies to address assessment of financial hardship.

## 6.1 Key Principles of Debtor Management

The below key principles were endorsed by the Strategic Board in October 2017. Shared Services and ACT Government entities need to incorporate these within debtor management arrangements.

These principles aim to achieve efficient, effective, standardised and fair debt management policies and practices across entities.

- > Ensure that any changes to future Territory debtor management practices arising from the proposed work to further mature a model framework of debtor management will not change existing *Financial Management Act 1996* (FMA) Director-General responsibilities and the entity reporting of debt.
- > Ensure that actions are proportionate, consistent and transparent.
- > Take prompt, appropriate and effective action to recover debts.
- > Treat all customers fairly, taking into account all relevant information before taking enforcement action. This ensures maximum flexibility when involved in the recovery of debt cycle to deal with hardship or dispute situations, and recognises the concerns of the ACT Human Rights Commissioner about debt collection.
- > Explore the resourcing implications for a range of service delivery models to ensure that appropriate resourcing is applied to undertake centralised debt management.
- > Give due consideration to having a standardised approach to debt management procedures and policies regarding debt recovery principles, debt policies (including a hierarchy of debt), methods of payment, signposting debtors to external advice agencies and write-offs.
- > Take a holistic approach to the collection of multiple debts owed to the Territory. This includes creating and maintaining a centralised debtor database, and enhanced linkages to better trace debtors.
- > Consider the use of an adequate mechanism to provide advice and support to increase the debtor's ability to pay.
- > Explore the use of a range of debt recovery arrangements (e.g. debt collecting by Shared Services or Directorate representative, third-party collector acting as a contingent collector (percentage of total amount collected) on behalf of Directorates who use Shared Services debt management arrangement).
- > Ensure that the most appropriate debt recovery process is used for each type of debt.
- > Ensure that enforcement action undertaken is appropriate and contextualised for the debtor.

## 6.2 Upfront Payments

Collecting charges upfront stops the creation of debt. Services provided by ACT Government entities should, wherever possible, be paid for in advance or at the time of service delivery. Debts should only be raised where payment 'up-front' for any service is inappropriate.

Upfront payment is currently implemented in relation to a number of fees and charges (for instance, motor vehicle registration, hiring of certain facilities etc.) and should be considered for broader application, where feasible. Certain fees and charges cannot be paid in advance, either because of the emergency nature of the service (for example, ACT Ambulance Service emergency response, certain fire-related services etc.) or because of legislative constraints. Consideration should be given to changes in legislation to allow an upfront charge for services, where possible, as an option for reducing debt.

## 6.3 Centralised End-to-End Debtor Management

Under the existing arrangements within the ACT Government, outlined in the Services and Performance Measures Catalogue for Shared Services – Finance Services, as endorsed by the Quality and Measurement Advisory Committee in September 2020, Shared Services is responsible for certain transactional and tactical aspects including ICT activities, associated with debtor management.

Access Canberra provides customers a single location for the processing of multiple transactions administered by ACT Government entities.

Shared Services currently manages the recovery of debts for entities who have existing debt management arrangements with Shared Services up to 60 days past due, as well as up to 90 days past due for ACT Ambulance Service accounts due to the increased sensitivities and complexities. After the 60 to 90-day collection period, the responsibility for any outstanding accounts is transferred back to the originating entity.

Shared Services is in the process of implementing a debt management system and subsequent end-to-end debt management framework. Centralised end-to-end debt management offers a standardised, integrated and consistent approach to managing debt. It promotes the centralisation of recovery expertise, improves automation and reduces potential duplication of services. It also contributes to the achievement of economies of scale. The implementation of a debt management system will also allow the establishment of a centralised, single-citizen profile for accounts managed by Shared Services, further promoting efficient and effective debt management services within the Territory.

Following implementation of the debt management system Shared Services will expand its debt management arrangements for entities currently managed by Shared Services for up to 360 days past due. Any debts that remain outstanding at 361+ days past due will be referred back to the relevant ACT government entity for further action.

The option needs to be explored for centralised end-to-end debt management and recovery, specifically in relation to external debt. The end-to-end debt management model will be context specific as there is no one-size-fits-all solution for debt management. The design and scope of the arrangement and specific roles in implementing the process will vary depending on the type of debt and the distinct issues associated with its management. Entities are encouraged to consider the centralised debt management options available within Shared Services and develop an efficient arrangement, including the provision of adequate resourcing and process/procedural considerations, that is most appropriate for the specific debt.

While Shared Services can manage the debt on an end-to-end basis on behalf of entities, the ultimate responsibility and accountability will remain vested in the relevant Director General/ Chief Executive Officer or nominated delegate.

Where the centralised model does not fit, cross-sharing of techniques, technology, skills and capabilities may still benefit entities engaged in debt management and collection.

### 6.3.1 Information Sharing Across ACT Government Entities

The implementation of a centralised end-to-end debt management function within Shared Services requires appropriate access to information about the relevant debtor by Shared Services. Relevant legislative requirements need to be reviewed and amendments considered (to ACT legislation) to establish a clear legal framework for sharing of personal information for the purposes of centralised debt management and recovery. Entities must also ensure compliance with the legislative requirements under the *Information Privacy Act 2014*.



In August 2018, the Under Treasurer wrote to all Directors-General requesting the updating of website and documentation privacy disclaimers in accordance with standardised language that had been prepared by the Debt Management Steering Committee in consultation with the ACT Government Solicitor's Office and endorsed by Strategic Board. Entities will need to include appropriate privacy disclaimers on Directorate websites and relevant documentation in accordance with this advice to reflect that personal information may be disclosed by the entity to Shared Services for billing, debt management and recovery purposes. This is to allow the sharing of personal information for the purposes of invoicing goods and services, and the recovery of any outstanding monies owed to the Territory in relation to the provision of these goods or services.

## 6.4 Standing Payments

In relation to services delivered on a regular basis requiring recurring invoicing and receipting, entities may consider entering into an arrangement with customers to make standing payments, for instance, using direct debit of customer bank accounts. This technique may require entities to maintain regular reconciliations and provide periodical acquittal of payments to customers.

## 6.5 Alternative Payment Options

Providing customers with convenient payment options is expected to encourage customers to make the payment of outstanding accounts faster.

### Alternative Payment Methods

Alternative payment methods may be considered, including online payments (using credit card, BPay, direct debit etc.), payments over the phone (using a credit card) and payments in person (in cash or by cheque/ credit card/ EFTPOS) to achieve faster debt recovery.

Entities need to consider the processing costs and security exposure associated with the various payment options offered to customers.

The ACT Government's Bill Payment Policy has been prepared for the information of ACT Government entities with the aim of applying a consistent approach to bill payment across the Territory. Entities must consider the relevant provisions of the ACT Government Bill Payment Policy, Government Banking Services Agreement as well as appropriate legislation when considering alternative payment options.

### Periodical Payments

Payment options may also allow weekly, fortnightly, monthly or quarterly payments in relation to an annual charge. For instance, land rent is an annual charge billed quarterly, however, lessees have the option of paying weekly, fortnightly, monthly or quarterly.

These periodical payment options do not relate to debt which is in arrears. Section 131 of the FMA applies and allows the Treasurer or delegate, to waive the Territory's right to payment of an amount payable to the Territory, or to allow the payment to be made in instalments, or to defer the time of payment.

## 6.6 Payment Incentives

Payment incentives are aimed at encouraging customers to make payments promptly or early. Payment incentives may be in the following forms:

- > discount offered for prompt or early payment of a debt; or
- > interest and/or penalty imposed for a late payment of a debt.

## Discounts

Discounts may be offered in a variety of ways (for instance, a discount of two per cent offered if payment is made within 10 days although the due date may be in 30 days).

Discounting impacts on the entity's net revenue and cashflow and therefore the benefit should sufficiently warrant the discount (lost revenue) and the cost of implementing the necessary system and procedural changes.

Discounts should only be considered upfront on issuing of an invoice and are not a mechanism to be used to manage overdue payments.

Discounts offered must have appropriate authority and approval consistent with Director-General Instructions (DGIs). They should also still be allowable (for example, covered in the approved fees and charges schedule where applicable). Where discounts are being considered more broadly that have the potential to result in a material reduction to revenue, authority should be sought through an appropriate budget process.

## Interest and/or Penalties

Interest as a payment incentive aims to compensate the government for the loss of use of funds when the debt is not paid in a timely manner. Entities may consider the imposition of interest or penalties on any amount that remains unpaid on the due date. The basis for imposing interest and/or penalties must be reasonable and in compliance with relevant legislation and policy. For instance, in the case of land rent, customers are charged interest on the amount that remains unpaid by the due date, on a compounding monthly basis.

In exploring payment incentives any applicable legislative and policy requirements as well as social sensitivities need to be considered. Another important consideration in the implementation of payment incentives will be the technical feasibility within the existing system and any other relevant system. Application of payment incentives will therefore need to be considered by entities on a case-by-case basis.

It is also important that entities provide sufficient public awareness on payment incentives to customers and the consequences in the event of non-payment. Any discount, interest and/penalty must be clearly specified on the invoice/ account sent to the customer.

## 6.7 Bank Charges for Dishonoured Payments

Entities should recover any costs such as bank charges incurred as a result of a debtor's dishonoured payment (for instance, where the debtor has insufficient funds in the account for the payment to be processed by the bank). Consideration should be given to instances where this may not be appropriate, for example, financial hardship.

It is important to clearly identify the amount owing for such charges on the account sent to the customer.

## 7. RISK ASSESSMENT

Risk assessment is crucial to the development and implementation of an effective debt management framework. Once risks have been identified, strategies can be developed and applied to eliminate or minimise the risk. In undertaking a risk assessment, entities should focus on existing debt management processes to identify new and more effective ways of delivering services and collecting outstanding debts.

Further information on risk management and considerations to be taken is included in Appendix B – Risk Management.

## 8. FINANCIAL HARDSHIP

There are exceptional circumstances where an individual (or business) may face hardship, such as loss of employment or illness, restricting short-term capacity to repay monies owed to the Territory. Special consideration should be given to ensure the recovery of monies owed to the Territory does not result in any undue financial hardship for the individual or business.

Entities should consider the development of financial hardship application forms and the provision of standardised supporting documentation to assist in the financial hardship application review process. Financial hardship applications must be assessed on a consistent basis depending on the circumstances involved; however, the Territory may consider assistance options including:

- > extension of the due date;
- > development of a payment plan, subject to Section 131 of the FMA; or
- > waiving interest or penalties.

Options including write-off, waiver or deferral of part or the entirety of the debt should be considered as a last resort consistent with the concepts described at 10.7: 'Impairment/Write-off/Waiver of debt' below.

Entities should have information in policies and procedures about how hardship applications will be addressed on a consistent basis. Resources, such as hardship factsheets and application forms, should be easily accessible on the entity website to allow debtors to make an application. Information should include a contact point in the entity for any queries a debtor has. Applications should be able to be submitted by the debtor or by another person on their behalf.

### 8.1 Assessment of Applications for Financial Hardship

Entities should develop a methodology for assessing hardship based on relevant circumstances. Applications may be assessed by the Chief Finance Officer or a delegate. Issues to be considered should include whether the debtor:

- > has completed a hardship application form with evidence of financial hardship;
- > receives Centrelink or other government benefits;
- > is considered to be in hardship demonstrated by earning capacity, for example, earning below the minimum weekly wage;
- > is experiencing financial abuse;
- > has been referred by an accredited financial advisor, welfare agency or legal assistance service; or
- > has a payment history that indicates difficulty in meeting past payments.

The debtor's capacity to pay is also required to be assessed as part of this process. The resulting plan to manage the debt should take into account personal circumstances, including:

- > the debtor's disposable income after accounting for existing financial commitments;
- > the number of children and/or dependents of the debtor; and/or;
- > advice on the debtor's behalf from a financial advisor, welfare agency or legal assistance service.

When a payment plan is being arranged, the delegated officer should work with the applicant to ensure the plan is realistic in terms of the applicant's capacity to pay.

The delegate deciding hardship applications, should make a recommendation for a decision on the financial hardship application to the Chief Finance Officer or designated level of management about whether or not to grant hardship. The applicant should be informed of the decision in writing within a reasonable timeframe (14 days) after making the application and should be given reasons for the decision. If not satisfied with the outcome, the applicant should be able to appeal the decision, to the Director-General, Chief Executive Officer or Board as appropriate.

An indicative example of a financial hardship application is provided at Appendix D.

## 9. USE OF ADVANCED TECHNOLOGY

Technological advancements present a number of innovative opportunities for improvements in debt management processes.

Short Message Service (SMS) functionality where appropriate, may be used as an immediate, non-intrusive and interactive communication tool with customers. SMS technology improves recovery action via instant contact and provides customers with notifications for upcoming outstanding invoices. To support the functionality of the debt management system, Shared Services is investigating the increased use of SMS functionality as part of the end-to-end debt management framework.

Existing ICT system capabilities must be reviewed to explore the feasibility and financial viability of achieving efficiencies through automated and integrated invoicing, collecting, processing, monitoring and reporting of debt. The implementation of the debt management system within Shared Services will provide centralisation of debt management, enhanced compliance, improved reporting and analytics and offer greater transparency and accountability.

Entities should consider existing ICT arrangements under the Services Partnership Agreement and liaise with Shared Services before pursuing any modifications to existing ICT systems. To promote the concept and benefits of centralised end-to-end debt management, entities should consider liaising with Shared Services in regard to expanding debt management services managed through Shared Services where appropriate, noting resourcing and procedural/process requirements.

## 10. DEBT COLLECTION PROCESSES

Directors-General, Chief Executive Officers and Boards, as relevant must take effective and appropriate steps to collect all debt due to the relevant entity. Overdue debts must be followed up as quickly as possible, since the ability to collect overdue debt generally decreases as the debt becomes older. Debts not recovered represent a cost or cash leakage to the Territory and should therefore be pursued actively but fairly.

Better practice in debt collection processes include the following:

- > maintaining proper accounts and records for each debtor;
- > the establishment and assessment of debts against a financial threshold to ensure they are economical to pursue before proceeding with recovery action;
- > reviewing the accuracy of invoices following failure by the debtor to respond to a letter of demand;
- > identifying and categorising debtors in accordance with ability and willingness to pay and tailoring debt collection processes accordingly;
- > prioritising debt collection on the basis of risk indicators (including the payment history of the customer, debt level, demographics, etc);

- > communicating directly with debtors (e.g. by phone) and obtaining personal commitment as to repayment schedule;
- > authorising staff to negotiate payment options within guidelines and specified delegations, without further approval from management;
- > treating debt collection as a specialist function (including recruiting specialists as required and providing appropriate training);
- > maintaining sufficient documentation associated with debt recovery actions; and
- > considering outsourcing all or part of the debt collection process to an external debt collection agency (complying with relevant legal and privacy provisions).

Debt collection processes must be fair, equitable, and impartial and must treat debtors in similar circumstances consistently.

## 10.1 Deductions

A person may repay debt through deductions from other social security payments receivable from the ACT Government (if any) or from the payment of another person if that person consents to the deduction. However, if the other person incurs a recoverable debt, this debt must be repaid first.

The amount of the deduction must be determined by the Director-General/ Chief Executive Officer (or delegate) on a case by case basis, giving full consideration to the debtor's financial circumstances. The methodology in Section 8 puts a process around this. A decision to reduce any social security payment to nil cannot be made if the deduction would leave the debtor in severe financial hardship.

The amount of the deduction can be varied at the discretion of the Director-General/ Chief Executive Officer, for example, where there is a change in the debtor's financial circumstance.

## 10.2 Recovery through Mercantile agents (External Debt Collector Services)

Where appropriate, entities may explore the use of the WhoG mercantile agent to enhance the current debt recovery arrangements in a cost-effective manner.

Careful and considerate discretion must be exercised when nominating appropriate levels of delegation to engage the WhoG mercantile agent. Given the sensitivities that must be considered, an appropriate level of delegation at the Chief Finance Officer/Chief Operating Officer (or equivalent) level may be considered. The engagement of the WhoG mercantile agent will need to be considered on a case by case basis taking into account a range of factors including legislative requirements, social sensitivities and financial considerations.

The nominated delegate must be satisfied that:

- > it is economical to pursue recovery of the debt and that the probable cost of recovery action will not exceed the return;
- > the debt is recoverable by law; and
- > sensitivities regarding the nature of the debt and the debtor's situation have been considered on a case by case basis, including access to suitable repayment arrangements and advice on entity policy regarding the application of hardship, waivers and other possible provisions.

Appendix B – Risk Management has been developed in accordance with the ACT Government Risk Management Policy and AS ISO 31000:2018 Risk Management Guidelines to provide guidance and ensure a consistent risk management approach is applied to entities' debt management practices. Entities should take into consideration the guidance at Appendix B in the discretionary engagement of the WhoG mercantile agent and include the risks and risk mitigation strategies associated with engaging the WhoG mercantile agent into existing directorate Risk Management Frameworks/Policies.

## 10.3 Recovery of Salary Overpayments for Former Employees

Although salary overpayments may occur through no fault of the individual concerned, the Territory must recover overpayments and manage revenue and expense systems efficiently and effectively under the *Financial Management Act 1996*. Any outstanding money owing to the Territory when an employee ceases employment is to be recovered by deduction from any final entitlements payable to the employee. If a debt still exists, further debt recovery action is to be taken unless the Head of Service (or nominated delegate):

- > directs the recovery be waived, in part or in full, based on evidence provided by the employee of exceptional circumstance or that such recovery would cause undue hardship; or
- > determines that an overpayment is not recoverable.

Where the Head of Service (or nominated delegate) determines that an overpayment cannot be recovered, the provisions of the relevant entity's Director General Instructions, relating to the waiver and write off of monies, will apply.

The Territory should endeavour to recover salary overpayments in a way that satisfies financial requirements without imposing undue financial hardship on the individual concerned. Individuals should be aware the overpayment of salary and subsequent recovery of overpayments may impact the following:

- > Medicare levy surcharge;
- > superannuation co-contribution;
- > Higher Education Loan Program (HELP) and student financial supplement scheme;
- > tax offsets for contributions to a spouse's superannuation;
- > child support deduction; and/or
- > entitlements to income tested government benefits.

Current employees are covered by Section 246 of the *Public Sector Management Act 1994*. This addresses a public servant repaying any amount paid by the Territory to which the public servant is not entitled.

## 10.4 Recovery by Garnishee Notice

A Garnishee notice is issued to a third party who holds money for your debtor or who owes money to your debtor e.g. a bank or an employer. Garnishee action may be pursued if other means of debt recovery have failed and the debtor has refused to enter into a reasonable repayment arrangement or has defaulted on an existing arrangement to repay the debt.

Underlying ACT legislation may entitle the Government some security in the discharge of the debtor's obligations.

Specific provisions may apply in relation to garnishee of specific funds such as term deposits held in a financial institution, trust funds, superannuation funds, deceased estates etc. Entities need to consider all relevant legislative provisions and policies before actioning a garnishee.

## 10.5 Internal Resolution of Disputed Debt/Mediation

Initially, disputed debts should be addressed through internal procedures designed to establish the source/nature of the debtor's issue with the debt. Where appropriate, mediation or informal dispute resolution may be used to reach a payment arrangement with a debtor. If this is unsuccessful, then legal proceedings may be necessary.

## 10.6 Recovery by Legal Proceedings

Entities may seek to recover problematic debt by using legal proceedings where considered appropriate and economically viable. The ACT Civil and Administrative Tribunal (ACAT) provides a mechanism to expedite the resolution of disputes for claims of \$25,000 or less.

Shared Services has engaged a WhoG mercantile agent. Entity debts that are managed by Shared Services, will have the discretionary ability to engage the WhoG mercantile agent's legal firm through blanket approvals granted to Shared Services by the Solicitor-General of the ACT. Entities that self-manage debts will be required to seek direct approvals through the Solicitor-General. Nominated delegates must ensure that all applicable risks, social sensitivities and legislative requirements have been considered prior to commencing legal proceedings.

## 10.7 Impairment/ Write-off/ Waiver of debt

Directors-General and Chief Executive Officers must pursue the recovery of each debt related to the entity for which they are responsible unless:

- > it is considered that it is not economical to pursue recovery of the debt; or
- > there is satisfaction the debt is not legally recoverable; or
- > there are specific reasons why the debt should not be pursued.

In these circumstances, entities may need to consider impairment, write-off or waiver of the relevant debt.

As part of the establishment of an end-to-end debt management framework, Shared Services will actively pursue debts up to 360 days past due. Any debts that remain outstanding at 361+ days past due will be referred back to the ACT Government entity for further action.

Throughout the collections process and/or at the closure of the collections period, any debts that are deemed irrecoverable and/or uneconomical to pursue will be referred back to the relevant business area's delegate for further action, including consideration of impairment, write-off and waiver. Entities should actively monitor outstanding debts as part of monthly reporting and reconciliations to ensure they remain recoverable to pursue.

### Impairment

Impairment is the accounting treatment that creates an allowance for a debt at risk of not being collected. Impairment does not impact the legal right to recover the debt.

### Write-off

A write-off action is the accounting process to remove the debt from the books and occurs when it is considered impossible or uneconomical to recover moneys owing to the entity. Write-off of debt does not preclude recovery of the debt at a later date. If the debtor's circumstances change in future, the debt can be pursued. The decision to write-off a debt must be made by an authorised delegate.

## Waiver

Section 131 of the FMA allows the Treasurer or delegate, to waive the Territory's right to payment of an amount payable to the Territory, or to allow the payment to be made in instalments, or to defer the time of payment. Once a debt has been waived, recovery of the debt cannot be pursued at a later date. It should therefore only be considered when desirable to relinquish the legal right to recover the debt because the recovery of the debt would be inequitable or cause ongoing financial hardship.

## Statute Barred Debt

In the assessment of impairment, write-off and/or waiver, the delegate must take into consideration 'statute barred' debt. The term statute barred debt means any outstanding debt where repayment of the debt can no longer be pursued due to the provisions of either the *Limitation Act 1985* or the *Bankruptcy Act 1996 (Cwth)*.

After an expiration period of six years, debts become statute barred under the *Limitation Act 1985* and recovery cannot be commenced or maintained. The expiration period commences at the most recent of:

- > the date the debt first accrued;
- > the date on which the customer last acknowledged the existence of the debt, for example, by entering a repayment arrangement; or
- > the date on which the customer last made a payment against a debt.

Where a customer declares bankruptcy, debt becomes statute barred. Depending on the customer's financial situation, payments against a debt may be required under the terms of the *Bankruptcy Act 1996 (Cwth)*. Subsequent discharge of the bankruptcy relieves the customer of the legal liability to repay the debt, but it does not expunge the debt as if it had never existed.

# 11. MONITORING AND REPORTING

An entity is responsible for monitoring each of its debtor accounts. Reports and reconciliations on debtors' accounts must include adequate information to allow management to make informed decisions regarding revenue and debtors (for instance, the amount and age of debts, provision for doubtful debts, debts written off, collection procedures undertaken to date, etc.) and to facilitate action to collect overdue balances. It is also critical that reports be timely, present information in a readily understandable fashion and be directed to the appropriate levels of management.

Entities will need to consider and review the current reporting arrangements under the Services and Performance Measures Catalogue for Shared Services – Finance Services and implement improvements to existing debt monitoring and reporting, as considered necessary.

## 11.1 Performance Measurement

Internal benchmarks (for instance, debtors' turnover, debt to revenue ratio, ageing of debtors etc.) are encouraged to allow appropriate internal monitoring of debt. This could be incorporated within the entity's existing monthly management reports and used to report internally on how effectively the entity has managed its debt and how much cash is tied up in slow paying debtors.

Through the Finance Collaboration Forum, WhoG debt management Key Performance Indicators (KPIs) have been established and are actively monitored on a monthly basis as follows:

- > 50 per cent recovery of the total value of external debts by 30 days;
- > 80 per cent recovery of the total value of external debts by 60 days;
- > 90 per cent recovery of the total value of external debts by 90 days; and



- > average debtor days target of 50 days (also reported through Quality and Measurement Advisory Committee).

Where the management of debt is a key entity function or the quantum of debt managed is significant, it may be appropriate to include accountability indicators in the budget statements and report against them in the Statement of Performance, in accordance with the FMA. Accountability indicators provide the level of scrutiny and reporting required to allow stakeholders to assess the entity's performance in delivering its key outputs.

An important consideration in this process is the cost of measuring and analysing performance data.

## APPENDIX A – FEATURES OF A GOOD DEBTOR MANAGEMENT POLICY

The following is a list of features which should exist in a good debtor management policy:

- > approved by the Director-General (or Chief Executive Officer);
- > clear and concise;
- > ensures consistency and fairness in debt recovery;
- > provides guidance on financial and management authorisations and delegations for debtor management;
- > complies with legislative provisions and applicable policies;
- > accessible by all staff who are required to administer it;
- > specifies roles and responsibilities for debt collection;
- > appropriately segregates duties in various stages of the debt collection cycle;
- > outlines documentation and record keeping requirements;
- > details procedures for allowing discounts and/or imposing interest/penalties;
- > specifies debt collection strategies, including:
  - options and procedures for recovering overdue debt (e.g. allow instalments);
  - the financial threshold under which it is uneconomical to pursue recovery action;
  - procedures for using external debt collection agencies;
  - criteria against which a debt might be considered for impairment/ write-off/ waiver, incorporating relevant legislative provisions (including the FMA);
- > outlines general procedures for handling debtor requests/ complaints;
- > outlines reporting requirements;
- > outlines procedures for monitoring debt;
- > specifies performance measures (accountability indicators and/ internal benchmarks, as considered appropriate) for regularly assessing debt management; and
- > be kept up to date, requiring review of the policy – when and by whom.

## APPENDIX B – RISK MANAGEMENT

### Risk Management

The purpose of this section is “to assist organisations to integrate sound risk management practices into the management process of entities’ debt and take informed decisions accordingly”. This Policy acknowledges that entities across ACT Government have existing Risk Management Frameworks/Policies and that the risk related to debt management is managed within these existing frameworks.

The Policy anticipates a consistent approach in managing the risk, while incorporating the different risk appetites of entities. It is expected entities ensure an appropriate risk management framework is in place consistent with the *AS ISO 31000:2018 Risk Management Guidelines* (the ‘Standard’) and the *ACT Government Risk Management Policy 2019*. Entity specific Risk Management Frameworks/Policies should be continuously monitored and refined to ensure the efficiency and effectiveness in managing risk to optimise debt collection.

Risk management is an integral part of good corporate governance. The Standard defines risk as the “effect of uncertainty on objectives”. Risk management is defined as the coordinated activities that an organisation undertakes to direct and control risks to reduce its impacts. Managing risk is iterative and assists organisations in setting strategy, achieving objectives, and making informed decisions. Therefore, risk management is a whole of organisation activity that occurs at the strategic, divisional, and operational level.

The *ACT Government Risk Management Policy 2019*, which is based on the Standard articulates six attributes as shown in **Figure 1**, which entities are required to demonstrate commitment to when developing and implementing a risk management framework and risk management plan. These attributes are consistent with the principles of the Standard and contribute to the creation of value in risk management. The *ACT Government Risk Management Policy 2019* enables entities to tailor existing risk management systems and practices to align with risk maturity and operating context.



Figure 1 – the Six Attributes of the ACT Government Risk Management Policy

The Policy anticipates entities to incorporate the abovementioned six attributes into risk management frameworks to further strengthen existing risk management practices.

The principles of the *ACT Government Risk Management Policy 2019* and entity specific Risk Management Frameworks/Policies should be applied to the debt management process and directorate's discretionary use of the Whole of Government mercantile agent.

In the context of debt management, this will be achieved by:

- > integrating risk management into debt management decision-making processes;
- > identifying, monitoring, and effectively treating risks related to debt management;
- > integrating risk assessments into planning processes around debt management;
- > incorporating the triple bottom line assessment framework into all risk management activities;
- > ensuring that the knowledge, skills, and attitudes required for successful risk management are included in training and career development courses; and
- > refining the risk management practices through continuous and regular reviews and accommodating the lessons that are learned.

The ACT Government Risk Management Policy and the Standard recommends entities adopt the below components, as represented in **Figure 2**, when developing and implementing entity specific Risk Management Frameworks/Policies. Therefore, it is recommended that the debt management process incorporates the below components in managing debt efficiently and effectively within an entity:

- > **Leadership and Commitment** – Senior management and governance committees should ensure that risk management is integrated into debt management practices and should demonstrate leadership and commitment within the organisation.
- > **Integration** – Integrating risk management relies on an understanding of organisational structures and context and the components of risk management. The delegates who are responsible for debt management processes in the organisation should be identified and allocated with the responsibility for managing risk.
- > **Design** – Senior management and governance committees should demonstrate and articulate continual commitment to risk management through a policy, a statement or other forms that clearly convey the objective and commitment to managing risks that are related to debt management.
- > **Implementation** – The Better Risk Management Practices must be appropriately implemented and clearly understood and practised by responsible staff.
- > **Evaluation** – Entities must periodically evaluate the risk management practices against the organisation's purpose, implementation plans, indicators and expected behaviour.
- > **Improvement** – Entities must continually monitor and adapt the risk management practices in response to addressing external and internal changes that may affect the entity's debt management practices. Any gaps or improvement opportunities identified should be addressed through a plan and the assignment of accountable roles.



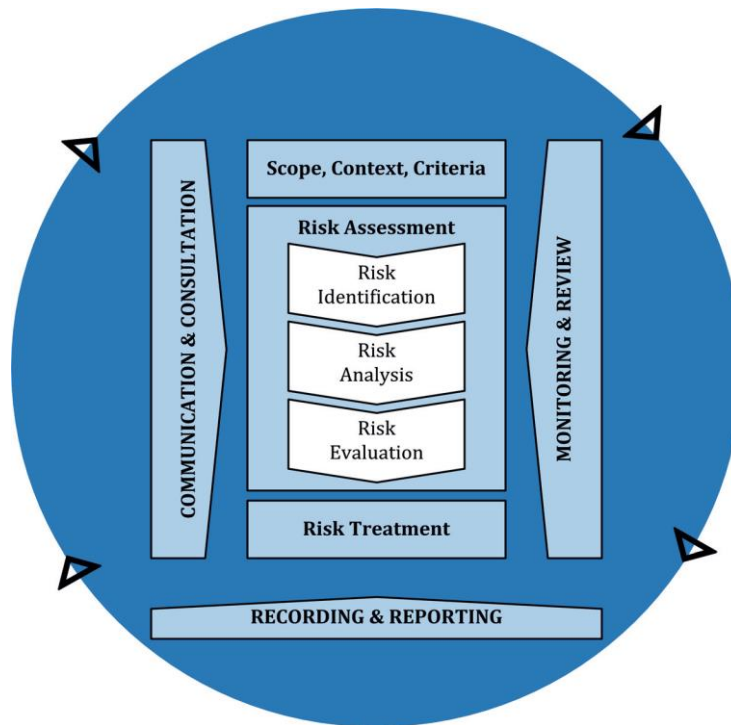
**Figure 2 – Components of a Sound Risk Management Framework**

Risk assessment process is a systematic approach used to manage risk within an entity. The ACT Government Risk Management Policy 2019 and the Standard has adopted the process at **Figure 3** in articulating the practical and operational steps to managing risk within an entity. It is recommended that these steps are adopted in managing risk related to debt management to optimise debt collection.

Risk assessment is crucial to the development and implementation of an effective debt management framework. Once risks have been identified, strategies can be developed and applied to eliminate or minimise the risk. In undertaking a risk assessment, entities should focus on existing debt management processes to identify new and more effective ways of delivering services and collecting outstanding debts.

The risk assessment process is best undertaken in consultation with the appropriate stakeholders to generate a discussion and to avoid any bias associated with the qualitative nature of the process. The process is typically documented using a risk register template.

As with any risk assessment process, it is iterative and continuously evolves. As such, the risk assessment needs to be continuously monitored and reviewed.



**Figure 3 - Risk Management Process**

The Policy anticipates entities to develop risk management processes specific to internal debt management arrangements and incorporate these into existing Risk Management Frameworks/Policies. In establishing an appropriate risk management process, entities will be required to incorporate the following elements:

- > **Establish the Scope, Context and Criteria** - Establish the strategic, organisational and risk assessment context in which the rest of the process will take place. This may include the end to end process of debt management and/or directorate's discretionary use of the Whole of Government mercantile agent.
- > **Identify risk** - Identify what, why and how risks can arise (both internal and external) that may impact on debt management and therefore need to be managed.
- > **Analyse risks** - Determine the existing controls and analyse the consequence and likelihood in the context of those controls. Assess the likelihood and consequences of the risk within the context of the proposed debt management activity and existing controls to produce an estimated level of risk. (Refer [ACT Government Risk Management Matrix](#))
- > **Evaluate risks** - Compare estimated level of risk against the pre-established criteria and rank risks to identify management priorities. If risks are assessed as being low, they may fall into an acceptable category which may not require any treatment.
- > **Treat risk** - Develop and implement risk treatment plans. This may include risk reduction, avoidance, transfer, or acceptance.
- > **Monitor and review** - Monitor and review the performance of the risk assessment process and changes that might affect it.
- > **Communicate and consult** - Communicate and consult with internal and external stakeholders as appropriate at each stage of the risk assessment process.

The following risk management controls may need to be considered in the risk assessment process in managing risk related to debt management. It should be noted these controls are not exhaustive, and an entity may be required to implement additional controls specific to its debt management processes and requirements.

## Know Your Customer Standards

Know Your Customer (KYC) is the process of identifying and verifying the identity of customers or clients. Entities should, wherever practicable to do so, adopt both the reasonable and lawful KYC processes by ensuring a combination of identity requirements when creating debtors, namely:

- > for individuals – a combination of full name, address, phone number, date of birth (as well as email address where available); and
- > for a commercial entity – a business name, street address, email, phone number, ABN, and contact name.

These processes need to consider what is deemed necessary, reasonable, and permissible under the *Information Privacy Act 2014* and other relevant legislation.

## Credit Checks

Credit checks involve the screening of prospective customers for creditworthiness, that is, the customer's ability and willingness to repay the debt. Where appropriate and practicable, entities may consider credit checks as a debt risk mitigation strategy. Entities also need to consider the ability to deny a prospective customer with low credit rating, access to goods and services.

Information may be sourced internally (where the prospective customer is an existing debtor) or an initial application process implemented (for new customers). Information sought (for instance, employment history, repayment history, income tax returns etc.) in the application must comply with relevant privacy and other legislative provisions.

Where the debt warrants the cost, entities may access commercial credit files for the assessment of credit worthiness. For instance, under the definition of a Trade Insurer, Transport Canberra and City Services has the ability to access commercial credit files for the assessment of credit worthiness. The credit report provides an insight into the business' financial stability and its ability to make repayments on time and manage debt.

The detailed information obtained and historical information on existing customers should be held in a database, regularly updated for future reference.

To ensure impartiality, the criteria used in assessing the creditworthiness must be uniformly applied to all applicants.

## Risk Appetite

Risk appetite is a core consideration in any enterprise risk management approach. It can be defined as the 'amount and type of risk that an organisation is willing to take in order to meet strategic objectives'. Risk appetite constraints are not easy to define, and every organisation will have different levels of tolerance in managing the risk associated with debt management depending on the operating context of each entity.

Understanding risk appetite can help entities to achieve goals and guide risk management activities related to debt management.

Entities are entrusted by the ACT Government to manage public money for the delivery of services. Financial risks should assess the reward associated with spending to maximise the value of spending public funds. The use of public funds should always consider anticipated benefits and whether its use might reduce the availability of funds to deliver other services. Hence optimum level debt collection is inevitable and crucial to ensure the efficient and effective spending of public funds.

Risk management should be a key driver of sound debt management practices within an entity. It is essential that entities protect the reputation of the ACT Government and the entity and where possible and avoid taking any action in the management of debt that may lead to reputational consequences for the entity. The risks associated with the management of debt should be kept as low as is reasonably practicable. Where risks are rated 'High' or 'Extreme' or not within the risk appetite of the entity, the risks need to be appropriately managed with sufficient controls in place to further reduce the severity of the risk.

This section has been developed to provide guidance on the consistent application of risk management practices in the management of debt across the ACT Government. The Policy anticipates that an entity will incorporate these risk management practices specific to its debt management processes, and that these are incorporated into existing Risk Management Frameworks/Policies. Entities are encouraged to seek guidance from respective risk management business units for additional information on entity specific risk management practices and tools.



# APPENDIX C – DEBTOR DELEGATION AND DECISION TREE

## Purpose

To guide in setting up appropriate delegations to allow decision making to be delegated to staff under the *Financial Management Act 1996* (FMA) for the management of debts.

## Guidance

Section 31, 31A and 55 of the FMA specify the financial responsibilities for Directors General/CEO of Directorates and Territory Authorities respectively. These responsibilities include the efficient and effective financial management of the public resources for which the directorate is responsible.

This Policy provides guidance to pursue the recovery of debts through a variety of mechanisms including the outsourcing of debt collection to an external provider (see Section 10.2 for further details). Directors General/ CEOs can delegate that process to staff using the information contained as an example in the schedule below.

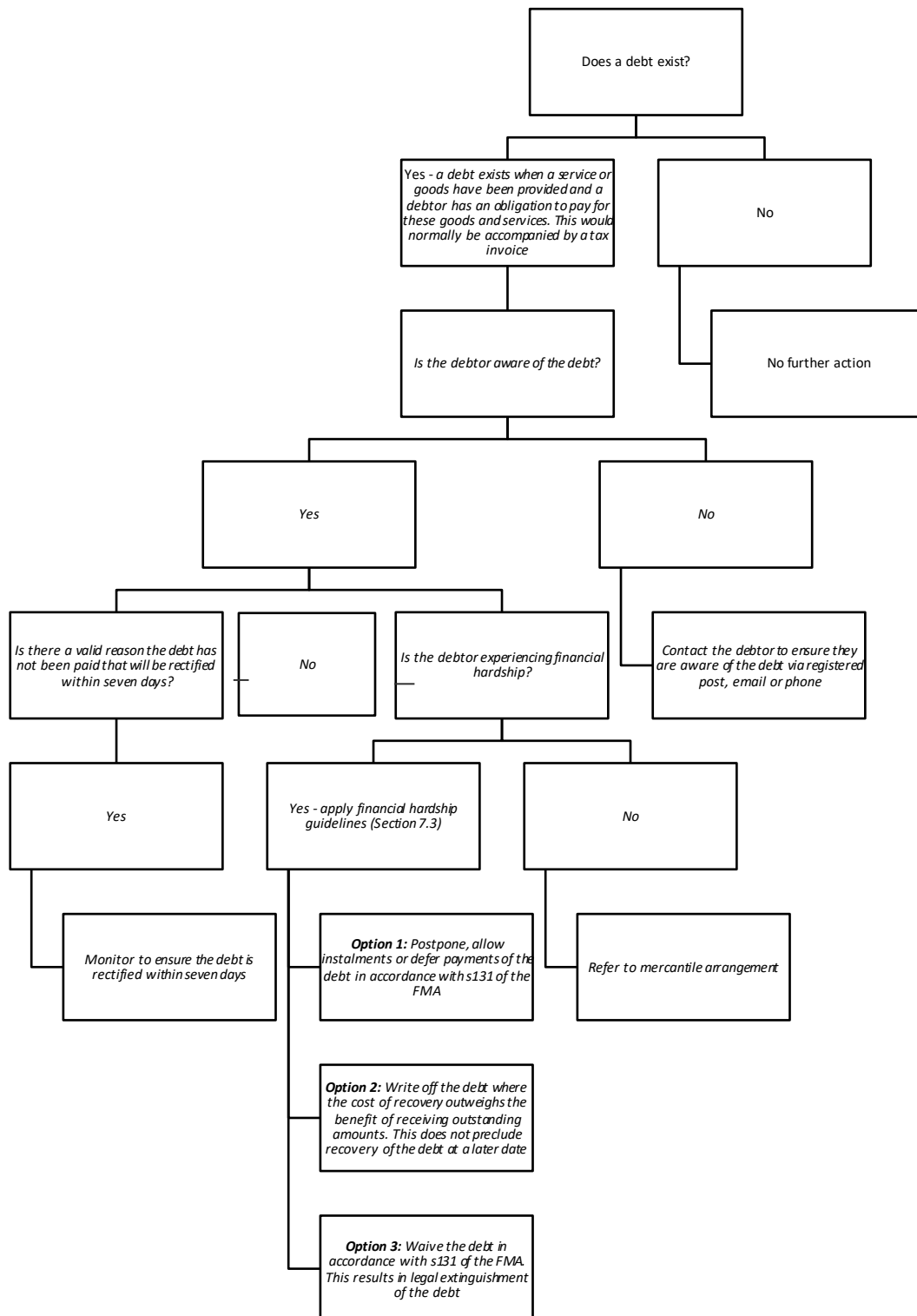
The FMA does not specifically detail the pursuit of outstanding debts to the Territory. There is not a relevant section that could have delegated authority under this legislation, however, for better practice, a formal delegation should be set in place to further clarify roles and responsibilities.

It should be noted that any postponement, payment of instalments or deferral of time of an amount payable to the Territory is covered by Section 131 of the FMA and therefore an instrument under that Section would need to be completed and signed by an appropriate delegate.

Should the decision be made not to pursue the debt and to waive the debt, there are delegations in place under the FMA to allow for that. Currently this power has been delegated to the Head of Service, Under-Treasurer, Deputy Under Treasurer, the Executive Group Manager, Finance and Budget Group (Treasury) as well as several Directors General and operations staff at the Revenue Management Division. It is important to note that a waiver of debt under the FMA means the debt cannot be legally pursued in the future. A copy of the FMA delegations can be found at <https://actgovernment.sharepoint.com/sites/intranet-ACTPSCFO/FMA%20Delegations/Forms/AllItems.aspx?viewpath=%2Fsites%2Fintranet-ACTPSCFO%2FFMA%20Delegations%2FForms%2FAllItems.aspx>.

## Assessing Options for Debt Perusal – Decision Tree

The below decision tree is designed to assist delegates in determining the appropriate approach and options for debt perusal.



## Delegation Schedule

EXAMPLE ONLY – Debtor management, write-off of Irrecoverable Debt and Debt payment Deferral

Item	Reference	Powers	Position No.	Classification / Title	Monetary Limitations	Other limitations
1	ACT Government Debtor Management Policy	To pursue debtor management through an external third-party provider for debts in excess of \$xxx which are overdue for more than xxx months.	E00XX, Deputy Director-General	Deputy Director-General xxx	\$xxx	Excludes debts in relation to employment salary overpayments across the public sector
2	ACT Government Debtor Management Policy	To pursue debtor management through an external third-party provider for debts in excess of \$xxx which are overdue for more than xxx months.	E00XX, Executive Group Manager	Executive Group Manager xxx	\$xxx	Excludes debts in relation to employment salary overpayments across the public sector
3	ACT Government Debtor Management Policy	To pursue debtor management through an external third-party provider for debts in excess of \$xxx which are overdue for more than xxx months.	E00XX, Chief Finance Officer	Chief Finance Officer xxx	\$xxx	Excludes debts in relation to employment salary overpayments across the public sector

# APPENDIX D – INDICATIVE EXAMPLE – FINANCIAL HARDSHIP APPLICATION

## Purpose

This example is provided to assist entities in developing an application form and process for assessing financial hardship. It is not exhaustive and includes some key areas which should be considered in this process.

The relevant circumstances of each entity and types of debt need to be considered in the development of financial hardship processes.

## Indicative Financial Hardship Application

### About this Form

Complete this form if you are applying for consideration on the grounds of financial hardship in relation to a debt you have with the ACT Government. Complete **all** sections of this form. If a question does not apply to you, write **N/A**.

If you have any questions about this form or you need help completing it, contact **[contact details]**.

Return the completed hardship application as a scanned document (saved as a pdf) via email to **[email address]**, or

**[address details]**

### Part 1 – Personal Details

Title (please tick)   Mr [ ☐ ]   Mrs [ ☐ ]   Ms [ ☐ ]   Mr [ ☐ ]   Other [ ☐ ]

Given name

Family name

Date of birth

Residential address

Postal address (if different from your residential address)

Email

Phone number (preferably mobile)

Spouse / Partner's Title (please tick)    Mr ☐    Mrs ☐    Ms ☐    Mr ☐    Other ☐

Spouse / Partner's Given name

#### Children and Other Dependents

Full name of dependent(s)	Age	Relationship to you	Do they live with you? Yes/No

Are you currently bankrupt?

☐ Yes

☐ No

## Part 2 – Employment Details

Are you currently employed?

☐ Yes

☐ No

If 'No', how long have you been unemployed or retired?  years  month

#### Details of Employment

	Employment status (e.g. Permanent)	Number of weekly hours worked	Employer's name	Gross (pre-tax) fortnightly income	Net (after tax) fortnightly income
Job 1				\$	\$
Job 2				\$	\$
Job 3				\$	\$

## Part 3 – Income, Assets and Expenses

Provide details of you and your partner's average monthly gross income. This can include: wages and salaries; government pensions, benefits and allowances; superannuation; rental income; maintenance payments; share dividends (averaged), and interest.

Attach evidence to support your income such as payslips, Centrelink statements, dividend statements etc.

Full name of person receiving income	Income source (list multiple sources separately)	Monthly gross income (AUD\$)

Do you or your partner have any assets such as property, shares or business interests etc?

☐ Yes (provide details below)

☐ No

Full name of asset owner	Type of asset	Value of asset (AUD\$)	Value of outstanding debt on asset (AUD\$)

Please provide details of joint or individual bank accounts, term deposits and investment accounts, trusts, loan offset accounts for you and your partner in Australian Dollars.

Attach evidence such as a bank statement to support this information.

Account name	Financial institution	Account number	Balance (AUD\$)

Please provide details of average gross household expenses, broken down by category (as per the following table).

Attach evidence of these expenses including mortgage or rent payments, credit card and loan statements and other expenses such as rates notices, bills etc.

Mortgage or rent payments	\$
Food	\$
Utilities	\$
Rates/taxes	\$
Transport/fuel	\$
Education	\$
Medical	\$
Insurance	\$
Telephone/Internet/Streaming subscription services	\$
Entertainment	\$
Clothing	\$
Credit card/other loan repayments (including personal loans)	\$
Other	\$

## Part 4 – Statement of Claims

Please provide information outlining the grounds for your request for financial hardship consideration. Your response should detail all relevant considerations to your circumstances, particularly relevant would be your inability to meet immediate financial obligations.

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Chief Minister, Treasury and Economic  
Development Directorate

December 2020