

Appendix 7 Code of Practice for Debt Recovery

As JLL is the sole commercial customer for RWTP and at the same time the asset owner's representative, so JLL as the Customer technically not be the debt holder to the asset owner (itself) – However, JLL may have **financial** liability as asset owner to parties involved in RWTP (such as VWS and its suppliers and service providers) such the **fees to be payable by JLL to VWS in accordance with contract between VWS and JLL**, **The following pages describe a Debt Recovery Code of Practice that** may apply in both a theoretical situation of JLL (Customer) contacting JLL (Asset Owner) in relation to a debt by JLL (Customer)

PURPOSE

This code of practice provides a guideline for debt recovery by management and employees of Veolia Water Solutions & Technologies (Australia) Pty Ltd (VWS) in relation to its Recycled Water Network Operator and Retail Supplier Licences for the Darling Quarters Development pursuant to the Water Industry Competition (General) Regulation 2008, Schedule 2, Part 1, CI 5.

This code of practice is for VWS internal use only; a short version may be made available to JLL if appropriate at any point of time.

BACKGROUND

VWS has been contracted by JLL to supply recycle water services for the Darling Quarters Development.

VWS commits to provide these services in accordance with the code of practice described in this appendix prepared by VWS as licence holder; if and as required. VWS will be responsible for customer communication, complaints handling and debt recovery. The split of responsibility is as follows:

- VWS - All operational related customer interface matters
- JLL - All financial related customer interface matters including tariff setting and debt recovery

(knowing that JLL is the customer and also asset owner representative and as such it will need to deal with itself in relation to any financial related customer interface matter)

LICENCE HOLDER OBLIGATION

Pursuant to the above Regulation, VWS shall:

- (e) establish and comply with this code of practice for debt recovery, and
- (f) provide copies of this code of practice to the Minister, IPART and to the ombudsman (EWON),
and
- (g) keep its customer JLL, informed as to the provisions of this code of practice.

Specifically this code of practice provides for the deferment, in whole or in part, of payments owed by the sole customer, JLL to cover for all RWTP obligations (such as Payments to VWS and other Suppliers and service providers) suffering financial hardship; this is in addition to any other legal provisions that may be obligatory on JLL to settle any debt issue towards any other party.

This code of practice, so far as Darling Quarters RWTP is concerned, applies to the sole customer (JLL who offtakes for further distribution of recycled water supply services throughout the development.

GUIDING PRINCIPLES

This code of practice conforms to and takes from ACCC and ASIC Debt Collection Guideline: for collectors and creditors as published by the ACCC and ASIC published in July 2017.

Notably the ACCC/ASIC guideline is specifically developed for Debt Collection Agencies whereas this code of practice is for reference by VWS appointed personnel for handling debt recovery by VWS. Only when this code of practice is followed through to completion and debt remains with JLL, the sole customer, shall VWS transfer debt recovery to a third party debt collection company.

PRACTICAL GUIDANCE

Contact for a reasonable purpose only

Communications with the debtor (JLL, also asset owner's representative) must always be for a reasonable purpose, and should only occur to the extent necessary. It is considered necessary and reasonable for VWS to contact a debtor to:

- give information about the debtor's account,
- convey a demand for payment,
- accurately explain the consequences of non-payment, including any legal remedies available to the collector/creditor, and any service restrictions,
- make arrangements for repayment of a debt,
- put a settlement proposal or alternative payment arrangement to the debtor,
- review existing arrangements after an agreed period,
- ascertain why earlier attempts to contact the debtor have not been responded to within a reasonable period, if this is the case and
- ascertain why an agreed repayment arrangement has not been complied with, if this is the case

Making contact with debtor

Under privacy laws, VWS has an obligation to protect the privacy of debtors. When making direct contact, VWS must always ensure the person that it is dealing with is the debtor. This must be done every time VWS makes contact before VWS divulges any information about the debt, the process for its recovery or other confidential information.

The privacy limits on disclosing information to third parties apply to the debtor's spouse, partner and/or family as much as they apply to other third parties (in this case JLL Organisation). Having established the debtor's identity, VWS person will need to identify who he or she is and whom he/she works for, and explain the purpose of the contact.

VWS representatives identify themselves only by company name and enquirers first name and also give at least basic information about the debt, including the name of the creditor and any assignee of the debt, and details of the account and the amount claimed.

Hours of contact

VWS representative only contacts the debtor or a third party at reasonable hours, taking into account their circumstances and reasonable wishes. The following are considered reasonable.

Hours of contact

Contact Method	Periods	Times
By Phone, emails and fax	Monday to Friday	7.30am – 9.00pm
	Weekends	9.00am – 9.00pm
	Public Holidays	Nil
Face-to-Face (not by VWS; by third party collector only engaged by VWS)	Monday to Friday	9.00am – 9.00pm
	Weekends	9.00am – 9.00pm
	Public Holidays	Nil

Frequency of contact

Debtors are entitled to be free from excessive communications from collectors. Communications must always be for a reasonable purpose, and should only occur to the extent necessary.

Unduly frequent contact designed to wear down or exhaust a debtor, or likely to have this effect, constitutes 'undue harassment' or coercion and is contrary to this code of practice. This is particularly likely if VWS would make a number of phone calls or other contacts in rapid succession.

Location of contact

In most cases, the debtor's office premises will be the appropriate place to contact a debtor, with contact by letter or telephone generally being the appropriate mode of contact. However, if a debtor provides a telephone (including mobile phone) contact number as the means of contact, contact using that number will be appropriate whatever the debtor's location.

Privacy obligations to the debtor

A debtor's personal information should always be treated with respect. The improper use of a debtor's personal information may cause that person serious difficulties. There are legal obligations under the NSW Privacy Act 1988 designed to protect the privacy of a debtor's personal information.

In this case, as the debtor (JLL as Asset Owner's representative) is a registered business, such privacy obligations may not apply.

When a debtor is represented

A debtor has a right to have an authorised representative (such as a financial counsellor, financial advisor, community worker, solicitor, guardian or carer) represent them or advocate on their behalf about a debt. Except in the circumstances outlined below VWS shall not contact a debtor directly after it knows, or should know, that the debtor is represented and shall not refuse to deal with an appointed or authorised representative. VWS is entitled to contact a debtor directly if:

- the representative does not respond to within a reasonable time (normally 14 days)
- the representative advises that they do not have instructions from the debtor about the debt
- the representative does not consent to act
- the debtor specifically requests direct communication with you
- the representative is not a solicitor and you advise that written authority stating that you are to communicate through the debtor's representative is required, and the debtor or their representative does not provide that authority.

Record keeping

Accurate record keeping by all parties is vital to promptly resolve disputes and allow collectors and debtors to limit or avoid costly collection activity. VWS shall ensure:

- it maintains accurate, complete and up-to-date records of all communications with debtors, including the time, date and nature of calls about the debt, records of any visits in person, and records of all correspondence sent
- all payments made are accurately recorded (including details of date, amount and payment method).
- settlements are fully documented in relevant files and computer systems
- once a debt is settled, any credit reporting agency report on the debtor must be updated appropriately

Providing information and documents

Requests by debtors for information and/or documentation about an account should not be ignored. In certain circumstances, failure to provide information may constitute misleading and deceptive conduct or unconscionable conduct. VWS shall provide such information as necessary to demonstrate proof of debt.

If liability is disputed

If a person VWS contacts about a debt claims that they are not the alleged debtor or the debt has been paid or otherwise settled and VWS has not already confirmed their identity and liability, VWS shall suspend further collection activity (including credit report listing) until the debtor's identity and ongoing liability have been confirmed.

Conduct towards the debtor

A debtor is entitled to respect and courtesy, and must not be subject to misleading, humiliating or intimidating conduct. Such conduct is likely to breach the Commonwealth consumer protection laws, and may breach other laws as well.

CUSTOMERS SUFFERING FINANCIAL HARDSHIP

VWS commitment

This code of practice provides for the deferment, in whole or in part, of payments owed by retail customers suffering financial hardship. In such cases of financial hardship VWS shall not enforce disconnection of services in part or in whole.

This may not apply to the sole customer, JLL is a well established business, representing Lend Lease Group in terms of all financial obligations.

Debtors

Debtors are legally responsible for paying the debts they legitimately owe, and they should not deliberately try to avoid their obligations. Whenever possible, debtors should take action before they get into difficulties. Debtors experiencing financial hardship should promptly contact VWS to negotiate a variation in payments or other arrangement. In seeking a variation, debtors should be candid about their financial position, including their other debts. VWS also recommends that debtors in financial difficulty consider seeking the assistance of a community-based financial counsellor, solicitor or other qualified adviser who may be able to help them with a debt negotiation.

Hardship

Proof of financial hardship shall be provided by the relevant customer. Examples of hardship may include but not be limited to:

- Commercial difficulties,
- other (undefined)

Assistance

Assistance may include one or more of the following:

- Deferment of payment for an agreed period of time,
- Incremental instalments to recover the debt over time,
- Regular smaller payments spread over time to assist budgeting by customers exposed to hardship.

Waiver

Notwithstanding the above commitment, VWS having taken all steps reasonably practicable in accordance with this code of practice to recover debt and that debt still not paid by the customer may take such further actions as allowable to it in law to recover such debt but not disconnection of services, nor reduce the flow of non potable water below necessary for basic hygiene or restrict the flow of sewage into the main.

MAINTENANCE AND IMPROVEMENT

Collection of information

VWS shall record the performance of its debt recovery handling process. VWS shall establish and implement procedures for recording debt and for using these records and managing them, while protecting any personal information and ensuring the confidentiality of complainants. This shall include the following:

- specifying steps for identifying, gathering, classifying, maintaining, storing and disposing of records;
- recording its handling of debt recovery and maintaining these records, taking utmost care to preserve such items as electronic files;
- keeping records of the type of training and instruction that individuals involved in the debt recovery process have received;
- specifying VWS's criteria for responding to requests for record presentation and record submissions made by a debtor or his or her agent; this may include time limits, what kind of information will be provided, to whom, or in what format;
- specifying how and when statistical non-personally identifiable debt data are disclosed to the public.

Analysis and evaluation of debts

All debt shall be classified and then analysed to identify systematic, recurring and single incident problems and trends, and to help eliminate the underlying causes of debt.

Monitoring of the debt recovery process

Continual monitoring of the debt recovery process, the resources required (including personnel) and the data to be collected shall be undertaken. The performance of the debt recovery process shall be measured against predetermined criteria.

Auditing of the debt recovery process

VWS shall perform or provide for audits in order to evaluate the performance of the debt recovery process. The audit shall provide information on

- process conformity to debt recovery procedures, and
- process suitability to achieve debt recovery objectives.

The debt recovery audit may be conducted as part of VWS quality management system audit. The audit results shall be taken into account in the management review to identify problems and introduce improvements in the debt recovery process. The audit shall be carried out by competent individuals independent of the activity being audited.

Management review of the debt recovery process

Top management of VWS shall review the debt recovery process on a regular basis in order

- to ensure its continuing suitability, adequacy, effectiveness and efficiency,
- to identify and address instances of nonconformity with health, safety, environmental, customer, regulatory and other legal requirements,
- to identify and correct product deficiencies,
- to identify and correct process deficiencies,
- to assess opportunities for improvement and the need for changes to the complaints handling process and products offered, and
- to evaluate potential changes to the complaints handling policy and objectives.

Records from management review shall be maintained and used to identify opportunities for improvement.

Continual improvement

VWS shall continually improve the effectiveness and efficiency of the debt recovery process. As a result, VWS can continually improve the quality of its products. This can be achieved through corrective and preventive actions and innovative improvements. VWS shall take action to eliminate the causes of existing and potential problems leading to customer debt in order to prevent recurrence and occurrence, respectively.

DEBTOR DISPUTES AND COMPLAINTS HANDLING

In the event a customer has a complaint regarding the handling of their debt by VWS, VWS shall direct the customer to our complaints handling system.

In the event a customer is not satisfied with the handling of their complaint by VWS, VWS shall direct the customer to the Energy and Water Ombudsman of NSW (EWON) should they wish to take further action.

REFERENCES

- Debt Recovery Policy (Debt Collection Guideline for Collectors and Creditors by ACCC and ASIC)
- Debt Recovery Organisation and Responsibilities
- Debt Recovery Procedure (to be prepared based on above Debt Collection Guideline)
- Debt Recovery Administration Procedure
- Performance Monitoring
- Training Program; if and as necessary
- Internal VWS Audit (as per BR14 Auditing Procedure)