

Council Policy

Rates and Annual Charges Hardship Policy

Purpose

To fulfil the statutory requirements of the Local Government Act, 1993 (the Act) with respect to both the recovery of outstanding Rates, Annual Charges and Interest and the provision of assistance to those ratepayers who are experiencing genuine financial hardship with the payment of their Rates and Annual Charges. A key objective is to work with ratepayers to achieve flexible alternatives to legal action where possible.

In developing this Policy, Council has taken into account the Debt Management and Hardship Guidelines issued under Section 23A of the Act by the Office of Local Government.

Policy Statement

Council acknowledges that ratepayers will, for various reasons from time to time, fail to pay rates when they become due and payable to Council. It is not the intention to cause hardship to any ratepayer through Council's recovery procedures and consideration will be given to acceptable arrangements to clear the debt prior to the end of the current financial year, where possible.

Council recognises there are cases of genuine financial hardship requiring respect and compassion in special circumstances. This policy establishes guidelines for assessment of a hardship application applying the principles of fairness, integrity, confidentiality and compliance with statutory requirements. It applies to all applications for waiving, alternative payment arrangements or writing off rates, fees, annual charges and interest accrued on such debts.

Principles

1. Debt Recovery

Council has a responsibility to recover monies owing to it in a timely, efficient and effective manner to finance its operations and ensure effective financial management.

Council aims to ensure effective control over overdue rates, charges and interest and to establish debt management procedures for the efficient collection and recovery of outstanding debts including deferment and alternative payment arrangements.

The key principles that will apply to the collection of overdue rates and charges are as follows:

- Council's aim is to collect all rates and charges by the end of each rating year;
- A fair and reasonable approach to recovery will apply;
- Council will individually assess cases of financial hardship;
- Council will not reduce rates or charges, but will consider alternative approaches to dealing with cases of financial hardship;
- Council will consider periodical payment arrangements in cases of hardship or extenuating circumstances;
- Council may utilise the services of Mercantile Agents where required to conduct all or part of any legal or other recovery proceedings on behalf of the Council. Any costs incurred by the Council in connection with these legal and recovery proceedings will be added to the ratepayers outstanding account and will accrue against the applicable property;

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- Council will review all matters before commencing legal action to recover debts and make reasonable efforts to contact ratepayers before commencing legal action;
- Council will not provide financial advice to ratepayers and when considered relevant will recommend to ratepayers experiencing financial hardship that they should seek their own independent legal and financial advice;
- Council will aim to achieve the Office of Local Government's performance benchmark in relation to the Rates and Annual Charges Ratio, however, it will not pursue through legal action the collection of outstanding Rates and Annual Charges from pensioners;
- Council will apply the provisions of the Act relating to the sale of land to recover overdue Rates, Annual Charges and Interest when appropriate;
- Council will suspend debt recovery, legal action and interest accrual while a ratepayer's hardship application is awaiting determination by Council.

2. Customer Contact

Council will make reasonable effort to contact a customer with an overdue account before instigating any legal recovery action. Contact efforts may (at Council's option) include using:

- known mailing and/or property address details recorded on Council's rating system
- telephone, mobile phone/SMS and email details recorded in Council's systems
- internet and other searches to find contact details
- company searches where appropriate
- using the resources of Council's Mercantile Agents (who may also attend the property in person)

It should be noted that it is the ratepayer's responsibility to promptly notify Council of changes to their contact and address information relating to property rating for each property that they own (or part own) and to ensure that contact information is kept up to date.

3. Hardship Assistance

This policy recognises that due to exceptional circumstances, owners may at times encounter financial hardship, making it difficult for them to pay their rates and charges as they fall due, or adhere to a regular payment arrangement.

Exceptional circumstances to be considered by Council may include (but are not limited to) such matters as the loss of employment, loss of income, illness, separation or divorce, family violence, impacts of unforeseeable events (such as the impacts of a pandemic or natural disasters), significant changes to rates and charges related to legislative and regulatory changes, impacts following a general revaluation of land by the Valuer General and impacts due to significant changes to a Council's rating structure (such as changes required to harmonise rates and charges due to council amalgamations or boundary changes).

The Act provides Council with the following options for providing assistance to ratepayers who are finding it difficult to pay their rates and charges because of financial hardship:

(a) Assistance by Periodical Payment Arrangements

Section 564 of the Act provides that Council may accept payment of rates and charges due and payable by a person in accordance with an agreement made with the person and may

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write off or reduce interest accrued on rates or charges if the person complies with the agreement.

(b) Assistance by writing off accrued interest and costs

Under Section 567 of the Act Council may write off accrued interest on rates or charges payable by a person if, in its opinion

- The person was unable to pay the rates or charges when they became due and payable for reasons beyond the person's control, or
- The person is unable to pay the accrued interest for reasons beyond the person's control, or
- Payment of the accrued interest would cause the person hardship.

(c) Assistance to extend pensioner concession to avoid hardship

Section 577 of the Act, enables Council to make an order deeming certain persons who are jointly liable with an eligible pensioner(s) or solely liable, but who are not themselves eligible, to be eligible pensioners for the purpose of a mandatory reduction in rates and charges to avoid hardship.

(d) Abandonment of Pensioners' Rates and Charges

Under Section 582 of the Act Council may waive or reduce rates, charges and interest due by any person prescribed by the regulations who receives a pension, benefit or allowance under Chapter 2 of the Social Security Act 1991 of the Commonwealth and is the holder of a pensioner concession card issued by or on behalf of the Commonwealth Government.

(e) Assistance due to General Revaluation of Land in the Local Government Area and Changes to the Rating Category of Properties.

Under Section 601 of the Act a ratepayer who, as a consequence of the making and levying of a rate on a valuation having a later base date than any valuation previously used by a council for the making and levying of a rate, suffers substantial hardship, may apply to the council for relief under this section.

Council has the discretion to waive, reduce or defer the payment of the whole or any part of the increase in the amount of the rate payable by the ratepayer in such circumstances, for such period and subject to such conditions as it thinks fit.

(f) Deferral of Recovery Proceedings against Eligible Pensioners that are entitled to receive a Rebate of Rates and Charges

Where in Council's opinion payment of Rates and Charges would cause hardship, eligible pensioners over the accepted retirement age may be allowed to accrue Rates and Charges against their estate. Interest charges are to accrue on overdue Rates and Charges on a daily basis in accordance with Section 566 of the Act. Accrued interest is to be applied to assessments on a weekly basis subject to procedures for issuing Notices.

Council recognises the large number of pensioner ratepayers in the community and recognises the difficulties some pensioner ratepayers have in meeting their Rates and Annual Charges payments.

Under Section 712 of the Act proceedings for the recovery of a rate or charge may commence at any time within twenty years from the date when the rate or charge became due and payable. The Local Government Rating and Revenue manual advises Councils have

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discretion to accrue rates, charges and interest against a pensioner's estate. The Office of Local Government advises if Councils wish to utilise this discretion, agreement is required from the pensioner ratepayer.

Where the eligible pensioner requests a delay in recovery action to allow outstanding rates, charges and interest to accrue against their estate and is willing to enter into an agreement, Council will:

- Provide an annual rates and charges notice of all outstanding rates, charges and interest as it does for all ratepayers as well as instalment reminders.
- Not commence recovery action until there is a change in ownership of the property, either or both ratepayers leave the property (except where the pensioner is in a care facility on a temporary basis) or either or both become ineligible for a concession. Should any of these events occur, rates and annual charges will become due and payable.
- However, given the constraints set out in Section 712 of the Act, Council will require pensioners to commence payment of overdue Rates and Annual Charges such that their total debt to Council does not exceed twenty years.

4. Procedures

(a) Payment Arrangements

(i) Assistance by Periodical Payment Arrangements

Council recognises that some ratepayers may experience financial difficulties in meeting their Rates commitments. Council will seek to assist ratepayers to make arrangements that are consistent with the ratepayer's capacity to make regular payments.

Relevant factors in assessing an individual's capacity to pay may include (at Council's sole discretion) consideration of a ratepayers personal circumstances including (but are not limited to):

- the ratepayers total disposable income and current financial commitments
- the number of children and/or dependents of the ratepayer, and/or
- advice from an accredited financial counsellor

Ratepayers experiencing financial hardship are encouraged to seek their own independent financial advice from suitably qualified financial counsellors.

Payment arrangements may (at Council's discretion) include an extension of time to pay or an agreement to regular manageable payments. In assessing a proposed payment arrangement, Council may also consider an applicant's previous history in relation to compliance with prior payment arrangements (where applicable).

(ii) Payment Arrangements - Guidelines

Subject to Council's agreement, a ratepayer may at any time make arrangements to pay off their outstanding rates and annual charges by regular payments, subject to the following guidelines:

- The amount and frequency of the payments under the arrangement are to be acceptable to Council. As a general principle, the applicant/s will be required to enter into and maintain a payment arrangement which will pay all rates or charges including future interest charges (where applicable), as they fall due or accrue, and/or, significantly reduce any arrears at the end of the payment arrangement period.

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- Arrangements should seek to have the outstanding rates and annual charges cleared within a 6 to 12 month period or such other period acceptable to Council. A further hardship application may be considered after this period.
- All payment arrangements must be agreed in writing and acknowledged by the ratepayer in writing or such other means as acceptable to Council. This may include such matters as the duration of the arrangement, amount and timing of payments, the requirement for the ratepayer to contact Council promptly should the ratepayer's circumstances change, details of interest charges that may be accruing during the payment arrangement.
- To protect ratepayer privacy, payment arrangements can only be made with the ratepayer whose details are recorded on Council's property records or such other person authorised in writing by the ratepayer to act on their behalf. Such authorisation to be to the satisfaction of Council and is accepted at Council's discretion.
- In accordance with Section 564 of the Act Council may enter into agreements with ratepayers that allow periodic payments to be made (at Council's discretion) and may (at Council's discretion) suspend or reduce interest accrual on rates or charges if the person complies with the approved payment arrangement.
- However, where an owner/ratepayer has not honoured a previous arrangement, Council has the discretion as to whether to accept a new arrangement or continue with further recovery action.
- Where the ratepayer fails to comply with their payment arrangement or fails to contact Council in advance of the payment due date to advise Council of any financial difficulties or other relevant circumstances, the total amount outstanding becomes due and payable (including any accrued interest) and is subject to Council's normal recovery procedures.

(b) Hardship Assistance

(i) General Principles

All applications for Hardship Assistance must be made on the Hardship Rate Relief Application Form. This form is available from Council's website or Customer Service Centres. Council (at its sole discretion) may waive the requirement to complete the Hardship Rate Relief Application Form where extenuating circumstances impact on a ratepayer's capacity to complete the form and provided that sufficient and relevant information has been provided to Council to assess the application.

The form must be completed in a legible fashion and contain sufficient information for Council to assess the application. If the form is not legible and/or does not include sufficient information Council may reject the application and/or request clarification and/or further relevant information.

The applicant must be an owner or part owner of the property or be the person liable for the payment of the rates on the property (or such other person authorised in writing by the ratepayer to act on their behalf).

Council will suspend debt recovery, legal action and interest accrual while a ratepayer's hardship application is awaiting determination by Council.

Ratepayers experiencing financial hardship are encouraged to seek their own independent financial advice from suitably qualified financial counsellors. Where relevant, a ratepayer may provide evidence of such advice to Council to assist Council in assessing their hardship application.

(ii) Assessment Guidelines

Upon receipt, an applicant's Hardship Rate Relief Application will be assessed by the relevant Council Officers.

Factors to be considered in assessing applications may include, but are not limited to whether:

- appropriate evidence of financial and/or other hardship has been provided
- sufficient relevant information has been provided for Council to consider and assess an individual's capacity to pay
- the applicant receives Centrelink and/or Department of Veteran Affairs benefits
- the applicant receives other benefits (e.g. emergency relief funding)
- the applicant could be considered in acute financial hardship, for example, if an individual earns below 75% of the minimum weekly wage
- the applicant is experiencing domestic or family violence involving financial abuse
- the applicant has been referred by an accredited financial counsellor, welfare agency or legal assistance service
- the property is categorised as residential or farmland or business for rating purposes
- the ratepayer previously had a good payment record
- the ratepayer has defaulted on previous payment arrangements

If Council is satisfied the circumstances falls within a category of hardship, it has the capacity (at its sole discretion) to consider deferring the payment, negotiating flexible payment arrangements and to consider writing off any accrued interest.

It is Council's intention that whilst rates will not be reduced or waived, Council has the authority to defer payment of rates for a maximum period of 2 years once a hardship application is approved. This ensures that Council's Rate revenue is protected. Where the application is approved and payments are made in accordance with the arrangement, interest charges may (at Council's discretion) be waived.

Scope and application

This Policy applies to ratepayers suffering financial hardship.

References and related documents

- Local Government Act 1993
- Local Government (General) Regulation 2005
- Civil Procedures Act 2005
- Corporations Act 2001
- Interpretation Act 1987
- Division of Local Government – Council Rating and Revenue Raising Manual
- Office of Local Government – Debt Management and Hardship Guidelines – November 2018

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- Pensioners' Rates and Charges Concession Policy

Definitions

Arrangement	An agreement accepted by Council or its agents for a person to repay a debt within a specific period of time and with conditions applying thereto.
Person	Includes an individual, a corporation and a body corporate or politic

Responsible Officer

Chief Financial Officer

Review Date

This Policy was first adopted by Council on 27 September 2016 and was due for review in 2020.

The Policy is due for review in four years.

Revision History

Revision	Date	Change	TRIM #
1	27 September 2016	Policy adopted by Council with amendments following exhibition	2016/322779
2	24 November 2020	Draft for exhibition with minor amendments	2020/501483
3	23 March 2021	Minor Amendments	2020/501483