

# Personal Financial Hardship Policy



## Council Policy

**Responsible director:**

**Responsible officer:**

**Functional area:**

**Date adopted by Council:**

**Review date:**

Director Corporate Services

Manager Financial Services

Financial Services

1 June 2017

1 June 2021

### Purpose

Council aims to assist those ratepayers in genuine financial distress.

The purpose of this policy is to set the conditions by which Council may apply a deferral or waiver.

### Background

Council is empowered to defer or waive rates, charges and interest based on the following legislative provisions:-

Section 170 (1) of the Local Government Act 1989 states that:

“Council may defer in whole or in part the payment by a person of any rate or charge which is due and payable for a specified period and subject to any conditions determined by the Council if it considers that an application by that person shows that the payment would cause hardship to the person.”

Further, Section 171 of the Local Government Act 1989 states that:

“Council may waive the whole or part of any rate or charge or interest in relation to”

“1(b) any other class of persons determined by Council for the purpose of waiving rates or charges on the grounds of financial hardship.”

Section 171 4(b) states that

“a person may only apply for a waiver in respect of rateable land or a part of rateable land which is used exclusively for residential purposes by that person and is that person’s sole or principal place of residence.”

This policy was originally developed following changes to Council’s differential rating structure. It was also considered that such a policy should cover any ratepayers suffering financial hardship after a serious disaster such as bushfire or flood events, and could apply to any outstanding monies owed including general debtors.

### Policy

Council aims to assist those ratepayers in genuine financial distress with this policy to defer the rates and service charges payable on their property and/or to waive the interest and/or service charges payable.

A deferral suspends the requirement to pay for a specified period and may be provided in whole or in part, subject to the conditions set by Council. To receive a deferral, a person must demonstrate that payment of the rates or charges would cause hardship.

A waiver removes the liability to pay and may be offered to include the whole or part of any interest and/or service charge, subject to the conditions set by Council however rates will not be subject to a waiver.

### Conditions for deferral

Ratepayers may have rates and service charges, or part thereof, deferred subject to compliance with the following conditions:

- The ratepayer must be experiencing financial hardship.
- The ratepayer must request a review for eligibility of financial hardship.
- The ratepayer must meet with an independent financial consultant as appointed by Council.

### Conditions for waiver

For the purposes of this policy a waiver will only be considered for interest and/or service charges.

Ratepayers may have interest and/or service charges waived subject to compliance with the conditions for deferral and the following additional conditions:

- The property for which the interest waiver is being considered must be used exclusively for residential purposes and must be the ratepayer's principal place of residence in accordance with Section 171(b) of the Local Government Act 1989.
- Subject to approval by the Chief Executive Officer.

### Guidelines

Applications for consideration of financial hardship will be treated as strictly confidential in accordance with Council's Privacy Policy.

Council will provide the independent financial consultant with a brief of the applicant's debt situation with Council, and also guidelines of the expected future debt and interest charges.

A ratepayer will be required to provide their personal information to the independent financial consultant appointed by Council, but such information will not be provided directly to Council. Information provided to the financial consultant will not be passed onto Council by that consultant.

A written recommendation as to the ratepayer's eligibility for consideration will be the only information passed on to Council by that consultant.

The independent financial consultant must provide Council with a written report of their recommendations. The report must include:

- Whether the applicant is eligible.
- Whether the applicant is suffering short-term hardship, ie hardship likely to be for a period of less than 12 months; or
- Whether the applicant is suffering chronic hardship, ie financial hardship for an indefinite period.
- A recommended repayment schedule.
- A time frame for review.

The report will not include details of the applicant's personal information.

Council's Property & Revenue Coordinator will review the report and for any short term financial hardship applicant implement the recommendations for deferral of payment and refer the recommendations for a waiver of interest and/or service charges to the Chief Executive Officer for approval.

If a deferral is approved the property will be flagged as a rates deferment property and no debt recovery action will be taken. A letter will be sent to the ratepayer seeking confirmation that the hardship still exists in accordance with the time-frame recommended by the independent consultant.

An indefinite deferral may result in the rates not being recovered until the sale of the property, or when the property is sold at the ratepayer's death. Rates and service charges are a first charge on a property and are always recoverable before any other charges on the property are paid.

The deferral will be deemed withdrawn on the basis of any of the following conditions:

- The ratepayer advises that the hardship conditions no longer exist.
- Periodic confirmation of ongoing hardship is not received within 30 days of the date of the request.
- The ratepayer no longer owns or occupies the property.
- The ratepayer has defaulted in meeting any agreements with Council in regards to the deferral.

If a waiver of interest and/or service charges is approved:-

The property will be flagged as an interest waiver property and/or the service charges will be waived for the current rating year. A letter will be sent to the ratepayer seeking confirmation that the hardship still exists in accordance with the time-frame recommended by the independent consultant.

The waiver will cease to apply on the basis of any of the following conditions:

- The ratepayer advises that the hardship conditions no longer exist.
  - Periodic confirmation of ongoing hardship is not received within 30 days of the date of the request.
  - The ratepayer no longer owns or occupies the property.
- Council has the authority to withdraw any agreement at its discretion.

### **Council Plan Objective/Strategy**

Outcome 4.5 : Effective and efficient corporate and administrative services

Outcome 4.6 : Financial sustainability and accountable financial management

### **Legislation & Standards**

*Local Government Act 1989*

### **Responsibilities**

The Manager Financial Services is responsible for review of this policy. Council is responsible for setting the policy and the Coordinator Property and Revenue and Rates Officer are responsible for applying the policy to applications approved.

### **Stakeholders**

Councillors, council staff and ratepayers

### **Review**

This policy will be reviewed every four years unless changes in legislation require earlier review.

### **Communication & implementation**

This policy will be available on Council's internet and EDRMS (InfoXpert)

### **References**

*Local Government Act 1989 – Section 170 & 171*

### **Charter of Human Rights compliance**

It is considered that this policy does not impact on any human rights identified in the *Charter of Human Rights & Responsibilities Act 2006*.

### **Definitions**

#### **Rates**

Includes variable rates, municipal charge and fire service levy collected as part of annual Council rates.

**Service Charges**

Waste and recycling charges collected as part of annual Council rates.

**Deferral**

Temporary suspension of a payment for a period of time.

(The full amount will still eventually be recovered. The outstanding amount may still incur interest.)

**Waiver**

Permanent exemption from payment.

**Review history**

Date	Review details	Action
01/06/2017	No changes to policy	Adopted as no changes