

COUNCIL POLICY

Rates Assistance	Adopted By Council:	25/03/15	
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	Document No:	CP031	
	Directorate:	Organisational Performance & Community Services	
Responsible Officer:	Manager, Financial Services		

CONTEXT

Rates and charges are a secure and predictable source of income, and Council's major source of recurrent income, that it relies on to deliver services to the community. In considering all aspects of its rating strategy, Council considers the principles of fairness, transparency and equity. Timely recovery of income received from general rates, waste management charges and other rates and charges (cultural and recreational charges and supplementary rates and charges) is essential, and the consideration of rates assistance is consistent with the principles applied in Council's rating strategy.

In accordance with the *Local Government Act 1989* (the Act) Council is authorised to take action against the non-payment of property rates, charges and interest. The Act also permits councils to waive the whole or part of any rate, charge or penalty interest imposed for late payment, in special cases of financial hardship.

PURPOSE

The purpose of this policy is to ensure Council is sensitive and responsive to ratepayers experiencing financial hardship, by establishing a mechanism through which Council can offer some form of financial relief to ratepayers experiencing financial difficulty in meeting payments for general rates, waste management charges and other rates and charges. This policy will be applied in considering all requests from eligible ratepayers seeking relief and/or waiver of rates, charges and interest.

DEFINITIONS

For the purposes of this policy, the following definitions apply:

Hardship Hardship is experienced by a ratepayer who wants to pay rates, charges and interest but, due to their financial circumstances, cannot. Financial hardship involves an inability of the property owner to meet their commitments (bills), rather than an unwillingness to do so.

A person is considered to be in serious hardship when they would be left unable to provide for themselves, their family or other dependents the following:

- food;
- accommodation;
- clothing;
- medical treatment;
- education; and
- other basic necessities.

Factors contributing to serious hardship generally include: family tragedy; financial misfortune; sudden or sustained unemployment; serious illness; impacts of natural disaster; and other serious or difficult circumstances.

Deferral	Under Section 170 of the Act, Council may defer any rates and charges, allowing ratepayers an extended period of time to make payments or alternatively to forestall payments until the ratepayer ceases to own or occupy the land in respect of which rates and charges are levied. A deferral suspends payment of rates and charges for a period of time. A deferral can be provided in whole or in part, for a specific period, and subject to any conditions determined by Council. When rates are deferred, a rates reminder notice with the current balance outstanding will continue to be issued each quarter, however the agreed payment arrangement remains in place until such time as the balance is paid by the ratepayer in full.
Payment arrangement	Ratepayers entering into a short term payment arrangement with Council are generally not considered to be experiencing 'hardship'. Any ratepayer who does not qualify for a deferred payment arrangement may still apply to pay outstanding rates, charges and interest by way of a payment arrangement. Payment arrangements attract penalty interest rates on outstanding balances, but allow ratepayers the required time to make payments without any legal action being undertaken by Council to recover rates and charges.
Waiver	Under Section 171 and 171A of the Act, Council may waive payment or part payment of any rates, charges or penalty interest imposed for late payment, if it is satisfied that requiring full payment would cause undue hardship on a ratepayer.
Penalty Interest	Penalty interest is prescribed under the Penalty Interest Rates Act 1983. The penalty interest rate, fixed by the Attorney-General, is the maximum interest rate used to levy interest on rate arrears.

POLICY

The policy principles that form the basis of this policy are:

- Early identification
- Accessibility to information about hardship programs
- Alternative forms of assistance made available to ratepayers
- The form of hardship assistance provided matches the level of financial difficulty
- A simple application process, including acceptance of short term verbal contracts
- Encouragement to ratepayers to seek financial counselling, legal and other support
- Legal action to recover debt is a last resort

1. Ratepayer rights

Ratepayers will:

- Be able to contact the Rates Coordinator or Manager, Financial Services to confidentially discuss the alternative options in this policy.
- Have their cases individually considered and the circumstances kept confidential
- Be treated respectfully, with dignity and non-judgementally
- Receive prompt information on Council policy and alternative payment arrangements

- Nominate the amount they can afford and the frequency of instalments of their preferred payment plan
- Receive written confirmation of an agreed payment arrangement
- Be able to renegotiate the amount of their payment if there is a change in their circumstances
- Be encouraged to seek free independent financial counselling advice
- Be shielded from legal action and additional recovery costs, whilst they continue to make payments in accordance with their agreed payment arrangement

2. Ratepayer responsibilities

- Advise Council of their financial difficulties as soon as practicable
- Be reasonable in their negotiations with Council officers
- Be honest and realistic in their assessment of their capacity to pay
- Maintain any agreed payment arrangement and advise Council as soon as practicable if they are unable to meet a scheduled payment or their circumstances change
- Maintain regular dialogue with Council throughout the term of the arrangement

3. Eligibility

Council may grant an application for rates assistance if Council officers are satisfied that the applicant is a person who would suffer severe or long term financial hardship, if that person paid the full amount of the rates, charges and interest for which the ratepayer is liable.

Individuals who can establish that they do not have capacity to pay their rates, charges and interest over an extended period of time will qualify for rates assistance. A ratepayer will be requested to provide further relevant financial details (including income, expenditure, assets and liabilities) to demonstrate the severity of their financial circumstances.

In line with this policy, rates assistance due to financial hardship can be granted to individuals with regard to the rates, charges and interest, only on their primary residence.

It is acknowledged that ratepayers may experience financial hardship that relates to a range of hardship issues and that meeting rates, charges and interest obligations constitutes just one element of the hardship being faced. Alternative forms of assistance aim to provide a positive and supportive response to reduce the strain imposed by financial hardship.

All requests for rates assistance due to hardship must be in writing, include a statutory declaration stating that due to financial circumstances the applicant does not have capacity to pay over an extended period of time and provide sufficient supporting documentation so that Council officers are able to assess the request. This may include details of assets owned, income received and living expenses, as well as any other information considered relevant by the applicant. Assessment of an application by Council officers will consider the ratepayer's proven record of repayment of rates and charges prior to the period of financial hardship. The offer of rates assistance can be withdrawn by Council if the agreed payment arrangement is not adhered to by the ratepayer.

In the first instance, arrangements agreed due to hardship should aim to clear the debt within one year or as soon as practicable, at which time the rates assistance arrangement will cease. Reassessment by Council of a ratepayer's hardship will occur after one year and will consider the ratepayer's financial capabilities in addition to their willingness to meet their responsibilities under this policy. Further rates assistance for hardship may be offered by Council, until the ratepayer's circumstances improve or the property is sold or transferred.

The types of assistance which may be offered by Council to ratepayers experiencing hardship are set out in the following section. In all applications for rates assistance, the applicant will be encouraged to continue to pay the portion of rates and charges that is affordable given their individual circumstances. This will be mutually agreed on a case by case basis.

4. Types of assistance

4.1 Individual payment arrangements

An individual payment arrangement that, for instance, allows a ratepayer to pay on a fortnightly or monthly basis to assist the individual's budgeting process.

A short term payment arrangement within a rate instalment period, which is generally not considered as hardship, may involve a verbal or written commitment by a ratepayer to pay an outstanding instalment or rates arrears balance before the next instalment is due.

In cases where Council considers hardship is being experienced by a ratepayer, Council will offer a ratepayer the opportunity to negotiate a payment arrangement, that suits the circumstances of the ratepayer concerned. This payment arrangement may be a verbal (recorded) or written commitment by a ratepayer to clear the debt within a reasonable period, at which time the hardship assistance offered by Council will cease. Council will review each hardship payment arrangement annually to ensure that such arrangement is in line with this policy.

Generally, penalty interest continues to accrue on outstanding debts for rates and charges which are the subject of an agreed payment arrangement, however no further legal action is taken by Council to recover the debt until the payment arrangement concludes and/or hardship assistance ceases.

Centrelink payments

Centrelink payments is designed to help ratepayers who receive Centrelink payments to pay their rates regularly, to assist ratepayers in keeping up to date with their rate payments. Ratepayers who receive Centrelink payments can apply, either directly with Council or via Centrelink, to have fortnightly payments deducted directly from their allowance and paid to Council, at no additional cost to the ratepayer.

Direct Debit arrangements

Ratepayers may arrange to pay their rates by direct debit, by completing a Direct Debit application form, which enables a ratepayer to tailor a plan for regular payments to be made to Council fortnightly, monthly or on the instalment due dates.

Any ratepayer requiring a payment arrangement is urged to contact Council's Rates Coordinator.

4.2 Deferred payment plan

A deferred payment arrangement allows the rates, charges and interest to become a charge on the property of a ratepayer, for an extended period of time, until the ratepayer's circumstances improve. Alternatively, such an arrangement may be agreed to forestall payments until the ratepayer ceases to own or occupy the land in respect of which rates, charges and interest are being applied. While the deferral of payments results in further penalty interest being applied, a deferred payment arrangement removes the immediate pressure on individuals to meet their outstanding debt to Council.

The deferral of rates may only be granted on an annual basis, with an exception for those who have successfully applied for a longer term payment arrangement and who continue to meet the agreed payment arrangements. Those ratepayers requiring a longer period of time in which to repay their debt, but who have not managed to meet the agreed payment terms, must reapply to Council for consideration

of a deferred payment arrangement in each financial year during which such assistance continues to be sought by the ratepayer.

Penalty interest will not be applied under a deferred payment arrangement.

A deferral of rates and charges may be considered by Council where the applicant can provide supporting documentation of the following;

- I. Is in receipt of a Commonwealth Centrelink aged pension payment, a veteran's pension as a war widow, because they are totally or permanently impaired, or they are subject to an extreme disability adjustment evidenced by:
 - a Pensioner Concession card; or
 - a Veterans Affairs Gold card;

Or

- II. They can provide evidence of genuine financial hardship as certified by an assessment carried out by an independent financial counsellor;

Continuation of any deferred payment arrangement agreed by Council will be subject to an annual review to ensure that the sum of deferred rates, charges and interest does not exceed 25% of the Capital Improved Value (CIV) of the property for which rates assistance is sought.

Where property ownership changes on any assessment with a deferred payment arrangement in place, all rates and charges must be fully paid at the point of this change. Deferred payment arrangements are not transferable.

4.3 Waiver of rates, charges and interest

In Accordance with Sections 171 and 171A of the Act, Council may waive payment or part payment of any property rates, charges or penalty interest imposed for late payment, if it is satisfied that requiring full payment would cause undue hardship on a ratepayer. Council is mindful, in applying this section of the Act, that any rates or charges foregone by approving a waiver to a ratepayer would result in a redistribution of rates and charges to all other ratepayers in the Borough. Council's preference is to not waive rate, charge or penalty interest imposed (where applicable), as the value of each property provides the owner with a potential source of funds, if liquidated.

4.3.1. Waiver of interest

A Waiver of Interest on a Rated Property will only be considered by Council in extenuating circumstances where:

- Waiver for Administrative Reason/Error – property owners may have the penalty interest waived in the event of an administrative issue, error or omissions which cause or significantly contributed to the failure to pay rates in a timely manner.
- Waiver on Compassionate Grounds – property owners may have penalty interest waived where they have been not being able to settle rates on time due to a serious illness, recent accident or injury, death of an immediate family member or recent loss of employment.

4.3.2. Waiver of rates

The application of a waiver under this section will only be considered after an initial deferment of rates has been granted.

A person who is an eligible recipient who is suffering serious financial hardship or would suffer serious financial hardship if that person paid the full amount of the rates for which he or she is liable, may apply to Council for a waiver of the whole or part of any rates.

Except for the most exceptional circumstances, Council will not waive any rates but rather will encourage the person to enter into a Payment Arrangement under Section 3.1 of this Policy, or where the person meets the criteria for Deferment of Rates under section 3.2, to defer the Rates.

Council will waive Interest as per section 3.3.1. of this policy. Where it is thought that exceptional circumstances exist such that waiver of the rates is appropriate, the Applicant must complete the Application for assistance due to Financial Hardship.

The maximum amount of any wavier in one financial year will be limited to \$1,000 per property, unless

Council resolves that exceptional circumstances warrant an exception to this policy framework.

Any waiver is a one off wavier in response to circumstances at the time, those that have been assessed for a successful waiver are ineligible to reapply in the future for further waivers.

5 Application for rates assistance

Ratepayers applying for rates assistance due to financial hardship must complete an application form. All applications will be assessed, bearing in mind the principles set out in this Council Policy.

6. Recommendation and approval

After the assessment process has been undertaken Rates Coordinator and/or the Principal Accounting Officer (Manager Financial Services) will make a recommendation to the Chief Executive Officer to approve or deny the application, briefly outlining reasons for the recommendation.

Authority to approve applications for rates assistance is delegated to the Chief Executive Officer in accordance with Sections 170, 171, 171A and 172 of the Local Government Act 1989 subject to the quantum of the relief being offered having no material impact on Council's overall budget.

All applicants will be advised of the outcome of the assessment process within 10 working days.

If the applicant is not satisfied with the advice, Council will seek an opinion from an independent financial counsellor.

The financial counsellor will contact the ratepayer and discuss over the phone or meet face to face to ensure that the counsellor understands the ratepayers financial position sufficiently to advise Council of what the ratepayer could manage in the form of an arrangement.

The financial counsellor recommendation will be incorporated into a confidential report for discussion and approval by the Chief Executive Officer.

7. Confidentiality

Any information provided by ratepayers to Council in accordance with this Policy will be treated as strictly confidential.

CONTINUOUS IMPROVEMENT

This policy will be reviewed on a continuous basis, as a minimum every three years from the date of adoption.

OTHER REFERENCES

Borough of Queenscliffe Rates Assistance Application Form

Local Government Act 1989

Local Government Act 2020

Penalty Interest Rates Act 1983

MAV Hardship Policy Guidelines (November 2013)

END