

POLICY TITLE **HARDSHIP POLICY**

VERSION II: 8 January 2019

Last reviewed: 19 November 2018

OBJECTIVES

To establish a policy framework for the assessment of applications from ratepayers who are experiencing genuine financial hardship with the payment of Council rates and charges.

In applying this policy, Council will be guided by the following:

- Compliance with relevant statutory requirements
- Flexibility in providing payment options and processes that meet local needs and the special circumstance of those ratepayers facing hardship;
- Fair, equitable and respectful treatment of all ratepayers, including those ratepayers facing hardship;
- A “stop the clock” approach to suspend debt recovery and/or legal action while a ratepayer’s hardship application is awaiting determination; and
- Confidentiality such that information provided by applicants is treated as private confidential information that can only be used for the purposes of the assessing hardship application and not be made available to third parties (with the exception of referral to Council’s debt recovery agencies).

POLICY STATEMENT

Council recognises that ratepayers may experience hardship in some circumstances in paying rates and charges. It applies to all ratepayers in the Dungog Local Government Area who are experiencing genuine financial hardship in paying their rates and charges. The *NSW Local Government Act 1993* provides for the following assistance to ratepayers:

- Periodical payment arrangements for overdue rates and charges (Section 564);
- Writing off or reducing interest accrued on rates and charges (Section 564 & 567);
- Waiving, reducing or deferring the payment of the increase in the amount of rate payable because of hardship resulting from general revaluation of land in the Local Government Area (Section 601);
- Abandoning, waiving, or reducing rates, charges and interest of eligible pensioners (Section 575 & 582)
- Waiving, or reducing, Council fees when the inability to pay is due to hardship (section 610E)

A ratepayer may be eligible for consideration for hardship assistance in the payment of overdue rates, charges and interest where:

- The person is unable to pay rates or accrued interest when due and payable for reasons beyond the person’s control; or
- Payment when due would cause the person hardship.

Any ratepayer who cannot pay their rates or charges due to hardship can apply to Council for assistance at any time. Ratepayers are encouraged to contact Council to seek assistance as soon as practical. Financial hardship can arise from:

- Loss or change in income
- Illness
- Loss arising from an accident
- Natural disaster or emergency situation
- Death in the family
- Separation, divorce, or other family crisis
- Family violence and/or
- Some other temporary financial difficulty due to loss of income or increase in essential expenditure.

Council will consider applications for assistance on merit and in accordance with the following principles:

- Council will individually assess cases of financial hardship;
- Council will not reduce rates or charges, but will consider alternative available approaches to dealing with financial hardship;
- Council will consider a scheme of periodical payment outside the due dates in cases of hardship or extenuating circumstances.

Applications for hardship must be made in writing on the appropriate Hardship Rate Relief Application Form. Council may also request the ratepayer attend an interview to assist Council in the understanding of the issues causing hardship.

- The applicant must be the owner/spouse or part owner of the property and be liable for the payment of rates and charges on the property.
- The property to which the hardship application applies must be categorised as residential or farmland for rating purposes.
- The property to which the hardship application applies must be the principal place of residence of the applicant.
- The application for hardship must be accompanied with supporting documentation which may include but is not limited to:-
 - Reasons as to why the person was unable to pay the rates and charges when they became due and payable;
 - Copy of recent bank statements for all accounts;
 - Details of income and expenditure
 - Letter from a recognised financial counsellor or financial planner confirming financial hardship.

The General Manager has delegated authority to assess all applications in accordance with this policy.

In the first instance, the application will be assessed by a three (3) member Payment Assistance Panel appointed by the General Manager. At least 2 members of the Payment Assistance Panel will consist of Council staff from the Corporate and Customer Services Department.

The General Manager will make a final determination about the application after considering the recommendations of the Payment Assessment Panel.

Written confirmation of acceptance of the payment arrangement must be received from the applicant.

Assistance to Eligible Pensioners

Council will provide a rebate of rates to eligible pensioners who are granted a mandatory pension concession under Section 575 of the Local Government Act 1993.

Aged pensioners who satisfy the eligibility criteria may also make application to defer the payment of rates and charges against their estate. If granted, payment of the rates, charges and interest will be deferred until any of the following occurs:

- Death of the ratepayer; or
- Sale of the property; or
- The ratepayer ceases to occupy the property as their principal place of living and rents the property out.

The criteria used to determine eligibility for deferral will be:

- The ratepayer must be an aged pensioner as defined by Centrelink in receipt of a pensioner rate concession in relation to the property; and
- The property must be the ratepayer's principal place of residence; and
- The property must be used for residential or farming purposes only; and
- The property can have no more than a single dwelling house or residential unit erected upon it; and
- The total amount of rates and charges (net of pensioner concession) payable must be more than 10% of the annual age pension of any individual (if the ratepayer is an individual) or 10% of the annual age pension of a couple (if the ratepayer is a couple) at the date of the initial application.

An initial Hardship Rate Relief Application Form must be completed and lodged with Council for determination of eligibility by the Finance Officer - Revenue. A ratepayer dissatisfied with a decision of the Finance Officer - Revenue may have that decision reviewed by the Payment Assistance Panel established under this policy.

Council will post out a letter each year to the aged pensioner with a copy to sign and return to continue the deferral. The purpose of the annual letter is to confirm that the aged pensioner continues to own and occupy the property, is still alive, is aware of, and agrees to the deferral. Deferral will continue once granted without the need to satisfy the 10% criteria again, if the pensioner continues to own and occupy the property. Where the pensioner ceases to occupy the rateable property and the property is rented the repayment timeframe for the deferred rates and charges will be negotiated by the Finance Officer - Revenue. A person dissatisfied with a decision of the Finance Officer - Revenue may have that decision reviewed by the Finance Manager.

Interest charges accrue in respect of deferred rates and charges at the rate determined under the *NSW Local Government Act 1993*. No deferred rates or charges are to be written off under this policy.

The maximum number of years for which rates, charges and interest can be deferred under this policy is ten (10) years. Should the aged pensioner wish to continue to deferral of rates, charges and interest beyond this period, payment of the first deferred years rates, charges and interest will be required. This cycle may continue as long as required.

Hardship Assistance by Periodical Payment Arrangements

- Council may enter into a formal agreement with a ratepayer eligible for alternative periodical payment arrangement for due and payable rates and charges. Council or the ratepayer may initiate a proposal for a periodical payment agreement. In accordance with Section 568 of the Act, payments will be applied towards the payment of rates and charges in the order in which they become due.
- All payment arrangements must be paid within a reasonable time frame, not exceeding one year from the date of arrangement being made, and should include future rates and charges which will be levied during the arrangement period.
- Council may also write off or reduce the accrued interest and charges if the person complies with the agreement (Section 564(2)).

- If the ratepayer fails to make the periodical payment in accordance with the agreement, the payment plan may be cancelled. Full payment of the amount outstanding will be due immediately.

Hardship Assistance by Writing off Accrued Interest and Costs

Council may write off interest and costs in accordance with section 567(3) of the Act under the following circumstances:

- Ratepayer is experiencing genuine hardship. In such cases, Council may request the completion of a hardship application;
- The ratepayer is a “first-time” defaulter, has previously had a good payment record and there are mitigating circumstances;
- Prolonged or serious illness has prevented the ratepayer meeting their financial obligations to Council;
- The ratepayer has complied with all criteria with respect to a section 564 periodic payment agreement;
- Council is satisfied that the circumstances giving rise to the default are temporary.

Assistance due to General Revaluation of the Local Government Area

With respect to Section 601 of the *NSW Local Government Act 1993* (valuation changes), Council will not consider hardship applications under this provision as valuations are independently determined by the NSW Valuer General. Council will encourage aggrieved ratepayers to make appropriate application under the appeal provisions of the *NSW Valuation Act 1916*.

In addition, it is considered that Council has maximised its scope under the Act to adopt a rating structure that cushions the impact of any changes in valuations on rates levied.

Hardship Concession Termination

The concessions granted may be withdrawn for any of the following reasons:

- The ratepayer no longer owns the land;
- The ratepayer advises Council that the hardship no longer applies;
- The ratepayer defaults on a payment arrangement if a payment arrangement has been entered into;
- Council receives information that proves the hardship no longer exists.

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

Hardship Assistance in Relation to Council Fees

The General Manager will have the delegated authority to make such decisions in relation to the waiving or reducing of fees up to the amount of \$5,000. For amounts over \$5,000 the decision must be a resolution of Council.

Any application for hardship assistance in relation to Council fees or charges other than annual charges by waiving or reducing fees under section 610(E) of the Act will be assessed in accordance with the same eligibility criteria used to assess hardship assistance in respect to rates and annual charges.

Date Policy Adopted	Minute No	Authority
25 June 2015	36763	Council resolution
8 January 2019	37926	Council resolution