

HARDSHIP POLICY

SPECIAL RATE VARIATION APPLICATION APPENDIX



Rates Recovery and Hardship Policy

Sutherland Shire Council

Document review and approval

This document has been approved by

| | Name | Minute No | Date approved |
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Revision history

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| 1 | Manager Finance | 7 September, 1998 | Original Version |
| 2 | Manager Finance | 18 May, 2012 | <i>Policy reviewed as part of annual review process. Policy is to be maintained no amendments necessary</i> |
| 3 | Manager Finance | 9 May, 2013 | <i>Policy reviewed as part of annual review process. Policy is to be maintained with the following minor amendments: Clarification of procedure relating to credit cards, pensioner rebates and legal recovery</i> |
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1. POLICY STATEMENT

The policy is to ensure effective controls, policies and procedures are in place with respect to the collection of overdue rates and charges owed to Council.

2. PRINCIPLES

- Ensure transparency in Councils operations concerning the collection of overdue rates and charges.
- Ensure Council's resources are managed with integrity and diligence.
- Ensures that ratepayers are treated sensitively with courtesy and respect.

3. OBJECTIVES

- Fulfil all statutory requirements of the Local Government Act with respect to the collection of overdue rates and charges.
- Provide a customer focused service to ratepayers.
- Ensure a consistent approach to the collection of overdue rates and charges.
- Ensure transparency and probity in Council's debt recovery procedures.
- Ensure that ratepayers experiencing genuine financial difficulties are treated sensitively on a case by case basis.
- Assist ratepayers in meeting their rate commitments by providing mutually agreeable alternative repayment plans.
- Ensure that Council minimizes the amount of money owed in respect of overdue rates and charges.

4. STRATEGIES

This policy covers the following areas: -

- Rates and Annual Charges
- Payment of Rates and Annual Charges
- Payment Methods
- Concessions – Eligible Pensioners
 - Eligibility Criteria
 - Statutory Rebate

- Voluntary Council Rebate
- Interest on Overdue Rates and Annual Charges
- Recovery Procedures
 - General Ratepayers
 - Arrangements to Pay
 - Eligible pensioners
- Debt Recovery / Legal Action
- Sale of Land for Overdue Rates
- Hardship
- Privacy and Confidentiality

5. RATES AND ANNUAL CHARGES

The Council issues its annual rates notice to all rateable properties in the Council's area in July of each year for the financial year.

Supplementary rate levies may also be issued during the year.

The rate notice includes all ordinary rates, special rates and annual charges levied on the property.

6. PAYMENT OF RATES AND ANNUAL CHARGES

Rates and annual charges may be paid by a single instalment or by quarterly instalments.

If the payment is made by quarterly instalments, the instalments are payable as follows:

Instalment Due date

- | | |
|---|-------------|
| 1 | 31 August |
| 2 | 30 November |
| 3 | 28 February |
| 4 | 31 May |

If the payment is made by a single instalment, the instalment is payable by the 31 August of each year.

Council issues instalment notices to those ratepayers who elect to pay by instalments and such notices are issued at least one month prior to the due date for the instalment.

Where the Council levies rates and annual charges after an instalment was due, the amount payable is apportioned across the remaining instalments in accordance with section 562 (4) of the Local Government Act 1993 (the Act).

7. PAYMENT METHODS

Council provides a broad selection of payment options to assist ratepayers in paying their rates and such includes:

- BPAY allows ratepayers to pay via their financial institution after setting up billing details. Credit Cards are not permitted.
- Telephone Payment by Dialling 1300 886 435 then following the prompts – Payment by Visa, Mastercard or Amex is accepted over the telephone 24 hours 7 days a week.
- Internet Payment – Internet payments may be made by using Visa, Mastercard or Amex by accessing Council’s website - www.sutherland.nsw.gov.au.
- Direct Debit – rate payments can be automatically deducted from Ratepayers nominated Bank, Building Society or Credit Union account on an annual or quarterly basis.
- Pay in person at Council’s Customer Service Centre, 4-20 Eton Street Sutherland. Ratepayers can pay cash, cheque, money order, Visa, Mastercard, AMEX and EFTPOS.
- Over the Counter payments at Australia Post by Cash or Cheque only. This enables ratepayers to make payments at any Australia Post branch.
- A merchant fee as set out in Council’s Schedule of Fees and Charges is applicable on payments made by Credit Card where permitted.

8. CONCESSIONS – ELIGIBLE PENSIONERS

Section 134 of the Regulations under the Local Government Act 1993 defines “eligible pensioners” for the purposes of determining pensioner concessions as:

- (a) persons who receive a pension, benefit or allowance under Chapter 2 of the Social Security Act 1991 of the Commonwealth, or a service pension under Part III of the Veterans’ Entitlements Act 1986 of the Commonwealth, and who are entitled to a pensioner concession card issued by or on behalf of the Commonwealth Government,

- (b) persons who receive a pension from the Commonwealth Department of Veterans' Affairs as:
 - (i) the widow or widower of a member of the Australian Defence or Peacekeeping Forces, or
 - (ii) the unmarried mother of a deceased unmarried member of either of those Forces, or
 - (iii) the widowed mother of a deceased unmarried member of either of those Forces, and do not have income and assets that would prevent them from being granted a pensioner concession card (assuming they were eligible for such a card),
 - (iv) persons who have received a lump sum mentioned in section 234 (1) (b) of the Military Rehabilitation and Compensation Act 2004 of the Commonwealth or are receiving a weekly amount mentioned in that paragraph, and do not have income and assets that would prevent them from being granted a pensioner concession card (assuming they were eligible for such a card)
- (c) persons who receive a general rate of pension adjusted for extreme disablement under section 22 (4) of the Veterans' Entitlements Act 1986 of the Commonwealth, or a special rate of pension under section 24 of that Act.
- (d) persons who receive, or who at some point in their life have been eligible for, a Special Rate Disability Pension under the Military Rehabilitation and Compensation Act 2004 of the Commonwealth.

To be eligible for a pensioner concession, the ratepayer must hold a valid Pensioner Concession Card issued by Centrelink or the Department of Veterans Affairs. Pensioners under the age of 60 years who are on unemployment benefits or sickness benefits are not eligible for the pensioner concession unless they are the holder of a valid pension concession card.

Section 575 of the Act deals with reductions for eligible pensioners.

The pensioner must own and occupy the property as his or her sole or principal place of living. If the property is owned by more than one eligible pensioner, they are to be treated as a solely eligible pensioner. If the property is owned by one pensioner and one non pensioner, provided that the non-pensioner is the spouse of the eligible pensioner, they are to be treated as a solely eligible pensioner. If the other person is not the spouse of the eligible pensioner and does not hold a Pensioner Concession card, the Council and Government rebate is granted to the eligible pensioner proportionately to their percentage of ownership.

If a person becomes an eligible pensioner after the day on which a rate or charge is made and levied, the person is entitled to a reduction of the rate or charge proportionate to the number of full quarters remaining after the day on which the person becomes an eligible pensioner in the year in which the rate or charge is made.

Should an eligible pensioner have to enter a Nursing Home or other Care Facility on a permanent basis and still retain ownership of their property all concessions will cease after two years from the date of entry of that facility provided the property is vacant during this time.

Eligible pensioners who travel overseas may lose their pensioner entitlement prescribed by Centrelink. Rebate entitlement ceases from the next quarter after Council becomes aware that a person has lost their pensioner entitlement. To reinstate the pension rebate, the ratepayer is required to reapply and complete a new Prescribed Pension Application form upon return from overseas travel.

An eligible pensioner can only claim a maximum rebate dating back to the 1st July in the previous year if entitled.

The ratepayer is required to complete the prescribed Pensioner Concession Application form (Attachment 1).

Statutory Rebate

Council provides a pensioner concession to “eligible pensioners’ under Section 575 of the Act. Eligible pensioners are entitled to a rebate of 50% of their combined rates and annual charges up to a maximum amount – currently \$250.00. This amount is set by the State Government. The Statutory rebate is funded 55% by State Government and 45% by Council.

Voluntary Council Rebate

Council provides a voluntary Council rebate (totally funded by Council) of up to \$105 per annum which is granted to “eligible pensioners” who have been owner ratepayers in the Sutherland Shire for at least 3 years prior to the application.

Ratepayers who have sold and purchased a new property within a 3-6 month timeframe may be eligible for the Voluntary Council Rebate, having regard to the contract dates and number of consecutive years that persons have been owner ratepayers within the Sutherland Shire.

9. INTEREST ON OVERDUE RATES

An instalment becomes overdue if it is not paid on or before the due date.

Interest is charged on a daily basis on overdue rates and annual charges in accordance with Section 566 of the Act as amended.

The Minister for Local Government determines the maximum interest rate allowed to be charged on an annual basis.

Council has determined two different rates of interest, depending upon the circumstances:

- (a) Deferred rates owing by eligible pensioners, where such deferments were granted for amounts equivalent to the voluntary rebate, attract no interest.
- (b) All other rates and charges overdue attract the interest rate as set out in Council Schedule of Fees and Charges.

10. RECOVERY OF RATES AND ANNUAL CHARGES

General Ratepayers

Council encourages all ratepayers to meet their rate commitments as they fall due. Where ratepayers are experiencing financial difficulties in meeting their rate commitment, they are requested to make early contact with Council Officers with a view to making suitable repayment arrangements.

Council Officers will work with ratepayers experiencing financial difficulties to assist them in exploring options and making mutually acceptable arrangements for the payment of their outstanding rates and charges.

Where an instalment remains unpaid after the instalment date, simple interest will be charged on a daily basis on the overdue amount in accordance with Section 566 of the Act as amended.

Council will institute normal debt recovery procedures to recover the overdue rates and annual charges unless, or until suitable arrangements are made for the payment of the overdue rates and annual charges.

Where Council is satisfied that a ratepayer is experiencing financial hardship, Council has the discretion to waive, defer or reduce the payment – **see Hardship**.

At every stage of the process, ratepayers will be reminded that if they are experiencing financial hardship, they should contact Council Officers who may be able to assist them in their particular situation.

Council will generally proceed to take the following steps to recover the overdue rates and annual charges:

Arrangements to Pay

- 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:
 - (a) The amount and frequency of the payments under the arrangement are to be acceptable to Council.
 - (b) Arrangements should, where possible, seek to have the outstanding rates and annual charges cleared by the end of the financial year.

- All ratepayers who enter into an arrangement will continue to have interest charged on the outstanding amount in accordance with Section 566 of the Act.
- Where a ratepayer has not honoured a previous arrangement however, the Rates Accountant has the discretion as to whether to accept a new arrangement or continue with further recovery action.
- Where outstanding rates have been referred to Council's Mercantile Agents, arrangements that go beyond one year must be approved by the Rates Accountant.
- In the event that a ratepayer fails to make a payment in full under an arrangement and does not notify Council of any financial difficulties, the total amount outstanding becomes payable and is subject to Council's normal recovery procedures.

Final Notice/Letter of Demand

A Final Notice/Letter of Demand will be issued by Councils Mercantile Agent seeking payment of the overdue amount within 7 days or entering into alternative payment arrangement. The ratepayer is advised that if there is no response to the Final Notice legal action will be taken and Councils Mercantile Agents will seek orders from the court to recover all costs associated with issuing legal action.

Legal Action / Summons

The Rates Accountant will review all overdue accounts and, having regard to the individual circumstances; instigate legal action for a summons to be issued.

The ratepayer has 28 days from the date of service of the summons to pay the amount in full before a Pre-judgement letter is issued advising ratepayers that if a default judgement is entered into the ratepayer will be listed on the credit file with Veda Advantage for a period of 5 years, unless entered in error. Failure to make full payment or respond to the Pre-judgement letter will result in "Default Judgement" being entered into. At this point a "Writ" can then be issued.

A "Writ" can take many forms such as:

- Removal of goods for sale
- Garnishee of wages
- Examination Summons
- Warrant of Apprehension
- The Winding Up of a Company
- Writ of Sale

Where Council has initiated legal proceedings, any arrangement to pay must be approved by the Rates Accountant.

Eligible Pensioners

Section 582 of the Act allows Councils to waive or reduce rates, charges and interest due by any person prescribed by the regulations who is in receipt of a pension benefit or allowance under the Social Security Act 1991 of the Commonwealth.

Council encourages eligible pensioners to meet their rate commitments as they fall due. Where an eligible pensioner is in financial difficulty, Council officers shall take into account the limited income of eligible pensioners and may enter into an agreement with them for the payment of rates by arrangement.

Council officers will seek to have the overdue rates and charges paid within the rating year in which the rates are levied.

As a general principle, Council does not take legal action against pensioners, however, each case will be assessed individually on its merits.

Eligible pensioners who are suffering hardship are able to apply to have their rates deferred – **see Hardship**.

11. DEBT RECOVERY / LEGAL ACTION

- All Legal Recovery and Arrangements are managed by Council's preferred supplier who carries out all steps required to recover outstanding debt as referred to above.
- Any debt recovery costs that are incurred are charged to, and recovered from the ratepayer, as per the Local Court of NSW Schedule of Fees and Charges.

12. SALE OF LAND FOR OVERDUE RATES

- Should all avenues of recovery action be unsuccessful, Council is able, under Section 713 of the Act as amended, to sell land for overdue rates and charges where the rates and charges remain unpaid for a period of more than five years.
- The Act as amended, and the associated Regulations, detail the procedures to be followed should Council choose to follow this course of action.

13. HARDSHIP

- Section 567 of the Act allows Council to write off accrued interest on rates and charges payable by a person if, in its opinion:

- (a) The person was unable to pay the rates and charges when they became due and payable for reasons beyond the persons control;
 - (b) The person is unable to pay the accrued interest for reasons beyond the persons control; or
 - (c) Payment of the accrued interest would cause the person hardship.
- Section 577 of the Act, allows Council to make an order deeming an eligible pensioner to be solely liable where the person otherwise is not to avoid hardship and permits Council to issue an order specifying a person who is not an eligible pensioner to be deemed an eligible pensioner and therefore qualify for the full pensioner rebate concession. Council may also exercise its option to extend the concession in order to avoid hardship under section 577 of the Act.
 - Section 582 allows Councils to waive or reduce rates, charges and interest due by any person prescribed by the regulations who is in receipt of a pension benefit or allowance under the Social Security Act 1991 of the Commonwealth. Council may also agree to allow the remainder of pensioners' rates, after concessions have been deducted, to accrue against the future estate or sale of the land in appropriate cases as determined by Council. (Attachment 2)
 - Section 564(2) of the Act enables Council to write off or reduce interest accrued on rates or charges if the person complies with an agreement made with Council as to periodical payment of those rates and charges.
 - Section 601 of the Act, refers to "substantial hardship" arising from land valuation changes and allows Council at its discretion to waive, reduce or defer the payment of the whole or part of the increase in the amount of the rate payable as a result of using new land valuations for the basis of calculating rates.
 - Section 607 of the Act provides that regulations may specify circumstances, in addition to those for which provision is made in Chapter 15 of the Act, in which a Council may write off rates and charges and interest accrued on unpaid rates and charges.

The ratepayer would be required to complete an application (Attachment 3) detailing their financial position that would then be assessed by Council Officers.

If Council is satisfied it falls within a category of hardship, it has the discretion to waive, reduce or defer the payment.

The General Manager has delegated authority to determine these applications.

Hardship applications are generally available only for exceptional circumstances.



14. PRIVACY & CONFIDENTIALITY

Council Officers will conduct themselves with courtesy and respect when dealing with ratepayers and shall maintain the privacy and confidentiality of all ratepayers' personal circumstances.

15. OVERVIEW OF PROCEDURES AND FLEXIBILITY

The procedures associated with this policy have been set out as a guideline for Council staff to refer to when making determinations on recovery issues. Due to the broad range of individual circumstances of our ratepayers, Council needs to remain flexible and to treat each individual case on its merits.

16. IMPLEMENTATION

The Finance Manager through the Rates Accountant is responsible for the implementation of this policy.

17. EVALUATION AND REVIEW

The policy will be evaluated and reviewed every two years from date of adoption.

18. RESOURCE IMPLICATIONS

Rates Staff and Customer Services Staff already administer these procedures and there are no additional resourcing implications arising from the adoption of this policy.

19. AUTHORISATION

This policy was authorised by Council.

20. ATTACHMENTS

Attachment 1 – Pensioner Concession Application Form
Attachment 2 – Request for Pensioners to Defer Rates
Attachment 3 – Hardship Rate Relief Application Form