

6.06.01 Financial hardship assistance

Directorate	Business and Governance
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1.1 Introduction

1.1.1 Scope

This procedure provides a framework for responding to applications from owners/ratepayers and customers experiencing genuine hardship with the payment of their rates, annual charges and fees in accordance with the *Local Government Act 1993 (NSW)* "the Act" and the *Local Government (General) Regulation 2021 (NSW)*.

1.1.2 Purpose

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

1.2 Definitions

Term	Definition
Financial hardship	Ratepayers or customers experiencing financial hardship are identified either by themselves, Council or an independent accredited financial counsellor as having the intention but not the financial capacity to make required payments in accordance with Council's payment terms.
Ratepayer	<p>A ratepayer is the person liable under the Act to be liable for the payment of rates. In most instances this will be the owner of the property. This definition includes the Crown in respect to the following items:</p> <ol style="list-style-type: none"> 1. An owner in any case where the Act, provides that a rate is to be paid to the council by the owner, and 2. A holder of a lease in any case where the Act, provides that a rate is to be paid to the council by the holder of the lease. <p>A tenant of a property is not a ratepayer. Hardship assistance can only be applied for by the owner of the property and is not available to a tenant.</p>
Rates and charges	<p>Rates and charges levied on land under Chapter 15 of the Act:</p> <ul style="list-style-type: none"> • Ordinary rate – base rate (Section 498) • Ordinary rate – ad valorem (Section 499) • Water access charge (Section 501) • Sewer access charge (Section 501) • Urban stormwater charge (Section 496A) • Domestic base waste management charge (Section 496) • Domestic waste collection charges (Section 496) • Commercial base waste management charge (Section 501) • Commercial waste collection charge (Section 501) • On-site sewer management annual charge (Section 608 and 107A)
Sundry debts	Debts owing to Council other than those included in the definition of rates and charges.
Water consumption	Charges for actual use of Council's water supply under section 502 of the Act. This also includes charges for sewer usage and liquid trade waste usage.

Term	Definition
Disaster	A natural disaster is a major adverse event resulting from natural processes of the Earth. A manmade disaster is attributed in part or entirely to human intent, error, negligence, or involving a failure of a man-made system.
Pandemic	Pandemics are epidemics of disease that occur on a worldwide scale and are traditionally caused by infectious diseases such as coronavirus.
Drought	Drought in Australia is defined by the Australian Bureau of Meteorology as rainfall over a three-month period being in the lowest decile of what has been recorded for that region in the past.

1.3 Legislation

- *Local Government Act 1993 (the Act)*
- 6.06.3 Debt Recovery Procedure
- OLG Debt Management and Hardship Guidelines
- OLG Council Rating and Revenue Raising Manual

1.4 Implementation

1.4.1 Hardship provisions as per the Act

Council recognises that ratepayers/customers may experience hardship in some circumstances in paying rates, annual charges, and fees. In accordance with Section 564 of the Act, Council has resolved to offer hardship assistance in the form of periodical payment arrangements.

A ratepayer may be eligible for consideration for Hardship Assistance in the payment of overdue rates, annual charges, interest, and fees, where:

They are having difficulty paying legally owed debt. This can result from life changes (for example, because of illness, unemployment or changed financial circumstances) restricting the short-term capacity to pay or other reasons beyond their control.

1.4.2 Hardship Payment Arrangements

In certain cases, ratepayers may genuinely be experiencing a period of financial hardship and as a result may have difficulty in meeting the cost of each rates instalment as and when it falls due. In such cases, Council will consider an arrangement for periodical payments of Rates and Charges and the waiving of interest charges and legal costs (where applicable). All legal proceedings will be suspended whilst a payment arrangement is adhered to or pending the outcome of a hardship application. Council will work with ratepayers by taking a flexible and realistic approach in assessing applications by:

- making reasonable allowances for ongoing living expenses, and
- considering the reason for financial hardship, and
- income received from all sources, and
- having regard to any other debts owing to different creditors.

Acceptance of arrangements is subject to the following guidelines:

- After assessment of an Application, a recommendation for interest waiving or legal cost write-off will be made by the Revenue Team Leader or Finance Manager

- All requests for interest free payment arrangements must be accompanied by an Application for Hardship Form.
- An arrangement may be entered into prior to, during or after the recovery process has commenced.
- An arrangement can be accepted on the basis that the outstanding amounts be finalised as soon as possible. Relevant comments are to be recorded in Council's system
- Arrangements can be made on a weekly, fortnightly, or monthly basis.
- Any arrangement made before the due date of the 3rd instalment, should be made such that all amounts are paid in full by 30th June of that financial year.
- Arrangements made after the 3rd instalment due date may extend into the following year, however, must be reviewed once the subsequent year's levy also becomes payable.
- All arrangements must be confirmed in writing.

The following Factors may be considered, but are not limited to, whether the ratepayer:

- has provided appropriate evidence of financial and/or other hardship
- receives Centrelink benefits receives other benefits (e.g., emergency relief funding)
- whether the applicant could be considered in acute financial hardship, for example, if an individual earns below 75% of the minimum weekly wage
- is experiencing domestic or family violence involving financial abuse
- has been referred by an accredited financial counsellor, welfare agency or legal assistance service, or
- has a payment history that indicates they have difficulty in meeting payments in the past has appropriately completed a hardship application form (if required).

In the event that a ratepayer fails to make a payment in full under an initial arrangement and does not notify Council of any financial difficulties, legal action will not commence until verbal contact has been attempted to mediate the matter. However, where two arrangements are broken, the arrangement will be cancelled, and a reminder notice issued advising that full payment is required within the date specified, after which debt recovery action will commence.

1.4.3 Hardship assistance to ratepayers impacted by drought, disasters and pandemics

1.4.3.1 Rates and Charges

- a. Maximum period for approved payment arrangements extended to 24 months for drought, disasters and pandemics
- b. Interest charges to be waived for a period of 12 months from date of declared disaster or pandemic
- c. Recovery action deferred for a period of 6 months, determined by Council resolution for each event

1.4.3.2 Rates and Charges - Drought Assistance

- a. Applies to ratepayer/s responsible for any parcel of land that is categorised as Farmland rate category in the LGA, and which is liable for the payment of South East Local Land Services rates
- b. Applies to ratepayer/s responsible for any parcel of land that is categorised as Business rate category in the LGA, that directly supplies to the agriculture sector in the LGA

1.4.3.3 Rates and Charges - Disaster Assistance

- a. Applies to ratepayer/s responsible for any parcel of land listed in the BVSC Local Government Area identified in the Bushfire Impact Assessment schedule
- b. Applies to ratepayer/s responsible for any parcel of land that is categorised as Business rate category in the LGA, that relied directly on visitor trade traversing the Princess Highway

1.4.3.4 Rates and Charges - Pandemic Assistance

- a. Applies to residential ratepayer/s responsible for any parcel of land in the BVSC Local Government Area, whose employment ceased requiring access to Government payments as a consequence of the pandemic crisis
- b. Applies to business ratepayer/s responsible for any parcel of land in the BVSC Local Government Area, whose business closed as a consequence of Government Orders during the pandemic crisis

1.4.3.5 Other Assistance - Drought and Disaster

- a. Subsidise private works on farm properties related to access and dam's reinstatement, without charging the normal margin, where those works are within the capacity of normal programs.
- b. Waiving the waste disposal fees for waste transfer stations in the LGA for general building waste and debris generated as a direct result of bushfires, subject to that material not being contaminated with any form of asbestos matter and where the costs are not otherwise recoverable by the owner through insurance or other external funding sources.
- c. Subsidise DA/inspection fees for rebuilding of destroyed homes, structures and infrastructure.
- d. One-off rates rebate for all rates assessments where homes have been destroyed or rendered uninhabitable.

1.4.3.6 Other Assistance - Pandemic

- a. Waive or defer rents for commercial operators leasing Council property who can demonstrate financial distress due to the coronavirus, in line with Commonwealth/State Government codes
- b. Waive footpath hire and related fees for business.
- c. Provide and subsidise Council-initiated online training, marketing and other support programs to local business.

1.4.4 Hardship assistance due to certain valuation changes

Valuations are independently determined by the Valuer General. Aggrieved ratepayers should make an appropriate application under the appeal provisions of the *NSW Valuation of Land Act 1916*. Contact details for the Valuer General can be found on their website - [Home - Valuer General of New South Wales \(nsw.gov.au\)](http://www.nsw.gov.au)

1.4.5 Assistance to eligible pensioners

Pensioner rates and charges concessions are available under Sections 575-584 of the Act. To receive the concession, an eligible pensioner must complete an application for Pension concession form.

The Act does not provide for the deferral of pensioner rates and charges, apart from the provisions for a formal agreement for periodical payments.

1.4.6 Writing off rates, charges, fees and interest

Interest is calculated daily on overdue rates and charges at the maximum rate announced by the Minister for Local Government each year in accordance with Section 566 (3) of the *Local Government Act, 1993*.

Interest is not charged on legal costs.

Section 564 and 567 of the Act allows Council to provide assistance to ratepayers by writing off accrued interest charges. Council will consider interest remission and all applications for interest remission must be made to Council and must meet Council's Financial Hardship Procedure.

1.4.7 Land exempt from rates

Sections 555, 556, 557 and 558 of the Act provides that certain land is exempt from all or some rates and charges.