

Debt Management and Hardship Policy

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1. Purpose

Council rates and charges fund a vast array of services, infrastructure and facilities for the local community. This policy is to establish guidelines for:

- Effective and efficient control over debts owed to Council
- Promotion of a respectful, fair and equitable approach to debt recovery
- Fulfilment of the statutory requirements of the Local Government Act 1993 and associated Local Government Regulations with respect to the recovery of rates, charges and other debts.

2. Background

The Local Government Act provides the legal framework for how Council sets and levies rates and charges each year and recovers debt from overdue rates and charges, including for waiving or reducing rates in cases of hardship. Council takes into account guidelines under Section 23A of the Local Government Act 1993 on Debt Management and Hardship in forming this policy.

3. Ensuring prompt payment

Council is committed to implementing measures to assist ratepayers and debtors to pay debts promptly. These measures include:

- a. Allowing flexible payment arrangements before rates are due, such as periodic weekly, fortnightly, monthly payments
- b. Providing a range of electronic payment options
- c. Delegating appropriate staff with the ability to enter into suitable payment arrangements
- d. Ensuring staff understand financial counselling and low-cost support services that are available for ratepayers to be referred to
- e. Providing important information with rates notices on payment options and where to go for further information
- f. Funding the local government share of the annual pensioner concession

4. Recovering debts fairly and effectively

Council acknowledges that from time to time some ratepayers will face difficulties paying fees and charges and is committed to taking a fair and flexible approach to managing their debts.

In the first instance this policy seeks to recover outstanding payments using a process that promptly determines how each debt will be paid outside a formal court process.

When rates, fees and charges are not paid by the due date, Council will issue reminder notices for levied rates, water and sewerage charges and for sundry debtors, will issue accounts statement to notify amount outstanding.

Under Section 564 of the Local Government Act 1993, agreement to periodical payment plan may be entered to manage outstanding debt. All arrangements to pay outstanding water accounts must be made with the owner of the property. No arrangement for payment may be made with a tenant of the property, unless they are the designated rate-paying lessee.

The payment of debts by arrangements shall not remove the right of Council to recover current and future charges. If the arrangement is in arrears for a period of more than 14 days and the debtor has not make any contacted will be deemed as in breach of the Section 564 payment plan agreement.

Further action will be taken against defaulted debtor without further notice by direct referral to Council's debt collection agency. If this fails, Council will pursue legal action guided by the Local Government Act 1993 and may include sale of land for overdue rates under Section 713 of the Act.

4.1 Identifying hardship

Council acknowledges there are times when a person faces difficulty in paying a debt when repayment is due. Debtors are encouraged to seek assistance from Council as soon as practical and Council will consider each case on its merits. Short-term hardship can arise from temporary changes in circumstances due to:

- 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.

Long-term hardship can arise from any if the reason listed or it can relate to the problem of managing living costs with low or fixed income such as a pension or superannuation payment.

Unreasonable causes for financial difficulty or hardship, which may not be grounds for assistance:

- Over commitment
- Long term/permanent cash flow problems caused by own decisions
- Imprisonment or payment of statutory fines
- Long term failure to pay rates.

4.2 Methodology for assessing hardship

When assessing hardship, the factors considered may include but are not limited to whether the debtor:

- Has provided appropriate evidence of financial and/or other hardship
- Receives Centrelink benefits
- Receives other benefits (e.g. emergency relief funding)
- Could be considered in acute financial hardship, for example, if an individual earns below 75% of the minimum weekly wage
- Is experiencing domestic or financial abuse
- Has been referred by an accredited financial councillor, welfare agency or legal assistance service
- Has a payment history that indicates that they have had difficulty in meeting payments in the past.

The debtor can submit applications or by another person on their behalf provided, they have evidence of authority to do so from the debtor.

Hardship arrangement for outstanding levied rates, sewerage and water charges can only be apply for the primary place of residence and requires that the property is the sole and only property.

Council does not accept hardship applications on business properties.

4.3 Payment plans with financial hardship

Council will work with a debtor to agree a realistic payment plan arrangement and take into account the capacity to pay with consideration of:

- Total disposable income
- Current financial commitments
- Number of dependants

4.1.1 Short Term Arrangements

Short-term assistance may be provided subject to the following:

- Applicant must apply in writing or verbally
- Adhere to proposed regular payments
- Maximum life of the arrangement is 6 months
- Default in arrangement will result in further legal action
- Interest will be levied as set by the Office of Local Government
- Renewed application upon expiry of arrangement

4.1.2 Long Term Arrangement

Long-term assistance may be provided subject to the following:

- The applicant must own the property and it be their primary place of residence
- Applicant must complete a signed application
- Be willing to attend a possible interview
- Be willing to provide a Statement of financial position
- Adhere to proposed regular payments
- Maximum life of arrangement is 12 months
- Default in arrangement will result in further legal action
- Interest will be levied as set by the Office of Local Government
- Applicant is to reapply each year

4.1.3 Pensioners

For pensioners, in addition to the above arrangements, Council will freeze interest on outstanding debt and will not be subject to sale of property for overdue rates.

An eligible pensioner as defined in clause 134 of the Local Government (General) Regulations 2021.

4.4 Application decisions and avenues of appeal

The ratepayer or debtor shall be advised of a decision within 14 days of application.

When a payment plan is agreed the applicant will be given written notice of:

- How long the plan will last
- Amount of each instalment payable
- The due date of each instalment
- What action Council will take if the applicant misses a payment
- Who to contact if the applicant's circumstances change.

The applicant shall have a right of appeal – usually the elected Council – and must be made within 14 days of notification.

4.5 Cancelling of hardship arrangements

A hardship arrangement may be cancelled by either party if the debtor:

- Fails to comply with their agreed payment plan
- Advises Council that the financial hardship no longer applies
- Provides false or misleading evidence of financial hardship to Council.
- No longer owns the land.

4.6 Hardship resulting from General Revaluation of the Local Government Area

A ratepayer that suffers substantial financial hardship as the consequence of the making and levying of a rate on the most recent valuation may apply to Council for deferral of payment. This is consistent with Section 601 of the Local Government Act 1993.

The following criteria determine eligibility of applications for assistance:

- The property must be categorised as either Farmland or Residential; and
- The increase in ordinary rates levied as a result of a general revaluation must exceed an amount as determined by Council; and
- The property in question must be owned by the applicant, and be their sole primary place of residence; and
- Assistance is only available in the first year that the new valuations are used to levy rates.

Assistance is only available in relation to ordinary rates. No assistance will be provided for any other charges or special rates levied on the property.

Where applications for deferral are approved by Council:

- The deferral will only be to the 30 June of the financial year in which the rates were levied;
- The applicant must enter into a payment arrangement for the settlement of the deferred amount;

Applicants may be required to submit an application on the prescribed form, and clearly demonstrate financial hardship.

4.7 Hardship resulting from proposed Special Rate Variation 2023/24

Council's Long Term Financial Plan 2023-2032 provides for a proposed Special Rate Variation, commencing in 2023/24 for four years. This Special Rate Variation is subject to the Independent Pricing And Regulatory Tribunal (IPART) approval. If approved, a ratepayer that suffers substantial financial hardship as the consequence of the Special Rate Variation may apply to Council for deferral of payment.

The following criteria determine eligibility of applications for assistance:

- The property must be categorised as either Farmland or Residential; and
- The increase in ordinary rates levied as a result of the Special Rate Variation must exceed an amount as determined by Council; and
- The property in question must be owned by the applicant, and be their sole primary place of residence; and
- Assistance is only available in the four years that the Special Rate Variation is being implemented.

Assistance is only available in relation to ordinary rates. No assistance will be provided for any other charges or special rates levied on the property.

Where applications for deferral are approved by Council:

- The deferral will only be to the 30 June of the financial year in which the rates were levied;
- The applicant must enter into a payment arrangement for the settlement of the deferred amount;

Applicants may be required to submit an application on the prescribed form, and clearly demonstrate financial hardship.

4.8 Writing off of accrued interest

Under Section 564 and 567 of Local Government Act 1993, accrued interest on overdue rates and charges may be written off where payment of the interest would cause the debtors financial hardship.

Ratepayers seeking to have interest on overdue rates and charges written off under hardship provisions must submit a hardship application form for the consideration of the Council. Write-offs will only be considered where the ratepayer has entered into payment plan arrangement and has not defaulted.

The delegated Council staff shall make the determination of application.

4.9 Writing off of debt

If a debt is unrecoverable, or Council chooses not to take any further action, outstanding debt may be reduced or write-off as per regulation:

- Rates and charges in certain circumstances under clause 131 Local Government (General) Regulation 2021

- Pensioners' rates and charges under Section 582 and 583 Local Government Act 1993, and
- Sundry fees and charges under Section 610E Local Government Act 1993

The Council can only write off outstanding debts through Council resolution.

Under clause 131 Local Government (General) Regulation 2021, the write off of rates and charges does not prevent Council from taking legal proceedings to recover the amount.

5. Dealing with Exceptional Circumstances

Council may be affected by circumstances that are outside the bounds of normality, such as pandemics and natural disasters. These circumstances may result in overbearing and long lasting impacts on the normal functioning of both the community and Council.

Throughout such times, Council may deem that it is necessary to diverge from this policy if the impact of the event is such that it warrants a more expansive application of hardship relief, as the result in increase hardship experienced by members of the community.

Such changes to the application of the existing policy may be the result of Federal or NSW Government Legislation changes or directives as issued to Council.

Council may also enact necessary changes to the existing policy to cater for any substantial increases in hardship relief applications. Where necessary to cater for such increases the changes may need to be introduced without such changes being placed before a Council meeting for adoption provided the changes are permitted under the current legislation.

It is Important to note throughout any such period of exceptional circumstance the existing policy is the overriding document Council will rely upon when determining if hardship relief should be granted.

Any changes made to the existing policy to cater for exceptional circumstance shall be applicable only for the ensuing time where the direct effect of the event is still applicable.

6. Legislative requirements

Local Government Act 1993

Local Government (General) Regulations 2021

Privacy and Personal information Protection Act 1998

7. Reference

NSW Office of Local Government's Debt Management and Hardship guidelines (November 2018)

8. Associated Documents

Delegation Policy - GM to Staff (available on intranet)

Revenue Policy

9. Policy History

Version	Date	Changes / Amendments
1.0	10 Oct 2022	Initial draft for public exhibition
	29 Nov 2022	Adopted – Council resolution 389/2022FC

10. Reviews

This policy will be reviewed every two years.

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