

## KEMPSEY SHIRE COUNCIL

### HARDSHIP RELIEF TO RATEPAYERS

### Procedure 5.4.4

Policy No. and Title	5.4	Financial Management and Control Policy
Procedure	5.4.4	Hardship relief to ratepayers
Version	4	
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## 1 OBJECTIVES

Council relies on rates and charges to fund vital local services and facilities. Council needs effective debt recovery policies in place to recover rates and charges in a timely way to ensure it remains financially sustainable and able to continue to deliver quality services.

In working with ratepayers to manage applications for genuine hardship relief due to change in circumstances, Council will operate with respect and dignity, to achieve flexible alternatives to legal action where possible in accordance with the provisions available under the NSW Local Government Act 1993.

## 2 STATEMENT

Due to exceptional and unplanned circumstances, ratepayers may at times experience difficulty in paying rates and charges. This Procedure outlines the assistance available according to the NSW Local Government Act 1993 (the Act) and the process Council will follow in assessing and determining hardship assistance.

## 3 HARDSHIP CIRCUMSTANCES

Circumstances Council will consider where ratepayers may at times encounter financial hardship, making it difficult to pay their rates and charges as they fall due, or adhere to a regular payment plan may include (but are not limited to) such matters as:

- Loss or change of employment
- Loss or change of income
- Illness
- Separation or divorce or other family crisis
- Family violence
- Carer responsibilities
- Impacts of unforeseeable events (i.e. such as the impacts of a pandemic or natural disasters)
- Significant changes to rates and charges related to legislative and regulatory changes.
- Impacts following a general revaluation of land by the NSW Valuer General.
- Impacts due to any significant changes to Council's rating structure.

#### **4. TYPES OF ASSISTANCE**

The Act gives Council the authority necessary to provide assistance to ratepayers assessed as suffering hardship<sup>1</sup> according to the following sections of the Act.

The Act mainly provides payment arrangements and the writing off of interest as well as three sections relating to pensioner relief including the waiving of rates for certain pensioners. It should be noted that the Act does not allow Councils to waive rates for other ratepayers experiencing hardship. In these instances, payment arrangements can be established, interest can be written off but Council's debt recovery process will still be followed for collecting outstanding rates.

##### Assistance by Periodical Payment Arrangements (Section 564 of the Act)

Provides Council with the option to accept payment of rates and charges as per a negotiated payment arrangement. Payment arrangements will be confirmed in writing and can be made on a weekly, fortnightly or monthly basis. Council may write off or reduce interest accrued on rates and charges if the ratepayer complies with the agreement.

If an agreed payment is not made and Council is not notified of changed circumstances beforehand, verbal contact will be attempted to mediate the matter. If two agreed payments are missed, without contact, the payment arrangement will be cancelled.

##### Assistance by Writing off Accrued Interest (Section 567 of the Act)

Interest is set by the Council but must not exceed the maximum amount announced each year by the Minister for Local Government, in accordance with Section 566 of the Act.

Council may write off accrued interest on rates and charges payable if, in its opinion:

- The person was unable to pay the rates and charges when they became due for reasons beyond the person's control;
- The person is unable to pay the accrued interest for reasons beyond their control; or
- Payment of the accrued interest would cause the person hardship.

##### Extension of concession to avoid hardship (Section 577 of the Act)

Council can help avoid financial hardship by enabling access to the pensioner rebate through making an order that the status of eligible pensioner may be extended to a person who would not normally be eligible, but their sole place of occupancy and shared liability for rates and charges is with someone who is an eligible pensioner.

##### Abandonment of Pensioners Rates and Charges (Section 582 of the Act)

Council may waive or reduce rates, charges and interest due by any person prescribed by the Regulations who receives a pension, benefit or allowance under Chapter 2 of the Social Security Act 1991 and is the holder of a pensioner concession card issued by or on behalf of the Commonwealth Government.

##### Deferral of Recovery Proceedings against eligible pensioners who are entitled to receive a rebate of Council's Rates and Charges (Section 712 of the Act)

Where Council has deemed that payment of Rates and Charges would cause hardship, eligible pensioners over the accepted retirement age may be allowed to accrue rates and charges against

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<sup>1</sup> Hardship is assessed under section 5 of this document – Financial Hardship assessment guidelines.

their estate.

According to the Act, there is a limit of 20 years maximum for the deferral of payment and recovery proceedings which means that Council will require any debt managed through Section 712 to be paid within 20 years.

Any deferral arrangements will be reviewed and signed by Council and the eligible pensioner ratepayer annually, when the rates notice is issued. The amounts deferred are payable when the property is sold, passes to the estate, ceases to be the principal place of residence or if the applicant ceases to be an eligible pensioner.

#### Assistance due to General Revaluation of Land and changes to the Rating Category of Properties (Section 601 of the Act)

Under this section of the Act a ratepayer who incurs a rate increase in the first year following a revaluation of land values, undertaken independently by the NSW Valuer General, may apply to Council for relief if the increase in the amount of rates payable would cause them substantial hardship.

In such circumstances Council has the discretion to waive, reduce or defer payment of the whole or any part of the increase in the amount of rates payable following a revaluation, for such a period and subject to the conditions that Council sees fit.

Applications for this assistance are to be submitted within 30 days of receipt of the rate notice immediately after a new valuation has been applied.

## **5. FINANCIAL HARDSHIP ASSESSMENT GUIDELINES**

Applications for hardship assistance must be made to Council using the Hardship Rate Relief form which is available on Council's website.

The applicant must meet the following criteria:

- Must be the owner of the property and must be liable for the payment of rates and charges on the property.
- The property for which the hardship application is made must be the principal place of residence of the applicant or of the applicants immediate family.

Each application will be assessed on a case-by-case basis having consideration of the unique circumstances that can impact ratepayers differently.

Genuine financial hardship will need to be demonstrated and must be accompanied with supporting information which could include but is not limited to:

- Details of all income including wages, benefits and any other sources of income.
- Details of all expenditure.
- Details of all bank accounts and balance of same
- Details of all credit cards and balance of same.
- Details of any other investments.
- Details of last Tax Assessment Notice.
- Number of children and /or dependents.

- A letter supporting the application and indicating the period of time for which the hardship relief sought may apply from a financial professional such as a financial advisor, financial counsellor, financial planner, accountant or solicitor.

Further supporting information may be requested for financial hardship applications under Section 712 of the Act, being Deferral of Recovery Proceedings against eligible pensioners who are entitled to receive a rebate of Council's Rates and Charges. The information required would be considered on a case-by-case basis and would be requested prior to any approval for any arrangements under this section of the Act to protect Council against any potential future financial loss (i.e. where equity in the property becomes less than the value of the outstanding rates and charges).

## **6. RESPONSIBILITY**

Authority for implementing this Procedure is delegated by Council to the General Manager in accordance with the Act.

The General Manager has in turn delegated the day to day management of Council's debt recovery to the Director Corporate and Commercial and Group Manager Corporate Services.

A Rates Review Committee, Chaired by the Director Corporate and Commercial and comprising senior Finance and Revenue staff as delegated by the General Manager, will consider each application on its merits.

It should be noted that elected officials (i.e. Councillors) play no role in the assessment of financial hardship applications, as the General Manager is delegated appropriate authority to sign off on such assessments.

The applicant will be informed of Council's decision in writing and if not satisfied with the outcome can request Council to reconsider its decision. After an application is reconsidered, a decision made and signed off by the General Manager the ratepayer has no further right of appeal.

## **7. PRIVACY**

Personal information collected in connection with this Procedure will only be used for the purposes of determining the hardship application and will not be used for any other purpose or disclosed to any other person unless Council is required to do so by law or authorised to do so by the person to whom the personal information relates.

## **8. VARIATION**

The General Manager reserves the right to review, vary or revoke this procedure, which will be reviewed periodically to ensure it is relevant and appropriate.

## 9. DEFINITIONS

<b>Term</b>	<b>Meaning</b>
Act	NSW Local Government Act 1993
Agreement / Arrangement	An agreement accepted by Council or its agents for a person to repay a debt within a specific period of time and with conditions applied.
Costs	Amounts incurred by Council in recovering overdue debts (i.e. Court, interest and professional costs) which can legally be recovered from the ratepayer.
DVA	Department of Veterans' Affairs
Eligible Pensioner	As defined in Clause 134 of the Local Government (General) Regulation 2021.
Financial Hardship	Any situation where an individual is having difficulty paying legally owed debt. This can result from a range of unplanned life changes and will restrict the ability of the resident to meet their financial obligation to Council for a limited or long-term duration.
Interest	Interest raised in accordance with the NSW Local Government Act 1993 and at a rate as adopted by Council as part of the Revenue Policy.
Write Off	The accounting procedure for cancelling a debt that is no longer collectable, resulting from its removal from a ratepayer's account.