

## 1 BACKGROUND

This policy recognises that due to exceptional circumstances, ratepayers and customers of Council experience difficulties in meeting their commitments in Rates and Charges and other debts.

## 2 OBJECTIVES

The objectives of this policy are:

- 2.1 To provide financial assistance to ratepayers and other debtors who are experiencing genuine financial hardship with the payment of their rates and charges.
- 2.2 To provide a decision making framework for the appropriate assessment of all financial hardship applications.
- 2.3 To fulfill the statutory requirements of the Local Government Act 1993 and other relevant legislation in relation to the recovery of rates and charges, and other debts.

## 3 DEFINITIONS

**“Eligible Pensioners”** are defined under s.134 of the Local Government (General) Regulation 2005 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 member of either of those forces, or
  - iii. the widowed mother of a deceased unmarried member of either of those forces, and who 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.

**“Rate and Charges”** are those items appearing on Council’s annual assessment notice issued in accordance with s.546 of the Local Government Act, 1993 and includes property rates, domestic waste management charge and stormwater levies issued for the year.

**“Repayment Plan”** is a plan fully documenting arrangements to pay which has been endorsed by the approving officer under delegation.

**“Sundry Debtor”** is an entity from who amounts are due for goods sold or services rendered or in respect of contractual obligations. It does not include rates and charges and accrued interest relating to s.546, s.562 and s. 566 of the Local Government Act 1993.

## **4 STAKEHOLDERS**

All Council Divisions, ratepayers, organisations and individuals using Council goods and services.

## **5 APPLICATION & IMPLEMENTATION**

This policy deals with the options available to provide assistance to ratepayers and, where appropriate, other debtors in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005.

### **5.1 Options**

The options to be considered are:

- 5.1.1 Hardship resulting from certain valuation changes (s. 601 Local Government Act 1993)
- 5.1.2 Extension of the Pension concession to avoid hardship (s.577 and 578 Local Government Act 1993)
- 5.1.3 Agreement as to periodic payment of rates and charges (s. 564 Local Government Act 1993)
- 5.1.4 Writing off accrued interest (s. 567 Local Government Act 1993)
- 5.1.5 Procedures for writing off rates and charges (Part 131 Local Government (General) Regulation 2005)
- 5.1.6 Writing off Pensioner rates and charges (s. 582 and s.583 Local Government Act 1993)
- 5.1.7 Other Hardship considerations (Council policy)
- 5.1.8 Deferral of rates (Council policy)
- 5.1.9 Writing off debts to Council (Part 213 Local Government (General) Regulation 2005)

### **5.2 General Principles**

Council will observe the following general principles in relation to considering hardship applications for relief of rates and charges due:

- 5.2.1 Council will offer help to ratepayers who are experiencing genuine financial hardship in paying their rates and charges
- 5.2.2 With the exception of Repayment Plans, assistance will only be granted to residential ratepayers who use the subject property as their principal place of residence

- 5.2.3 The preferred type of assistance provided to ratepayers under this Policy will be the negotiation of repayment plans
- 5.2.4 Debt recovery action through the Courts will not be taken in the case of pensioners except where it is clear from evidence held by Council that the ratepayer has a ready capacity to pay without resulting in hardship
- 5.2.5 Ratepayers seeking assistance under this Policy will be required to complete an application form and provide evidence in support of their application.

## 6 PROCEDURES

### 6.2 Hardship Resulting From Valuation Changes - (Section 601 of the Local Government Act, 1993)

Section 601 gives Council discretion to waive, reduce or defer all or part of an increase incurred, above the annual allowable increase, because of a change in valuation. e.g. if the new valuation means the rates payable have increased by 5% from the previous year and the allowable increase is 2.9% the increase referred to in Section 601 is 2.1%

This section only applies to property rates and excludes other charges appearing on the annual assessment notice.

Every three years the New South Wales Valuer General revalues all rateable properties in the Fairfield City Local Government Area. Because of market factors, some residential properties can significantly increase in value resulting in a sharp increase in the rates due on the property. Where such a circumstance brings about genuine financial hardship for a ratepayer, the ratepayer may apply to Council for rate relief.

Under these circumstances Council may waive, reduce or defer the payment of the whole or any part of the increase in the amount of the rate payable by the ratepayers. When considering the level of waiver or reduction appropriate, Council will generally make the determination based on the following criteria:

**This rate relief is only available to be used in the first year in which the new valuations apply.**

Any application under S. 601 will be determined based on the following criteria:

- 6.2.1 The property must be the ratepayer's principal place of residence
- 6.2.2 The income test will be based on the net current years' rates payable as a proportion of gross household income.
- 6.2.3 The current rates payable excludes the Domestic Waste Management Charge and Stormwater Levy and Pension Rebate (if applicable)
- 6.2.4 The gross rental income of other properties in the owner's name (if any) is to be included in the calculation of gross household income

- 6.2.5 For mixed developments the residential component only will be considered for the hardship provisions. In these cases the income stream from the business portion is required to be included as gross household income
- 6.2.6 The current rates payable (excluding Domestic Waste Management Charge, Stormwater Levy and Pension Rebate (if applicable) must be greater than five (5) percent (5%) of the gross household income.
- 6.2.7 The increase in the current rating year's rates payable compared to the previous rating year, must exceed the percentage increase allowed by the Minister for Local Government in terms of S. 506 of the Local Government Act, 1993 for the current rating year.

Following a request for assistance under this Section the applicant must complete an **“Application for Hardship Assistance”** form and provide evidence to support the details given in the Application Form.

The maximum amount of assistance provided to an applicant in any one year will not exceed \$300.00

### 6.3 Extension of the Pension Concession to Avoid Hardship (Section 577 and 578 of the Local Government Act, 1993)

Where a property is jointly owned by a pensioner along with one or more others who are not pensioners, the current rebate scheme operated by the State Government limits the rebate to an amount commensurate with the proportion of the property owned by the pensioner. For example if the pensioner is an equal joint owner with one other, he/she can only be eligible for a maximum of \$125 of the \$250 maximum rebate.

This section of the Policy permits a ratepayer who is suffering from substantial hardship and who is not an eligible pensioner but is jointly liable for payment of rates and domestic waste services with an eligible pensioner to be deemed to be an eligible pensioner. Additionally a pensioner who is jointly liable for the payment of rates and domestic waste service may be deemed to be solely liable.

The effect of these provisions is to permit, subject to hardship, treatment of joint ownership in a manner that qualifies for the maximum rebate amount provided at least one of the joint owners is a pensioner.

A request for assistance under this Section requires:

- 6.3.1 The completion of an **“Application for Hardship Assistance”** form and the provision of evidence to support the application.
- 6.3.2 The property being the principal place of residence
- 6.3.3 The rates payable must be more than 5% of the gross household income.
- 6.3.4 If a person (other than a life tenant) is residing in premises belonging to the estate of a deceased person, and the occupant's circumstances are such that they would warrant an extension of the concession to avoid hardship,

they must produce evidence in the form of a letter from their solicitor or a Statutory Declaration in to verify supporting evidence given.

#### **6.4 Agreement as to periodic Payment of Rates and Charges - (Section 564 (1) of the Local Government Act, 1993)**

Section 564 (1) allows Council to enter into an agreement with a ratepayer to make periodic payment of rates and charges

S. 564 allows Council to accept payment of rates and charges differing to the original four instalments. A ratepayer seeking assistance may enter into an agreement between Council and the ratepayer for the repayment of the amount owed based on a schedule of regular payments of a certain amount over a period of time. This agreement is in the form of a repayment plan.

The repayment plan is based on:

- 6.4.1 the ratepayers ability to pay
- 6.4.2 terms mutually agreed between the ratepayer and Council staff
- 6.4.3 The ratepayer being given the opportunity to service the repayment plan via direct debit arrangements as a preferred method of payment.
- 6.4.4 The repayment plan being fully documented signed by the ratepayer and Council officer and countersigned for approval by the approving officer under delegation. (The negotiating officer cannot be the approving officer)
- 6.4.5 If the ratepayer is an eligible pensioner no interest will accrue until any arrears are paid.
- 6.4.6 The ratepayer notifies Council immediately their circumstances change in a way which alters their ability to pay.

#### **6.5 Writing Off Accrued Interest - (Sections 567 of the Local Government Act, 1993)**

Section 567 outlines the reasons for writing off accrued interest.

Interest accrues on rates and charges when the ratepayer fails to pay the amount owing by the due date. Council may write off accrued interest on rates or charges payable by a person if:

- 6.5.1 The person was unable to pay the rates or charges when they became due and payable for reasons beyond the person's control, or
- 6.5.2 The person is unable to pay the accrued interest for reasons beyond the person's control, or
- 6.5.3 Payment of the accrued interest would cause the person hardship, or
- 6.5.4 The person complies with a mutually agreed repayment plan as provided for under **6.4** above for the payment of residential rates.

Council staff has delegation to write off accrued interest up to \$100 without the ratepayer needing to complete an “**Application for Hardship Assistance**” form:

A request for assistance under this Section for amounts above \$100 requires

- 6.5.5 The completion of an “**Application for Hardship Assistance**” form and the provision of evidence to support the application.
- 6.5.6 The property being the principal place of residence
- 6.5.7 The rates payable must be more than 5% of the gross household income.
- 6.5.8 The ratepayer complying with a mutually agreed repayment plan.

## 6.6 Procedures for writing off Rates and Charges (Part 131 Local Government (General) Regulation 2005)

Part 131 allows Council to delegate to the General Manager the authority to write off rates and charges. It allows Council to set a limit on the amount that can be written off by delegation and outlines the reasons for writing off rates and charges.

Part 131 allows a write off of rates and charges by resolution of the Council or by order in writing by the General Manager (subject to delegation given by Council). Amounts can be written off under this part in the following circumstances:

- 6.5.1 If there is an error in the assessment
- 6.5.2 If the amount is not lawfully recoverable
- 6.5.3 As a result of a decision of the court
- 6.5.4 Or if Council or the General Manager believes an attempt to recover the amount would not be cost effective.

## 6.7 Writing off Pensioner Rates and Charges (s. 582 and s.583 Local Government Act 1993)

Sections 582 and 583 allows Council to write off rates and charges for eligible pensioners

The pension concession currently offered by Council is fifty percent of the total rates and charges up to a maximum concession of two hundred and sixty dollars. (this includes \$10 stormwater levy refund)

## 6.8 Other Hardship Considerations

Hardship relief may also be considered for ratepayers who through illness, unemployment and other circumstances are eligible for Centrelink benefits.

A request for assistance under this Section requires:



- 6.8.1 The completion of an “Application for Hardship Assistance” form and the provision of evidence to support the application.
- 6.8.2 Proof of eligibility for Centrelink benefits
- 6.8.3 Entering into a mutually agreed repayment plan.
- 6.8.4 Agreement to pay any nominated amount agreed in a repayment plan to be paid through Centrepay
- 6.8.5 The property being the principal place of residence
- 6.8.6 The rates payable must be more than 5% of the gross household income.
- 6.8.7 Agreement from ratepayer that any relief will cease when eligibility for Centrelink benefits ceases.

## 6.9 Deferral of Rates and Charges

An eligible pensioner may apply to Council seeking deferral of payment of Rates and charges which are in excess of the amount rebated on the property. Under this option, the pensioner ratepayer’s annual rates and charges together with applicable accrued interest, is deferred until the property is sold or, in the event of death, the estate settled.

A request for deferral of rates requires:

- 6.9.1 The applicant to be an eligible pensioner and be the owner/occupier of property.
- 6.9.2 Agreement by the eligible pensioner to pay at least a nominal amount(\$20 per fortnight) from their pension through Centrepay towards their rates
- 6.9.3 Completion of a **“Pensioner Application to accrue Rates”** form.

## 6.10 Writing off debts to Council (Part 213 Local Government (General) Regulation 2005)

Part 213 allows Council to delegate to the General Manager the authority to write off debts. It allows Council to set a limit on the amount that can be written off by delegation and outlines the reasons for writing off debts.

Part 213 allows Council to write of a debt by resolution or in writing by the General Manager (subject to being given delegation by Council).

Any resolution or order writing off a debt must:

- 6.10.1 Specify the name of the person whose debt is being written off, and
- 6.10.2 Identify the account concerned, and
- 6.10.3 Specify the amount of the debt or refer to a record kept by the Council in which those particulars are recorded.

A debt can be written off under this clause only:

- 6.10.4 If the debt is not lawfully recoverable, or

6.10.5 As a result of a decision of a court, or

6.10.6 If the Council or the General Manager believes on reasonable grounds that an attempt to recover the debt would not be cost effective.

Although the debt is written off under this clause it does not prevent Council from taking legal action to recover the debt.

## **7 RELEVANT LEGISLATION**

NSW Local Government Act 1993 Sections 564, 567, 581, 578, 582, 583, 601.

NSW Local Government (General) Regulation 2005 Part 131 and 213.

## **8 VARIATION**

Council reserves the right to cease, modify or vary the terms and conditions of this policy.

## **9 REVIEW DATE**

This policy will be reviewed in February 2017 or prior to that date if it is affected by a change in legislation.

## **10 PRIVACY**

Personal information collected as a consequence of this policy will only be used for the purpose of assessing eligibility under the policy and will not be used for any other purpose or disclosed to any other person unless required by law to do so or authorised to do so by the person to whom the personal information relates.

## **11 AUTHORISATION**

By resolution of Council dated: 11 February 2014 at Services Committee Meeting