

# Rates Collection and Hardship Policy

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## Relevant legislation / references

### **Council related Policies/Procedures:**

Financial Management Policy

Revenue and Rating Plan 2021-2025

### **Legislative Framework:**

Local Government Act 1989

Local Government (General) Amendment Regulations 2023

Penalty Interest Act 1983

## Introduction

This policy contains administrative provisions for the collection of rates charges and recovery of money owing to Council using efficient and effective methods of collection.

Council recognises there are cases of genuine financial hardship requiring respect and compassion. This policy establishes the guidelines for assessment of hardship application based on the principles of fairness, integrity, confidentiality and compliance with statutory requirements. It applies to all applications for waiving or deferring rates and/or interest on debts raised through rates and charges.

## Purpose

The purpose of this policy is to provide a framework for the efficient and effective administration and collection of outstanding rates and charges (including Fire Services Property Levy) whilst treating all ratepayers respectfully, fairly and consistently, and to fulfil statutory requirements in relation to the collection of rates and charges. In this regard the Policy provides:

- a) Guidance to ratepayers suffering financial hardship.
- b) Clearly defined options for decisions to be made in accordance with Sections 170 and 171A of the Local Government Act 1989

## Scope

This policy applies to:

- a) all outstanding accounts for rates and charges
- b) to all council employees authorised with the responsibility of raising and collecting Council's rates and charges.



## Definitions

In this Policy the definition of terms used has the same meaning as that defined in the *Local Government Act 1989 (the Act)*.

### Payment Plan

A 'payment plan' is a schedule of payments agreed to by both the Council and ratepayer which provides for flexible payment of debts after the due date has lapsed. The payment plan option would generally apply to medium term cases of financial hardship, for example periods of more than three or four months, but less than one year.

### Deferral of Rates

Deferral of Rates is the placing on hold of rates and charges payments for an indefinite period. Rates and charges are deferred until such time as the ratepayer's circumstances improve or the property is sold or transferred to another entity. Interest continues to accrue on deferred rates and charges.

### Waiver of Rates

A Waiver of Rates is a one-off abandonment (write-off), which removes the liability to pay, and may be offered to include the whole or part of any rate, charge, or interest.

### Financial Hardship

is a situation where a property owner is reasonably unable, because of illness, unemployment, or other reasonable cause, to discharge their financial obligations. Financial hardship involves an inability of the property owner to meet their commitments (bills), rather than an unwillingness to do so.

Common causes of hardship may include, but are not limited to:

- a) Loss of employment of the property owner or family member;
- b) Family breakdown;
- c) Illness, including physical incapacity, hospitalisation, or mental illness of the property owner or family member;
- d) A death in the family\*
- e) Victims / survivors of family violence
- f) They are a pensioner living in a family home can no longer afford to pay rates from a pension as property value has escalated over the period of ownership significantly increasing the rates burden
- g) Other factors resulting in unforeseen change in the property owner's capacity to meet their payment obligations, whether through a reduction in income or through an increase in non discretionary expenditure



## References

- Local Government Act 1989
- Penalty Interest Act 1983
- Revenue and Rating Plan 2021-2025

## Policy Detail

### 1. Administrative Provisions

#### **Billing**

Council's rates billing system will record financial information on a transactional basis and maintain debtor information in accordance with established principles of rating in Local Government.

Annual rate notices will be issued in accordance with, and comply with, the provisions of the Act and applicable Regulations which are in force from time to time. Notices will also be issued in accordance with the Act prior to the due date of the first instalment. Subsequent instalment reminder notices will also be issued in accordance with the Act. The onus rests with the ratepayer to ensure a current postal address is held by Council.

#### **Interest on overdue rates**

Interest will be charged on overdue rates and charges in accordance with the Act (Section 172).

#### **Payment of Rates & Charges**

Council allows the payment of rates and charges in accordance with the Act:

- a) By four (4) instalments due and payable on the dates fixed by the Minister by
- b) notice published in the Government Gazette.

#### **Overdue amounts**

Amounts (debts) outstanding with a balance greater than \$50 after the fourth instalment due date will be issued with a final notice, which contains information regarding proposed action to be taken by Council, should the account remain unpaid after a further fourteen days. The ratepayer will be given the opportunity to make alternative arrangements for payments within that fourteen-day period.

Amounts outstanding with a balance of more than the value of one instalment, subject to the value being not less than \$500, and who have either not entered a payment arrangement or defaulted on a payment arrangement after the final notice period may be submitted to a collection agency for recovery of the debt.



For ratepayers with multiple accounts outstanding, only the account with the greater balance owing will be subject to further recovery action at any one time.

The collection agency will issue email and text reminders (where possible) requesting payment or arrangements to pay, those still unpaid will be issued a “seven-day letter of demand”. Amounts outstanding after the expiry of the “seven-day letter of demand” may be proceeded against in the legal system (Courts) for the recovery of the debt.

All legal costs incurred as a result of instigation of recovery by legal means will be allocated to the ratepayer’s assessment and remain a charge on the property until settled.

Should recovery proceedings culminate in “judgement” against a ratepayer Council may exercise its rights under the Act to sell the land to recover unpaid rates and/or charges. Refer Part 4 Sale of land.

## 2. Alternative Payment Arrangements

Council will consider all requests for alternative payment arrangements.

Council will not reject any reasonable arrangement request; however attempts should be made to negotiate full payment of overdue debts by the end of the current financial year, or prior to the next issue of annual rate and valuation notices. Amounts in arrears at the date of a subsequent issue of annual rate and valuation notices may result in overdue amounts being collected in accordance with Part 1 if payment arrangements are not adhered to.

Council will not unnecessarily invade the privacy of a ratepayer’s financial and personal circumstances except where previous arrangements have not been adhered to or the Council is of the opinion the arrangement requested is insufficient or unsatisfactory.

## 3. Financial Hardship

### 3.1 Deferred Payment of Rates and Charges

#### Section 170 Local Government Act 1989

The intent of providing a deferral for payment of rates or other charge will be to assist a ratepayer who owns and occupies a single rateable property and who can demonstrate, via a completed application form, that payment of rates will cause hardship.

Council will consider an application for the deferred payment of outstanding rates and charges for a period not exceeding 12 months following the due date for payment for



the applicable financial year. If granted the deferred payment arrangement will be subject to the following conditions:

- a) That the ratepayer pays interest on the amount affected by the deferral at the interest rate applicable to Council for the rating year.
- b) The deferral ceases and the deferred rates and accrued interest are immediately payable if the ratepayer ceases to own or occupy the property on which the rates are imposed.
- c) The deferral ceases if Council in its discretion revokes the deferral. In such cases, Council will notify the ratepayer in writing and request full payment of the deferred rates and accrued interest within 30 days.
- d) If the deferred rates and charges remain unpaid after the agreed due date Council may enter into a subsequent deferred payment arrangement or initiate recovery proceedings.
- e) Deferred payment arrangements do not apply to future rates and charges. A separate application must be made.
- f) An increase in the valuation of a property and a subsequent increase in rates cannot be considered grounds for a deferred payment of rates.

### 3.2 Waiver of Rates and Charges

#### [Section 171A of the Local Government Act 1989.](#)

Under Section 171A of the Act a person suffering financial hardship may make application to Council for a waiver of the whole or part of any rate, charge or interest.

Council's preference is to not to waive rates, municipal charges or service charges (where applicable), as the value of each property provides the owner with a potential source of funds, if liquidated.

It is considered inequitable for the majority of ratepayers to subsidise the property assets of hardship applicants.

A more equitable solution for the community is to defer rates and charges (refer Section 3.1). Council will, however, consider waiver applications for interest and legal costs that may have been, or will be, incurred by the ratepayer

Where a ratepayer is unable to make payments and the charging of interest would cause undue financial hardship, an application under section 171A will be considered against the following waivers:



**1. Administrative Waiver**

Ratepayers may have interest only waived in the event of an administrative error or omissions which caused or significantly contributed to the failure to pay rates.

- a) An example of an administrative error includes:
  - i. Failure to process a change of address notified to Council in writing and the rate notice was sent to the wrong address.
  - ii. Processing of a payment to an incorrect assessment causing interest to be charged incorrectly, where the error has been caused by Council.
  - iii. Small balance write offs where the cost to recover the debt would be higher than the debt itself. The maximum small balance write off in any one account will be \$100.
- b) Applications for waiver under this section will be considered under delegation by the Rates Administrator. Applications for waiver for a greater amount may be considered by the Director Corporate and Community Services.

**2. Waiver on Compassionate Grounds**

Ratepayers may have interest only waived where they have demonstrated compassionate grounds for a payment being late.

- a) Acceptable compassionate grounds would generally relate to family illness or death.
- b) Applications for waiver up to \$100 under this section will be considered under delegation by the Rates Administrator. Applications for waiver for a greater amount may be considered by the Director Corporate and Community Services.

**3. Waiver due to Natural Disaster**

Where a natural disaster has occurred (e.g. flood, fire), rates lump sum or instalment payment due dates (or both) may be extended for affected ratepayers interest free at the discretion of the Director Corporate and Community Services.

**4. Financial Hardship:**

- a) Ratepayers may have interest and legal costs, or part thereof, waived subject to the following conditions:
  - i. The ratepayer must be experiencing genuine financial hardship.
  - ii. The ratepayer must make application in accordance with clause 4b below.



- iii. In the case of a family or individual, the ratepayer may be directed to an independent Financial Counsellor for assistance.
- iv. Where practicable, the ratepayer must enter into an agreement with Council on a payment schedule and perform against such agreement.
- b) Applications for waiver interest due to genuine financial hardship will be considered subject to the following circumstances:
  - i. A Waiver will only be granted:
    - To a person for a property or part of a property used exclusively for residential purposes and is the sole or principal place of residence of the person
    - For land classified as farmland and is the sole or principal place of residence of the applicant
    - For land classified as commercial/industrial and is owned and operated by the applicant.
  - ii. The applicant must complete an application form in the required format.
  - iii. The applicant may be requested to provide:
    - A Certified Statement of Financial Position signed by a qualified accountant or financial counsellor.
    - A Financial Plan to ensure future rates and charges can be paid.
    - Any other information deemed necessary to assist with assessing an application.
  - iv. That an application will only apply for the current rating financial year after which a new application will be required.
  - v. Applications under this section will be considered under delegation by Director Corporate and Community Services

#### 4. Application for Review

- 4.1 Where a person is dissatisfied with the outcome of their application, the customer may ask the Chief Executive Officer to review Council's decision by completing and lodging the Request for Internal Review form. The Chief Executive Officer will determine the appeal within 20 working days from receipt of the form.
- 4.2 Where the customer is still dissatisfied with the outcome of their application, the customer can refer the matter to the Victorian Ombudsman.



## 5. Sale of Land

In accordance with the Act, Council may sell land, or cause land to be transferred to itself, for an amount equal to or more than the estimated value of the land in order to recover overdue amounts in respect of rateable land.

Council will apply the provisions of Section 181 of the Act in the following circumstances:

- a. Where all other recovery attempts have failed; and
- b. Where at least three full years of rates and/or charges remain unpaid; and
- c. The rates and/or charges have not been deferred for the period for which they are unpaid; and
- d. The ratepayer does not permanently reside at the property for residential purposes; and
- e. Council has resolved to sell, or transfer, the rateable land subject to Section 181.

The Council will not enter into any arrangements for payment of overdue rates and/or charges after notices have been served pursuant to the provisions of the Act. Only full payment of all rates, charges, interest and costs will avoid a sale.

## 6. Other

Notwithstanding the provisions above, the Chief Executive Officer may from time to time defer rates and charges, waive interest or cease any hardship arrangements at their discretion.

### Reference to linked procedure or guidelines, if applicable

- Application form for Deferral of Rates and/or Waiver of Interest due to financial hardship.
- Request for Internal Review form.

### Human Rights commitment

It is considered that this Policy does not impact negatively on any rights identified in the *Charter of Human Rights and Responsibilities Act (2006)*.



## Document history

Version Number	Details of change
CCS 5 version 2	Inclusion of Hardship provisions.

## Policy owner

Manager, Finance & IT