



# Financial Hardship Policy

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Division/Department:	Corporate Services/Finance
Responsible Officer:	Chief Financial Officer
HPE CM Record Number:	18/180307

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## Objectives

The objectives of the Financial Hardship Policy are to:

- Provide appropriate financial relief to ratepayers and other debtors who are experiencing genuine financial hardship with payment of the outstanding amount they owe Council.
- Provide a decision making framework for the assessment of financial hardship applications.
- Fulfill the requirements of the Local Government Act 1993 and other relevant legislation and Policy in relation to the recovery of outstanding debt.

## Legislative Provisions

The following sections of the *Local Government Act 1993* can facilitate the provision of appropriate financial relief:

### *564 Agreement as to periodical payment of rates and charges*

- (1) A council may accept payment of rates and charges due and payable by a person in accordance with an agreement made with the person.
- (2) The council may write off or reduce interest accrued on rates or charges if the person complies with the agreement.

### *567 Writing off of accrued interest*

The council may write off accrued interest on rates or charges payable by a person if, in its opinion:

- (a) the person was unable to pay the rates or charges when they became due and payable for reasons beyond the person's control, or
- (b) the person is unable to pay the accrued interest for reasons beyond the person's control, or
- (c) payment of the accrued interest would cause the person hardship.

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577 *Extension of [pensioner] concession to avoid hardship*

- (1) If a council considers it proper to do so to avoid hardship, the council may, by order, direct that:
  - (a) a person specified in the order:
    - (i) who occupies a dwelling as his or her sole or principal place of living, which dwelling is the sole or principal place of living of an eligible pensioner, and
    - (ii) who is jointly liable with that eligible pensioner or with that eligible pensioner and one or more other persons in respect of the land on which that dwelling is situated, and
    - (iii) in respect of whom a reduction of rates or charges would not, if that person were solely liable in respect of that land, be required to be made under this Division, or
  - (b) any person belonging to a class of persons specified in the order, being persons referred to in paragraph (a), is, on and from the effective date of the order, taken, for the purposes of this Division, to be or to have been an eligible pensioner.
- (2) If a council considers it proper to do so to avoid hardship, the council may, by order, direct that:
  - (a) an eligible pensioner specified in the order who, although not liable, or although liable jointly with one or more other persons, to do so, has, for such period as, in the opinion of the council, warrants the making of an order under this section in respect of that person, paid the whole of the rates or charges for the land on which that dwelling is situated or is, in the opinion of the council, likely to pay the whole of the rates or charges in circumstances that in the opinion of the council warrant the making of an order under this subsection, or
  - (b) any person belonging to a class of persons specified in the order being persons referred to in paragraph (a), is, on and from the effective date of the order, taken, for the purposes of this Division, to be or to have been the person solely liable in respect of the land on which the dwelling is situated.
- (3) An order under this section has effect according to its tenor.

601 *Hardship resulting from certain valuation changes*

- (1) A ratepayer who, as a consequence of the making and levying of a rate on a valuation having a later base date than any valuation previously used by a council for the making and levying of a rate, suffers substantial hardship, may apply to the council for relief under this section.
- (2) The council has a discretion to waive, reduce or defer the payment of the whole or any part of the increase in the amount of the rate payable by the

ratepayer in such circumstances, for such period and subject to such conditions as it thinks fit.

- (3) An applicant who is dissatisfied with a council's decision under this section may request the council to review its decision and the council, at its discretion, may do so.

#### 712 *Special provisions with respect to the recovery of unpaid rates and charges*

- (1) Proceedings for the recovery of a rate or charge may be commenced at any time within 20 years from the date when the rate or charge became due and payable.
- (2) All rates and charges payable by the same person, whether in respect of the same or of different land, may be recovered in a single action.

## Conditions for Consideration of Financial Hardship

Council will only consider an application for financial relief on the grounds of financial hardship when:

- The property to which the application relates is the principal place of residence, business or occupancy of the applicant; and
- The actual hardship exists and is genuine.

## Application for Consideration of Financial Hardship

Debtors seeking financial relief on the grounds of financial hardship are to make written application in the form of a letter outlining their particular circumstances. Application must be made within 90 days of the due date for payment of the amount outstanding.

The application will be assessed by the Team Leader revenue and/or Rates Clerk.

A determination under this policy will be assessed against financial information provided by the applicant. Supporting documentation will include, but is not limited to:

- Copies of recent bank statements for all accounts held by the applicant
- A detailed monthly analysis of all income and expenditure of the applicant
- Written confirmation of the financial hardship from the applicant's accountant, a financial counsellor or financial planner

Following assessment of the application a recommendation made to the Manager Finance.

The recommendation may be to waive, reduce or defer the amount outstanding or, under section 577 of the Local Government Act, extend any applicable pensioner concession.

Deferral includes allowing eligible pensioners' rates and/or charges to accrue against the future estate or sale of the land to which the rate and/or charges apply.

If a recommendation is made to:

- Enter into a scheme of arrangement for payment or allow pensioners' rates and/or charges to accrue against the future estate or sale of the land, it may be approved by the Manager Finance in accordance with Council's Debt Recovery Policy.
- Write off part or all of the amount outstanding, it may be approved by the Director Corporate Services under delegated authority or Council if the amount exceeds the limit of that delegation.

## Amount of Financial Relief

The amount of financial relief provided under the Policy will be determined on the merits of each application.

## Additional Provisions Relating to Accrual against a Future Estate

- Application for deferral of rates and / or charges must be made on Council's *Application for Deferral of Rates and / or Charges by an Eligible Pensioner* and must be signed by each owner or person having an interest in the land.
- Rates and / or charges can only be deferred on the applicant's principal place of living.
- Council would prefer payment of the Domestic Waste Management and Stormwater Management Charges as a minimum annual payment, however, these charges can also accrue against the future estate.
- The amounts deferred will accrue interest charges at the applicable rate determined by Council from year to year.
- Due to the 20 year limitation on Council's ability to commence proceedings for the recovery of unpaid rates and charges, rates and/or charges can accrue against a future estate for a maximum of 20 years.
- If the minimum annual payment has not been made, in the 19<sup>th</sup> year, the earliest year of Rates and / or charges becomes due and payable.
- The amounts deferred are payable when the property is sold, passes to the estate, ceases to be the principal place of living or if the applicant ceases to be an eligible pensioner.

## Privacy

Personal information collected in connection with this Policy will only be used for the purposes of determining the 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.

## Delegation of Authority

Authority for implementation of the Financial Hardship Policy is delegated by Council to the General Manager in accordance with the *Local Government Act 1993*.

The General Manager has in turn delegated the day-to-day management of Council's debt recovery the Manager Finance and, consequently, the authority to approve schemes of arrangement to pay.

Further, Council has delegated authority to the Director Corporate Services to write off amounts due to Council up to \$20,000.

## Review of this Policy

This Policy will be reviewed every two years or as required in the event of legislative changes. The Policy may also be changed as a result of other amendments that are to the advantage of that Council and in the spirit of this Policy. Any amendment to the Policy must be by way of Council resolution.

## Policy Amendments

Date	Responsible Officer	Description
11 Jan 2011	Don Johnston	Report to C&W
14 Feb 2011	Don Johnston	Adoption by Council