



# Financial Hardship Policy

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Adoption Date:	12 December 2022 by Council Resolution
Last Reviewed:	28 November 2022
Next Review Date:	28 November 2024
Division/Department:	Corporate Performance / Finance
Responsible Officer:	Chief Financial Officer
HPE CM Record Number:	23/22324

## 1 Policy Statement

This policy is to ensure effective controls are in place with respect to both the recovery of outstanding rates, annual charges and interest on these and the provision of assistance to those ratepayers who are experiencing genuine financial hardship with the payment of their rates and annual charges. A key objective of this policy is to work with ratepayers to achieve flexible alternatives to legal action where possible.

## 2 Application

This policy applies to all of Council's ratepayers who have outstanding debts with Council comprising of outstanding rates, annual charges and interest on these.

### Purpose

The purpose of this policy is to:

- Ensure transparency in Council's operations concerning the collection of overdue rates and annual charges.
- Provide appropriate financial relief to ratepayers and other debtors who are experiencing genuine financial hardship relating to the payment of outstanding rates and annual charges they owe Council.
- Ensure there is a decision-making framework in place for the assessment of financial hardship applications.
- Ensure Council's resources are managed with integrity and diligence.
- Ensure that Council's requirements and obligations under NSW Local Government Act 1993 (the Act) and other relevant legislation are complied with.

### Scope

Council acknowledges that ratepayers will for various reasons, from time to time be unable to pay rates when they become due and payable. It is not the intention of Council to cause hardship to any ratepayer through Council's recovery procedures and therefore, Council will give consideration to acceptable arrangements to clear the debt as soon as practicable.

Council recognises there are cases of genuine financial hardship requiring respect and compassion in special circumstances. This policy establishes the framework for assessment of a hardship application applying the principles of fairness, integrity, confidentiality and in compliance with statutory requirements. The policy applies to all applications for waiving, alternative payment arrangements or writing off rates, annual charges and interest accrued on such debts.

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 where the hardship exists and is genuine.

## Principles

Council has a responsibility to recover monies owing to it in a timely, efficient and effective manner, in order to finance its operations and ensure effective financial management. In doing so, Council will apply the principles outlined in its Debt Recovery Policy and will:

- a) Fulfil all statutory requirements of the Act and other relevant laws;
- b) Ensure that customers are treated sensitively and with courtesy, respect and confidentiality and on a case-by-case basis;
- c) Apply a fair and reasonable approach to recovering outstanding debts;
- d) Individually assess any hardship application in accordance with this policy;
- e) Consider a scheme of arrangement for payment outside the due dates using the following criteria:
  - a. The debtor is able to show cause as to why the debt cannot be paid in full;
  - b. The maximum period for repayment of the debt by instalments is to be within twelve months; or
  - c. Where financial hardship can be demonstrated as a result of a twelve month repayment period, the repayment period can be extended by up to a further twelve months.
- f) Allow, in appropriate circumstances, for a pensioners' rates and / or charges to accrue against the future estate of the sale of the land to which the rate and / or charge applies;
- g) Not initiate action against a debtor which has an existing scheme of arrangement for payment unless that arrangement falls two instalments into arrears;
- h) Only initiate formal proceedings for debts greater than \$1,000 and, in the case of Rates & Annual Charges debtors, two instalments in arrears;
- i) Review all matters before commencing legal action to recover debts and make reasonable efforts to contact ratepayers before commencing legal action; and
- j) Only apply the provisions of the Local Government Act relating to the sale of land for unpaid rates in instances where the land is vacant or the property is not the ratepayers principal place of residence.

In addition, Council will:

- a) Not reduce rates or charges, but will consider alternative approaches to dealing with cases of financial hardship, such as through mutually agreeable alternative repayment plans in cases of hardship or extenuating circumstances.

- b) Not provide financial advice to ratepayers and when considered relevant will recommend to ratepayers experiencing financial hardship that they should seek their own independent legal and financial advice.
- c) Suspend debt recovery, legal action and interest accrual while a ratepayer's hardship application is awaiting determination by relevant Council staff.

### 3 Community Strategic Plan, Delivery Program and Operational Plan

This policy relates to Themes, Goals and Strategies outlined in Council's Community Strategic Plan Woollahra 2032 and Priorities outlined in Council's Delivery Program and Operational Plan, specifically:

Theme: Civic Leadership Strategies  
 Goal: 11 A well-managed Council  
 Strategy: 11.2 Secure Council's financial position  
 Priority: 11.2.1 Effective management of Council's finances

### 4 Relevant Legislation

NSW Local Government Act 1993  
 NSW Local Government (General) Regulation 2021 (the Regulation) Civil Procedures Act 2005  
 Corporations Act 2001  
 Interpretation Act 1987  
 Office of Local Government – Council Rating and Revenue Raising Manual  
 Office of Local Government – Debt Management and Hardship Guidelines 2018

### 5 Policy Content

This policy recognises that due to exceptional circumstances, ratepayers may at times encounter financial hardship, making it difficult for them to pay their rates and charges as they fall due, or adhere to a regular payment arrangement.

Such circumstances to be considered by Council may include (but are not limited to) such matters as:

- Loss or change of employment.
- Loss or change of income.
- Illness.
- Separation, divorce or other family crisis.
- Family violence.
- 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 a Council's rating structure.

## Assistance Provided

As noted above, Council recognises that there may be circumstances when someone may at times experience difficulty in paying the monies owed to the Council in relation to their rates, annual charges or interest on these. A person may be eligible for assistance in the form of:

- a) Extension of due date.
- b) Alternative payment arrangements.
- c) Write off or reduce accrued interest.
- d) Waive, reduce or defer whole or part of the debt.

## Payment Arrangements

### a) Assistance by Periodical (Deferred) Payment Arrangements

Section 564 of the Act provides for Council to accept payment of rates and charges due and payable by a person in accordance with an agreement made with the person and may write off or reduce interest accrued on rates and charges, if the person complies with the agreement.

### b) Assistance by writing off accrued interest and costs

Under Section 567 of the Act, Council may write off accrued interest on rates or charges payable by a person if, in its opinion:

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

### c) Assistance to extend pensioner concession to avoid hardship

Section 577 of the Act, enables Council to make an order deeming certain persons who are jointly liable with an eligible pensioner(s) or solely liable, but who are not themselves eligible, to be eligible pensioners for the purpose of a mandatory reduction in rates and charges to avoid hardship.

### d) Abandonment of Pensioners' Rates and Charges

Under 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 of the Commonwealth of Australia and is the holder of a pensioner concession card issued by or on behalf of the Commonwealth Government.

- e) Assistance due to the General Revaluation of Land in the Local Government Area and changes to the Rating Category of Properties

Under Section 601 of the Act, a ratepayer who incurs a rate increase in the first year following a revaluation of land values (currently undertaken independently by the NSW Valuer General), may apply to Council for the rate 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 the rate payable for such period and subject to such conditions that the Council deems appropriate.

- f) 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's preference is for payment of the Domestic Waste Management and Stormwater Management Charges to be made (as a minimum) the annual payment, however, these charges can also accrue against the future estate.

Any amounts deferred will accrue interest charges at the applicable rate determined annually by Council as part of its Revenue Policy.

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, then in the 19th 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.

### Financial Hardship Assessment Guidelines

A person seeking consideration of financial hardship must make written application to the Council with supporting evidence as soon as practicable. The application should contain but is not limited to the following information:

- a) The address and contact details of the person.
- b) The reason for the financial hardship.

In instances where the person is seeking consideration under financial hardship, the

following additional financial information may be required:

- a) Details of all income including wages, benefits and any other sources of income.
- b) Details of all expenditure.
- c) Details of all bank accounts and balance of same.
- d) Details of all credit cards and balance of same.
- e) Details of any other investments.
- f) Details of last Tax Assessment Notice.
- g) Number of children and / or dependents.

It is also generally requested that any request for financial hardship consideration be supported by a statement from a financial advisor, financial counsellor, financial planner, accountant or solicitor.

Other matters that may be taken into account when assessing an application for financial hardship include whether the ratepayer previously had a good payment record and / or whether the ratepayer has defaulted on previous payment arrangements.

If Council is satisfied that the circumstances as presented and demonstrated to Council fall within a category of hardship, it has the capacity (at its sole discretion) to consider deferring the payment, negotiating flexible payment arrangements and to consider writing off any accrued interest.

It is Council's intention that whilst rates will not be reduced or waived, Council has the authority to defer payment of rates for a maximum period of two (2) years once a hardship application is approved. This ensures that Council's rate revenue is protected. Where the application is approved and payments are made in accordance with the arrangement, interest charges may (at Council's discretion) be waived.

Determinations on the amount of financial relief provided under this policy will be assessed by the relevant delegated Council Officer and will be determined on a case-by-case basis. We note that whilst Council does not waive the full rates debt, it could waive interest and defer repayment of a rates debt, which in the case of an Eligible Pensioner could be until the sale and settlement of the property.

It should be noted that that elected officials (i.e. Councillors) play no role in the assessment of financial hardship applications, as the General Manager is delegated appropriate authority by Council to undertake such assessments, with the General Managers delegation then sub-delegated to relevant Council Officers.

## **6 Legal Recovery**

For information on Council's legal recovery action please refer to Council's Debt Recovery Policy.

## 7 Delegation of Authority

Authority for implementation of this policy 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 Performance and the Chief Financial Officer and consequently, the authority to approve schemes of arrangement to pay.

Further, Council has delegated authority to the General Manager to write off amounts due to Council up to \$25,000 for any one item. Any amounts for write off greater than \$25,000 are to be reported to Council for the consideration of Councillors.

## 8 Responsible Officer/s

- Director Corporate Performance
- Chief Financial Officer

## 9 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.

## 10 Definitions

Term	Meaning
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 therein.
Capacity to pay	A payment amount or plan that takes account a ratepayer's personal circumstances as detailed within this policy.
Costs	Amounts incurred by Council in recovering overdue debts (i.e. Court, interest and professional costs), which can legally be recovered from the ratepayer.
Eligible Pensioner	As defined in Clause 134 of the Local Government (General) Regulation 2021.
Hardship	Any situation where an individual is having difficulty paying legally owed debt. This can result from a range of life changes (i.e. illness, unemployment or changed financial circumstances), restricting the short-term capacity to pay.



<b>Term</b>	<b>Meaning</b>
Interest	Interest raised in accordance with the NSW Local Government Act 1992 and at a rate as adopted by Council as part of its Revenue Policy.
Rateable valuation	Land value used for rating purposes i.e. net of allowances by the Valuation of Land Act 1916 and Section 585 of the NSW Local Government Act 1993.
Regulation	NSW Local Government (General ) Regulation 2021
Write-off	The accounting procedure for cancelling a debt that is no longer collectable, resulting in its removal from the ratepayer's balance sheet account.

## 11 Related Policies and Procedures

	<b>HPECM Reference</b>
Debt Recovery Policy	22/237182

## 12 Review of this Policy

This policy will be reviewed every two years or in accordance with legislative requirements. This policy may also be changed as a result of other amendments that are to the advantage of Council and in the spirit of this policy.

Any amendment (other than minor administrative amendments) to this policy must be by way of a Council Resolution. Administrative amendments can be made with the approval of the General Manager.

### Policy Amendments

<b>Date</b>	<b>Responsible Officer</b>	<b>Description</b>
20 April 2023	Rachel Ngui / HelenTola / Sue Meekin	Administrative updates to replace superseded version on Council website.