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**Policy:**

**Hardship**

**2020**

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## INFORMATION ABOUT THIS DOCUMENT

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### **Document History**

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### **Further Document Information and Relationships**

<b>Related Legislation*</b>	<i>NSW Local Government Act 1993</i> <i>NSW Local Government (General) Regulation 2005</i>
<b>Related Policies</b>	Debt Recovery 2020
<b>Related Procedures/ Protocols, Statements, documents</b>	Office of Local Government Debt Management and Hardship Guidelines 2018

*Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.*

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## **1. OBJECTIVES**

Council recognises that there are cases of genuine financial hardship requiring respect and compassion in special circumstances. This policy establishes guidelines for assessment of hardship applications applying the principles of social justice, fairness, integrity, appropriate confidentiality, and compliance with relevant statutory requirements.

## **2. SCOPE**

This Policy applies to all applications for waiving, deferment and alternative payment arrangements, or writing off of rates, fees, annual charges, water charges and interest accrued on such debts.

## **3. DEFINITIONS**

- Ratepayer – the person liable for payment of the rates and charges due and payable on the property for which debt recovery is being undertaken
- Pensioner – an eligible pensioner as defined in clause 134 of the *Local Government (General) Regulations 2005*
- Interest – Interest raised in accordance with the *NSW Local Government Act 1993* and as adopted by Council in its Revenue Policy

## **4. HARDSHIP POLICY STATEMENT**

This policy provides a framework for responding to applications from owners/ratepayers and customers experiencing genuine hardship with the payment of rates, annual charges, interest and fees in accordance with the *NSW Local Government Act 1993* (the Act) and the *Local Government (General) Regulations 2005* (NSW).

Hardship is any situation where an individual is having difficulty paying a legally owed debt. This can result from life changes (for example, because of illness unemployment or changed financial circumstances) restricting the short-term capacity to pay.

### **4.1 Hardship Assistance Available to Ratepayers and Customers**

Hardship can arise from a temporary change in circumstances, such as:

- Loss or change in income;
- Illness;
- Loss arising from an accident;
- Natural disaster or emergency situation;
- Death in the family;
- Separation, divorce or other family crisis;
- Family violence, and/or
- Some other temporary financial difficulty due to loss of income or increase in essential expenditure.

A ratepayer may be eligible for consideration for hardship assistance in the payment of overdue rates, annual charges, interest and fees, where:

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

Council will consider applications for assistance in accordance with the following principles:

- Council will individually assess cases of financial hardship using a set of guidelines and information from the 'Financial Hardship Relief Application Form'. Criteria for income and asset values shall be determined in accordance with the Centrelink 'Pensions – Income and Assets Test' as reviewed annually in September;
- Council will not reduce rates or annual charges, but will consider alternative available approaches to dealing with cases of financial hardship;
- Council will consider a scheme of periodical payments outside the due dates in cases of hardship or extenuating circumstance.

Applications for Hardship must be made on the appropriate Financial Hardship Relief Application Form, available from Council.

- The applicant must be the owner/spouse or part owner of the property and be liable for the payment of rates on the property.
- The property to which the hardship application applies must be categorised as residential or farmland for rating purposes.
- The property to which the hardship application applies must be the principal place of residence of the applicant/s.
- The application for hardship must be accompanied with supporting documentation which may include but is not limited to:-
  - Reasons why the person was unable to pay the rates and charges when they became due and payable;
  - Copy of recent bank statements for all accounts;
  - Letter from a recognised financial counsellor or financial planner confirming financial hardship;
  - If above letter not provided, details of income and expenditure;
  - Letter from a medical professional confirming medical conditions causing hardship.

Council may request the applicant attend an interview to assist Council in the understanding of the issues causing hardship.

#### **4.2 Hardship Assistance by Periodical Payment Arrangements**

Council may enter into a formal agreement with a ratepayer eligible for alternative periodical payment arrangements for due and payable rates and charges. Council or the ratepayer may initiate a proposal for a periodical payment agreement. In accordance with section 568 of the Act, payments will be applied towards the payment of rates and charges in the order in which they become due.

The following guidelines should be met in determining eligibility:

- Payments must be made on a weekly, fortnightly or monthly basis.
- Arranged payments must be of an amount so that all amounts owing are paid in full by 30 June of that financial year.
- Extenuating circumstances can be taken into consideration if either of the above two conditions cannot be met but must be referred to the Revenue Officer for approval.

#### **4.3 Hardship Assistance by Writing Off Accrued Interest and Costs**

Council applies interest rates to the maximum allowable under section 566 of the Act. However Council may write off accrued interest and costs on rates or charges payable by a person under section 567 of the Act and the *Local Government (General) Regulation 2005* where:

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

Council may write off interest and costs in accordance with section 567(c) of the Act under the following circumstances:

- The ratepayer is experiencing genuine hardship. In such cases, Council may request the completion of a hardship application;
- The ratepayer is a "first-time" defaulter, has previously had a good payment record and there are mitigating circumstances;
- Prolonged or serious illness has prevented the ratepayer meeting their financial obligations to Council;
- The ratepayer has complied with all criteria with respect to a section 564 periodic payment agreement;
- Council is satisfied that the circumstances giving rise to the default are temporary.

#### **4.4 Hardship Assistance due to Certain Valuation Changes**

Under section 601 of the Act, any ratepayer who incurs a rate increase following a revised valuation of land may apply to Council for rate relief in the first year the valuation is used for rating purposes, if the new rate payable causes the ratepayer to suffer substantial hardship (section 601(1)). Notwithstanding the provision, Council will not consider applications under this provision, as valuations are independently determined by the Valuer General. Council will encourage aggrieved ratepayers to make an appropriate application under the appeal provisions of the *NSW Valuation of Land Act 1916*. In addition, it is considered that Council has maximised its scope under the Act to adopt a rating structure that cushions the impact of any change in valuations on rates.

#### **4.5 Hardship Assistance in relation to Council Fees and Water Charges**

The General Manager will have the delegated authority to make such decisions in relation to the waiving or reducing of fees up to the amount of \$1,000. For amounts over \$1,000 the decision must be a resolution of Council.

Any application for hardship assistance in relation to Council fees or charges other than annual charges by waiving or reducing fees under section 610(E) of the Act will be assessed in accordance with the same eligibility criteria used to assess hardship assistance in respect to rates and annual charges.

#### **4.6 Payment Assistance Panel**

A panel comprising the Executive Manager Corporate Services, the Revenue Officer and the Manager Waste Water and Sewer will determine applications for assistance referred to it and review decisions as necessary.

The General Manager or Mayor may refer any Council matter involving financial hardship of a ratepayer or resident to the Payment Assistance Panel for consideration and advice.

Should the ratepayer not be satisfied with the decision made, they can make further representations under Council's Complaints Management Policy.

#### **4.7 General**

Financial hardship cases will only be discussed in Closed Council or Committee Meetings.

All hardship applications shall be determined in accordance with Council delegations.

All hardship applicants shall be advised in writing of Council's decision within 30 days of receipt of the application.

Privacy will be maintained in accordance with the *NSW Privacy and Personal Information Protection Act 1998*.