

FINANCIAL HARDSHIP POLICY

1. Purpose

The purpose of this Financial Hardship Policy is to provide Council with a policy framework setting out the process of providing financial relief to individuals and businesses requiring assistance in the payment of rates and charges on the grounds of financial hardship.

The policy also aims to provide a clear understanding of the options and assistance available to property owners and ratepayers who are experiencing financial hardship and assist them in managing the payment of rates in a manner that is acceptable to both the Council and the property owner.

2. Scope

This policy applies to property owners and ratepayers of City of Ballarat in accordance with Sections 170, 171, and 171A of the *Local Government Act 1989*.

The scope of this policy extends an opportunity to all property owners and ratepayers who have been identified, either by themselves, City of Ballarat Officers, or by an independent accredited financial counsellor, as having the intention to pay their rates but do not have the financial capacity to make the required payments, to make an application for financial hardship.

This policy shall apply to revenue included on the rates notice, such as rates, waste charges, interest and other relevant charges. It is important to note that this policy does not apply to fines issued under Council's Local Laws or any other Act.

Assistance can only be granted to individuals experiencing financial hardship for payment of rates on their principal place of residence or those liable to pay rates and charges on Commercial and Industrial properties. Applications for financial hardship on secondary properties will not be considered.

Where financial hardship cannot be established, Council may avail itself of the collection options under Sections 180 and 181 of the *Local Government Act 1989*, to recover overdue amounts. These recovery methods include legal action and, in extreme circumstances, the sale of the property. In the implementation of this policy, due consideration will be given to determining the type of payment arrangement that is best suited to each property owner's individual circumstance and the need to observe compassion, respect and transparency in the assessment of financial hardship applications.

3. Policy Statement

3.1 Genuine Financial Hardship Definition

Genuine Financial Hardship refers to a situation where a property owner is reasonably unable to discharge their financial obligations due to compassionate grounds or necessitous circumstances such as illness, unemployment, impacts of natural disaster, or other reasonable cause. Financial hardship involves an inability of the property owner to meet their financial commitments (bills), rather than an unwillingness to do so. Customer hardship can arise from a variety of situations. Common causes of hardship may include, but are not limited to:

- Loss of employment of the property owner or family member;
- Family violence;
- Family breakdown;
- Illness, including physical incapacity, hospitalisation, or mental illness of the property owner or family member;
- A death in the family; or

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.

3.2 Application for Financial Hardship

In the event of an instance where a financial hardship submission is to be made, a customer must submit an application requesting financial assistance from Council. A financial hardship application can be made following:

- External assessment by, for example, an independent accredited financial counsellor (preferred).
- Assessment by Council Officers.
- Self-assessment by the customer.

Financial Hardship Applications must be applied for by the ratepayer or property owner. Assessment of whether financial hardship is genuine will be objectively based on the information provided by the customer, who is required to submit a completed Application for Financial Hardship Form for their eligibility to be assessed. The customer must provide complete details of the circumstances preventing them from meeting their financial obligation to Council. This form is available at the Customer Service Centres or Council's website. In exceptional circumstances an application can be made without an application form or supporting documentation based on assessment by Officers in consultation with the ratepayer.

An initial assessment will be performed by Council Officers to determine the customer's eligibility to financial hardship relief under this policy as well as the level of assistance that may be required. Council may, at its discretion, seek relevant supporting information to be provided in the assessment of any application. This may include, but is not limited to:

- company records
- bank statements
- financial records or assessments
- employment documentation
- Centrelink and/or taxation information.
- a statutory declaration from a person familiar with the property owner's circumstances (family doctor, bank officer etc).
- Financial Counselling report (e.g. certified Statement of Financial Position from a qualified accountant or financial counsellor)

Pursuant to Sections 170, 171 and 171A of the *Local Government Act 1989*, customers may apply for the following:

- Deferral of rates and charges;
- Waiver of interest and legal charges invoiced to date; or
- Waiver of rates and charges.

Council will advise the applicant of its decision in writing within 21 days of receiving the application and all supporting information.

Subject to the findings of the initial assessment, Council Officers can:

- recommend referral to a financial counsellor for a full assessment and report; and/or recommend other internal and/or external professional support services that would be of assistance to the debtor's circumstances (see 3.3 below for more information);
- establish a repayment arrangement that is mutually acceptable (see 3.4 below for more information);
- recommend a deferral of the payment of the rates and/or charges (see 3.5 below for more information);

- recommend assistance in the form of a waiver of the rates and/or charges, and/or interest charges (see 3.6 below for more information);

3.3 Financial Counselling

Council may recommend support services from the Financial & Consumer Rights Council of Victoria (FCRC) National Debt Helpline or other providers. The FCRC can help affected persons find a financial counsellor. The National Debt Helpline is a not-for-profit service that helps people in Australia tackle their debt problems. This is a Government service providing free, confidential counselling for people experiencing financial difficulty.

A number of local financial counsellors provide a free service, if there is a cost it may be borne by Council if it is agreed in advance.

3.4 Payment arrangements

Council may allow for payment arrangements where they consider that paying rates and charges on the prescribed dates on the 'Valuation and Rates Notice' would create financial hardship for the applicant in the short to medium term (one to two years). Payment arrangements are made available to all ratepayers and property owners who satisfy the financial hardship eligibility conditions under this policy and will be granted based on the following conditions:

- Payment arrangements are calculated to include any arrears and make an estimate for future rates and charges that occur through the duration of the arrangement.
- That the property owner and/or ratepayer and Council agree upon a mutually acceptable amount to be paid at regular intervals that suit the requirements of the ratepayer (ie weekly, fortnightly or monthly);
- The arrangement ceases and the rates and charges are immediately payable if the ratepayer ceases to own or occupy the property on which the rates are imposed;
- The arrangement will be reviewed bi-annually for compliance and suitability;

Where a property owner or ratepayer enters into a mutually acceptable payment arrangement with Council, and maintains that arrangement, Council will waive any interest and previous legal charges charged at the bi-annual review.

Refer to Appendix A – Financial Hardship Policy Procedures.

3.5 Deferment of Rates and Charges

Under Section 170 of the *Local Government Act 1989*, Council may allow partial or full deferral of rates where they consider that paying rates and charges would create financial hardship for the applicant. Deferral of rates and charges is made available to all property owners and ratepayers who satisfy the financial hardship eligibility criteria under this policy and will be granted based on the following conditions:

- The deferral ceases and the deferred rates and accrued interest rate are immediately payable if the property owners or ratepayer ceases to own or occupy the property on which the rates are imposed; and
- The deferral will be reviewed each year within one month of the issue of the annual 'Valuation and Rate Notice'; and
- An increase in the valuation of a property and a subsequent increase in rates cannot be considered grounds for a deferred payment of rates of their own accord.

3.6 Waiver of Rates and Charges

Under Section 171 of the *Local Government Act 1989*, property owners and ratepayers may apply for a full or partial waiver of rates and charges subject to Council confirmation of the following conditions:

- Waiver of rates and charges is only available to individuals experiencing financial hardship with regard to the rates on their primary or principal place of residence; and

- The applicant can provide a financial plan to show intent to pay future rates and charges; and
- The applicant is able to substantiate they are experiencing financial hardship and able to provide verifiable information to prove hardship on a needs basis, e.g. certified Statement of Financial Position from a qualified accountant or financial counsellor; and
- Waivers (excluding interest) must be recommended by an independent financial counsellor and applicant is able to provide documented support for a waiver from the financial counsellor or a welfare agency or government agency.

Council Officers will consider an application for a waiver or partial waiver of rates and charges where genuine financial hardship can be demonstrated and if granted, the waiver will apply only for the rating year in which the application was made and the previous financial year.

Retrospective applications for a waiver of unpaid Rates and Charges greater than two years will be presented to Council for resolution. The application will be assessed by Council officers on the grounds of genuine financial hardship only and approved by Council resolution.

3.6.1 Waiver of Interest and Legal Charges

Under Section 171A of the *Local Government Act 1989*, property owners and ratepayers may have interest charges and legal charges or part thereof, waived where they have demonstrated financial hardship, subject to compliance with the following conditions and approval by Council Officers:

Waiver will be granted only to:

- Property owners and ratepayers whose property is the sole or principal place of residence and is used exclusively for residential purposes;
- Farm land which is the sole or principal place of residence of the applicant;
- Commercial/industrial land owned and operated by the applicant.

An application for a waiver of interest charges will be considered where genuine financial hardship can be demonstrated and if granted, the waiver will be reassessed by officers bi-annually.

The Revenue Coordinator will review applications in accordance with this policy and approve within financial delegations. The property owners and ratepayer will be advised in writing of the outcome of the application.

3.7 Conflict of Interests

All decisions, recommendations and approvals in this policy are subject to the conflict of interest provisions in the Staff Code of Conduct.

3.8 Appeal

Where an applicant for financial hardship is dissatisfied with the outcome of their application, they may request a review of the decision by outlining the grounds for the review. The request for a review of the decision must be in writing and addressed to the Chief Executive Officer.

If the applicant is still aggrieved by the decision of the Chief Executive Officer they may refer the matter to the Victorian Ombudsman.

3.9 Discontinuation of Hardship Financial Assistance

Under Section 170(3) of the *Local Government Act 1989*, Councils can require repayments of deferred amounts if they consider that payment would no longer cause hardship, or if the land changes hands. Despite any payment agreement in place, outstanding rates and charges become immediately payable in the following circumstances:

1. In the case of a person, the property owner and/or ratepayer ceases to occupy the property applicable to the agreement.

2. In the case of a business, the property owner and/or ratepayer enters into administration or liquidation.
3. The applicable property is sold or transferred to another person or entity.
4. There is a material alteration to the ratepayers circumstances and making the payment would no longer cause financial hardship to the person.

4. Supporting documents and references

4.1 Legislation

- *Local Government Act 1989*
- *Local Government Act 2020*
- *Penalty Interest Act 1983*
- *Privacy and Data Protection Act 2014*

4.2 Associated Documents

- Application for Financial Hardship Form
- COVID-19 Hardship Policy

4.3 Definitions

<i>Council Officer</i>	means the Chief Executive Officer and staff of Council appointed by the Chief Executive Officer.
<i>Property owner</i>	is the registered proprietor of rated property within the municipality, who is legally responsible to pay rates under section 156 of the <i>Local Government Act 1989</i> (Vic).
<i>Ratepayer</i>	<p>is the occupier of any rateable property who is liable to pay rates. This may be the property owner or a tenant who, under the lease agreement, is liable to pay rates.</p> <p>Applications for financial hardship applied for by the property owner and/or ratepayer must be communicated with the property owner if they are not the same party.</p>
<i>Genuine Financial Hardship</i>	<p>refers to a situation where a ratepayer or property owner is reasonably unable to discharge their financial obligations due to compassionate grounds or necessitous circumstances such as illness, unemployment, impacts of natural disaster, or other reasonable cause. Financial hardship involves an inability of the property owner to meet their financial commitments (bills), rather than an unwillingness to do so. Customer hardship can arise from a variety of situations. Common causes of hardship may include, but are not limited to:</p> <ul style="list-style-type: none"> • Loss of employment of the property owner or family member; • Family violence; • Family breakdown; • Illness, including physical incapacity, hospitalisation, or mental illness of the property owner or family member; • A death in the family; or • 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.

Compassionate grounds	Short-term circumstances of a compassionate nature that, if deferment of payment is not granted, would lead to financial hardship.
Conflict of Interest	<p>A relevant person has a conflict of interest if the relevant person has:</p> <ul style="list-style-type: none"> a) A general conflict of interest within the meaning of Section 127 of the Local Government Act 2020; or b) A material conflict of interest within the meaning of Section 128 of the Local Government Act 2020.
Exceptional Circumstances	Refers to a situation where an applicant is reasonably unable to acquire the required documentation due to natural disaster or significant family violence.
Deferment	is a postponement of payment, in whole or in part, and can be for a specified period and subject to any conditions determined by Council. Deferred rates are a charge on the property and will continue to accrue interest until the account is paid in full. A deferment of rates is for a maximum of three years and cannot be applied more than once.
Independent Financial Counsellor	A consultant providing free financial counselling service to property owner and/or ratepayers in financial difficulty and is independent of the Council.
Necessitous circumstances	Circumstances beyond the control of the property owner and/or ratepayer that makes the payment of rates and charges impracticable on a short-term basis only.
Primary residence	The property, which is considered to be the main or principal place of residence.
Rates and Charges	Any charge made under Part 8 of the Local Government Act 1989, including but not limited to General Rates, Waste Charges, Fire Services Property Levy,
Waiver	is the relinquishment or removal of the liability to pay and may include the whole or part of any interest or, where applicable, part of rates and charges.





5. Policy owner



Manager Revenue & Procurement Services

6. Authorisation

Adopted by Ballarat City Council on 24 November 2021 (R262/21)

APPENDIX A – FINANCIAL HARDSHIP PROCEDURES

<p>Essentials</p>  <p>Read me first</p>	<p>Council is committed to the timely recovery of rates and charges in order to ensure adequate funding of the ongoing services and capital work projects it provides for community benefit, and to fulfil its broader business management and corporate governance responsibilities.</p> <p>Council raises rates and charges against properties in accordance with the Local Government Act 1989 and Local Government Act 2020 (“the Act”). City of Ballarat recognises there are cases for genuine financial hardship that require respect and compassion in particular circumstances.</p>
<p>Principles</p> 	<p>Financial hardship is a circumstance of experiencing a lack of financial means, which may be either ongoing or temporary. This policy is to address financial hardship.</p> <p>Types of hardship relief:</p> <ul style="list-style-type: none"> • Flexible payment plan or arrangement based on the property owners and/or ratepayers capacity to pay. • Short term deferral being less than 6 months in duration. • Long term to indefinite deferral, under which the debt accrues as a charge on the land and is recovered when the land is sold or transferred. • Rate waiver under the Local Government Act. • Interest waiver under the Local Government Act. <p>Through the life of this policy Council will hold off legal action on impacted property owners and/or ratepayers with a genuine case of financial hardship.</p> <p>Despite any payment agreement in place, outstanding rates and charges become immediately payable in the following circumstances:</p> <ol style="list-style-type: none"> 1. In the case of a person, the property owner and/or ratepayer ceases to occupy the property applicable to the agreement. 2. In the case of a business, the property owner and/or ratepayer enters into administration or liquidation. 3. The applicable property is sold or transferred to another person or entity. 4. There is a material alteration to the property owner and/or ratepayers circumstances.
<p>Context</p> 	<p>The policy aligns with the City of Ballarat Revenue and Rating Plan 2021-2025.</p>
<p>Purpose</p> 	<p>To provide direction to Council Officers when collecting and providing for debts owed to Council and to ensure Council takes into consideration the financial hardship of debtors due to a multitude of reasons.</p>

<p>Requirements</p> 	<p>Council will provide assistance to those in financial hardship in accordance with the Local Government Act 1989, while ensuring it does not jeopardise the funding of its operations.</p> <p>The policy will be guided by the principles of transparency, efficiency, capacity to pay and equity by treating all debtors consistently and in a fair manner.</p>
<p>Accountability</p> 	<p>The Manager Revenue & Procurement Services acknowledges the responsibility and accountability for the implementation of this policy to the benefit of impacted ratepayers whilst ensuring Council has sufficient cashflows to continue to operate.</p> <p>Application When an application is received it will be acknowledged in writing by the Revenue Coordinator within 21 days.</p> <p>Payment Arrangements The below officers will review applications in accordance with this policy and if satisfied that financial hardship exists, will record the payment arrangement Activity Code in Pathway.</p> <ul style="list-style-type: none"> • Revenue Assistant • Revenue Officer • Revenue Coordinator • Manager Revenue & Procurement Services <p>Deferment of Rates and Charges (s170) The Revenue Coordinator will review applications in accordance with this policy and if satisfied that financial hardship exists, a recommendation will be provided to the Manager Revenue & Procurement Services for consideration and approval within financial delegation.</p> <p>Waiver of Rates and Charges (s171)</p> <ul style="list-style-type: none"> • for the rating year in which the application was made and the previous financial year within financial Delegation of Authority the Manager Revenue & Procurement Services will review the application for a waiver of Rates and Charges and make a recommendation for consideration to the Director Corporate Services • for applications greater than two years the Director Corporate Services will present a report to Council for resolution. <p>Waiver of Interest (s171A)</p> <ul style="list-style-type: none"> • Revenue Coordinator within financial Delegation of Authority • Manager Revenue and Procurement Services within financial Delegation of Authority
<p>Review Period</p>	