



# Financial Hardship Policy

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## Purpose

The purpose of this Policy is to:

- Provide assistance to ratepayers experiencing financial hardship
- Provide guidelines, templates and other resources for council staff and contractors to effectively and consistently manage ratepayer financial hardship
- Ensure Council's debt collection practices are sensitive and responsive to financial hardship issues.

## Scope

This policy applies to all property owners and ratepayers of the Council, in particular those who have been identified, either by themselves, council officers, or by an independent accredited financial counsellor, as having the intention to pay their rates, but without the financial means to do so.

This policy applies to charges included on the rates and valuation notice (general rates, waste charges, municipal charge, fire services property levy, legal costs, interest, and other relevant charges) as well as special charge schemes debtors.

This Policy also applies equally to all Fire Services Property Levy charges and associated interest raised in accordance with the provisions of the *Fire Services Property Levy Act 2012*.

## Policy Context

### Definition of financial hardship

The simplest definition of hardship is '*a customer or ratepayer who wants to pay but cannot*'. However, not all cases of financial hardship are alike.

Hardship generally exists when:

- a ratepayer is having trouble paying their rates and charges;
- a ratepayer would find it difficult to pay other essential bills if the ratepayer paid the full amount of the rates and charges due;
- a ratepayer's sole source of income is benefits, except where two or more benefit recipients share the rate payment obligation.

Hardship can also arise due to prolonged illness, injury or unemployment, family tragedy or impacts of natural disasters, all of which may contribute to the difficulty a ratepayer is experiencing in meeting their obligations in respect of their rates and charges.

### Criteria for applicants

Hardship assistance should only be granted to individuals experiencing financial hardship regarding the rates on their primary residence, unless the application relates to a natural disaster/emergency event.

Applications for hardship assistance for residential investment, commercial or industrial properties should not be granted unless the application relates to a natural disaster/emergency event. However, where farms or commercial properties are also used as the ratepayer's primary residence, applications for hardship assistance are generally acceptable if the other criteria are met.

Factors that Council will consider in determining financial hardship include:

- Is the ratepayer living at the property?
- The capacity of the ratepayer to pay based on reported income and expenditure
- The capacity of the ratepayer to pay based on reported other assets e.g. shares, term deposits.
- The capacity of the ratepayer to borrow the funds required to pay based upon their assets, liabilities and income.
- Whether the application as a result of a natural disaster/emergency event.

Applications are accepted year-round, and do not have a minimum debt requirement.

### **Assessment process**

Ratepayers requesting consideration for financial hardship must complete the required application form, including the provision of any additional information required to assist Council in making an informed decision.

All hardship applications will be held in strict confidence and only made accessible to council officers involved in the processing of the application.

Any application made to Council will be assessed by the Financial Hardship Review Committee and considered on a case by case basis. Applicants will be required to provide Council with the following information, except if the application relates to a natural disaster/emergency event, using the form provided:

- Income from all sources
- Expenditures
- Assets
- Liabilities
- Family circumstances
- Statement from a recognised financial counsellor, or similarly qualified person, in support of the application or a statement from any other relevant person, such as a medical practitioner, mental health professional, legal professional, domestic violence professional etc
- Other relevant information

### **Hardship relief options available**

Under sections 170, 171 and 172 of the Act, Council may:

- a) Provide an extended payment plan (Arrangement to Pay or ATP);
- b) Reduce interest imposed for late payment (s172);
- c) Reduce interest imposed on a Special Charge Scheme (s172);
- d) Defer payment of rates or charges (s170);
- e) Reduce interest on deferred rates or charges (s172);
- f) Any combination of the above
- g) Waive interest imposed for non / late payment (s172)

In exceptional circumstances Council may also:

- h) Waive rates or charges (s171)

### **Arrangement to Pay**

An Arrangement to Pay (ATP) is a schedule of payments agreed to by both the council and ratepayer which provides for flexible payment of debts after their due date has lapsed (this differs from 'instalment-based payments' which councils may offer for on-time payment of rates and charges). The ATP 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.

This form of assistance may be implemented with regard to the following:

- Has the ratepayer demonstrated efforts to meet payment obligations in the past?
- Interest will be charged on the outstanding balance
- The arrangement will only apply for each year that the request is made and a new arrangement must be made for each financial/rating year
- Any default in the arrangement may result in further action for the recovery of the unpaid rates and charges
- Payment arrangement should ideally clear the debt within 12 months from implementation of the ATP

### **Rates and Charges deferral**

Rates deferral is where rates and charges payments are placed on hold for an indefinite period. The difference between a waiver and deferral of rates is that a deferral suspends payment for a period of time, whereas a waiver permanently exempts payment of the debt in question. Rates and charges are deferred until the ratepayer's circumstances improve or the property is sold or transferred to another owner. This option would generally apply to long term cases of extreme financial hardship, or where Council extends hardship assistance to self-funded pensioner and retiree rate payers. Rates and charges, or part thereof, may be deferred with regard to the following:

- Is the ratepayer able to demonstrate that they are experiencing undue and unusual financial hardship?
- Is the ratepayer a pensioner with a low fixed income?
- Are there long-term issues which may affect the ratepayer's ability to meet future commitments?
- Interest will continue to be charged on the outstanding balance, but at a reduced rate, which will reflect the official 180-day bank bill rate applicable at the end of the previous month
- The total amount of deferred rates and charges which can accrue is limited to 50 per cent of the Capital Improved Value of the property, at which point a review will be undertaken

### **Interest reduction**

A rates and charges deferral may be accompanied by a reduction or suspension in the penalty interest rate for the ratepayer. However, interest should continue to accrue on the deferred rates and charges to avoid a 'redistribution' effect of the rate base from implementing such a policy.

Council recognises that setting a penalty interest rate which is consistent with the *Penalty Interest Act 1983* could have a negative effect on the finances of ratepayers which prolongs their hardship. As such, where hardship is established, Council may reduce the penalty interest rates to the market interest rate (for example the official 180-day bank bill rate) or another measure such as CPI at a specified date. This ensures that neither Council nor ratepayer suffer unduly from implementing the rates and charges deferral.

An interest reduction may also be granted in both short and long-term cases of financial hardship.

## **Centrepay**

Centrepay is a service provided by Centrelink to facilitate automatic deduction of bills and charges from their Centrelink payments. Anyone on Centrelink can apply to have a designated amount of their Centrelink payment directed to the council. Although this facility is free to the Centrelink customers, there is a small charge to the council for each transaction.

## **Waiver of Rates**

Section 171A of the Act allows councils to waive rates or interest in cases of financial hardship, stating that ratepayers *'may apply to a Council for the waiver of the whole or part of any rate or charge or of any interest for late payment.'*

Council will not generally waive rates. This is to ensure that financial hardship assistance offered to one ratepayer does not have a redistribution effect of the rate base.

## **Review process**

Any approved financial hardship application will generally only be valid for the financial/rating year in which it was received. Ratepayers may re-apply for continued financial hardship assistance if their circumstances have not changed.

# **Policy Statement**

Rates and charges represent the major income source for councils. Therefore, payment of rates by residents is crucial to the effective operation of local government.

The timely recovery of rates and charges is essential to ensure adequate funding of the ongoing services and capital works projects it provides for community benefit, and to fulfil broader business management and corporate governance responsibilities.

Council recognises that managing financial hardship is a shared responsibility and they should implement best practice arrangements for the collection of rates and charges, including offering flexible payment arrangements for ratepayers experiencing financial difficulty.

Sections 170, 171 and 172 of the *Local Government Act 1989* (the Act) allow councils to defer or waive in whole or in part any rate, charge or interest on the grounds of financial hardship.

## Roles and Responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
<b>General Manager Business Excellence</b>	Overall policy responsibility
<b>Manager Finance</b>	Responsible for the review, regular updating and implementation of the policy and compliance with the policy and procedure
<b>Financial Hardship Review Committee</b>	A Committee authorised to evaluate each Financial Hardship Application consisting of a minimum of three of the following council staff: - <ul style="list-style-type: none"><li>- Manager Finance</li><li>- Manager Governance</li><li>- Rates and Valuations Coordinator</li><li>- Accounts Receivable Officer</li><li>- Senior Rates and Valuations Officer</li></ul>

## References and Supporting Documents

### Applicable Legislation:

*Local Government Act 1989*

### Applicable Policy and Procedure:

Debt Management Policy 2016

### Supporting Documents:

East Gippsland Shire Council Instrument of Delegation and Instrument of Sub-Delegation by the Chief Executive Officer

Financial Hardship Application Form(s)

## Privacy and Human Rights Consideration

*All personal information collected by East Gippsland Shire Council will be handled in accordance with all applicable privacy legislation and will be used only for assessing each proposal in the course of due process.*

*The Financial Hardship Policy has been assessed as conforming to the Human Rights Principles as outlined in the Charter of Human Rights and Responsibilities Act 2006.*

*Please refer to [www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au) for assistance with this section.*

## Definitions

Term	Meaning
Action Officer	Member of East Gippsland Shire Council staff responsible for answering or responding to a request for information.
Community	People who live in East Gippsland; People and organisations who are ratepayers in East Gippsland; and People and organisations who conduct activities in East Gippsland.
Council	East Gippsland Shire Council
Council officer	A current member of East Gippsland Shire Council staff with the authority to engage in activities on behalf of Council.
Responsible Officer	An officer of East Gippsland Shire Council who has responsibility for the general area/subject matter to which a record pertains.
Shire	The geographic area of East Gippsland Shire Council.
Staff	All staff engaged by East Gippsland Shire Council, including all full-time, part-time and casual employees, labour hire agency staff, contractors and volunteers.

## Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Approved	04/02/2020	Council	8364627	New Policy