

STRATHFIELD COUNCIL

HARDSHIP POLICY

2 MAY 2023

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|  | HARDSHIP POLICY | | |
| RESPONSIBILITY | Corporate Services | | |
| DATE ADOPTED | 2 May 2023 | MINUTE | 109/23 |
| REVISED | n/a | REVIEW | 2025 |
| CM10 No | 23/26865 | | |
| ASSOCIATED POLICIES | Code of Conduct Strathfield Council Operational Plan - Revenue Policy Office of Local Government, Debt Management and Hardship Guidelines (2018) | | |
| ASSOCIATED LEGISLATION | <i>Local Government Act 1993 (NSW)</i> <i>Local Government (General) Regulation 2021</i> <i>Privacy and Personal Information Protection Act 1998 (NSW)</i> <i>Valuation of Land Act 1916 (NSW)</i> <i>Commonwealth Social Security Act 1991 (Cth)</i> <i>Veterans' Entitlement Act 1986 (Cth)</i> | | |

1.0 Introduction

1.1 Title and Commencement

This policy is titled 'Hardship Policy'. This policy was first adopted by Council on 2 May 2023. It replaces the previous Hardship Policy last adopted June 2021.

1.2 Background and Purpose of Policy

Council has a responsibility to recover monies owing to it in a timely, efficient and effective manner to finance its operations and ensure effective cash flow management. However, there may be circumstances in which the payment of an amount owed to Council (e.g. rates and annual charges) may create financial hardship for ratepayers and customers of Strathfield Council.

The purpose of this policy is to provide a framework for determining forms of assistance to ratepayers and customers of Strathfield Council who are suffering genuine financial hardship in meeting their financial obligations to Council.

This Policy relates to the Responsible Leadership theme of 'Strathfield 2035' Community Strategic Plan.

1.3 Policy principles

Council is committed to the following principles when considering an application for assistance due to financial hardship with regard to the payment of an amount owing to Council:

- Respect for the privacy of applicants
- Compliance with relevant statutory legislation, policy and guidelines
- Application of the principles of social justice, fairness and integrity

1.4 Coverage of the Policy

The policy applies to all ratepayers and customers of Strathfield Council.

1.5 Definitions

| Term | Meaning |
|--------------------|---|
| Ad valorem | A variable charge set as a proportion of the unimproved land value (UV) of the rateable property – that is, the value of the property without any buildings, houses or other capital investments. |
| Annual Charges | Charges for services provided by Council or a contracted service provider on behalf of Council that are levied on an annual basis. Examples include Domestic Waste Charge (DWC), and Stormwater Charges. |
| Debtor | The person(s) or business responsible for the payment of an amount owed to Council. |
| Deferment | The deferral of payment of the rates and charges for no more than 19 years from the original year of levy. |
| Eligible Pensioner | An eligible pensioner is a person in receipt of a pension, benefit or allowance under the Commonwealth Social Security Act 1991 (Cth), or a service pension under the Veterans' Entitlement Act 1986 (Cth), or entitled to a Commonwealth Pensioner Concession Card or Commonwealth Seniors Health Care Card. |
| Hardship | Where debtors are able to demonstrate that changed circumstances has resulted in the debtor experiencing genuine financial hardship and are unable to meet their financial obligations to Council. |
| Interest | A charge raised in relation to unpaid rates and annual charges in accordance with Section 566 of the Act. |
| Rates | A levy paid by home and business property owners towards services provided by their Council. |
| Ratepayer | The person/s who are the owner of rateable land or a person/s responsible for a lease where the Local Government Act (1993) provides that a rate is to be paid to Council. |
| Sundry Debt | Refers to any debt owed to Council that is not a rate or charge which is raised in accordance with Council's Revenue Statement |

2.0 Policy

This Policy seeks to administer rates, annual charges and sundry debt in accordance with the Act, Regulations, and Council's Revenue Statement, as identified in Council's annual Operational Plan. It also ensures Council fulfils its legislative obligations in accordance with *Local Government Act 1993*, *Local Government (General) Regulation 2021* and other relevant legislation in relation to the recovery of Council-related rates, charges, fees and other debts.

It also enables a debtor experiencing genuine hardship to make an application to Council for assistance, in accordance with the Act, associated Regulations and this Policy.

2.1 Rates and annual charges

Council rates and annual charges may be paid in a single payment or by quarterly instalments. Council issues instalment notices (separately from the annual rates and charges notice) to each person paying by quarterly instalments.

2.2 Hardship assistance to ratepayers and customers

Council recognises that in some circumstance debtors may experience hardship in paying an amount owed to Council. The Act provides for the following assistance to ratepayers and customers:

- Periodical payment arrangements for overdue rates and charges (Section 564)
- Writing off or reducing interest accrued on rates or charges (Section 564 and 567)
- Waiving, reducing or deferring the payment of the increase in the amount of rate payable because of hardship resulting from general revaluation of land in the local government area (Section 601)
- Waiving, or reducing rates, charges and interest of eligible pensioners (Section 575 and 582); and
- Waiving or reducing a fee (Section 610E).

Applications for hardship assistance will be considered by Council in keeping with the principles outlined in this Policy. A debtor may be eligible for consideration for hardship assistance in the payment of an amount owed to Council where:

- The debtor is unable to pay due rates, charges, fees or accrued interest when due and payable for reasons beyond the person's control, or
- Payment when due would cause the debtor genuine financial hardship.

Council may utilise a number of criteria to determine eligibility for hardship relief, including but not limited to:

- Requiring requests to be made in writing
- Documented proof of financial hardship
- Reasons for financial hardship
- Income and assets test from Services Australia

- Requesting debtor to attend an interview to assist Council in understanding the issues causing financial hardship.

2.3 Hardship assistance by periodical payment arrangements

Debtors encountering difficulties with paying amounts owed should contact Council in the first instance to discuss their situation.

Council may enter into a formal agreement with a debtor eligible for alternative periodical payment arrangements for due and payable amounts. Such proposals for a periodical payment agreement can be initiated by Council or the debtor. In accordance with s564 of the Act, if the debt is rates and annual charges, payments will be applied towards the payment of rates and charges in the order in which they became due. Applications are required to be confirmed in writing.

Council may also write-off or reduce the accrued interest and costs on rates and annual charges if the ratepayer complies with the periodical agreement.

If the debtor fails to make the periodical payments in accordance with the agreement, the payment plan may be cancelled, and the full payment of the amount outstanding will become due for payment.

2.4 Hardship assistance by writing off accrued interest and costs.

Council applies interest rates to the maximum allowable under the Act. However, Council may write off accrued interest and costs on rates or annual charges payable by a person under the Act and Regulation where:

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

2.5 Hardship assistance due to certain valuation changes

In accordance with the Act, any ratepayer who incurs a rate increase in the first year following a revaluation of land may apply to Council for rate relief, if the increase in the amount would cause them substantial hardship. In such circumstances, Council has a discretion to waive, reduce or defer payment of the whole or any part of the increase in the amount of the rate payable by the ratepayer. A ratepayer who is dissatisfied with Council's decision may request review of the decision.

2.6 Assistance to eligible pensioners

2.6.1 Pensioner rebates

Concessions for pensioner rates and annual charges are provided under the Act. Eligible pensioners must apply to Council for a reduction in rates and annual charges not exceeding fifty percent (50%), provided

this does not exceed \$250 in accordance with Council's Revenue Policy set out in the Annual Operational Plan.

Eligible pensioner property owners are entitled to a rate rebate not exceeding \$250 per annum in accordance with the Act. In accordance with the Act, these rate rebates can only be provided where the pensioner is the registered owner and title holder of the property.

Council may extend the pensioner concession to ratepayers who jointly occupy a dwelling and are jointly liable for the rates and annual charges with an eligible pensioner in order avoid hardship.

2.6.2 Deferral of payment of rates and annual charges for eligible pensioners

Council recognises that eligible pensioners may encounter difficulties in meeting their rate payments and may enter into a written agreement for deferral of the payment of their rates, annual charges and applicable interest.

Council can allow overdue rates and annual charges by eligible pensioners to be accrued to a maximum of 19 years. Where an eligible pensioner requests a delay in recovery action to allow outstanding rates, charges, and interest to accrue against their estate, and is willing to enter into an agreement, Council will not take action to recover outstanding amounts until:

- there is a change in ownership of the property
- either or both ratepayers leave the property (except where the pensioner is in a care facility and the property is not being rented while they are in aged care)
- the property passes to the beneficiary of an estate
- the pensioner ratepayer(s) become ineligible for a concession
- The pensioner ratepayer(s) withdraws the agreement

Should any of these events occur, rates annual charges and interest will become due and payable.

Council will continue to provide an annual rate notice of all outstanding rates, annual charges, and interest as it does for all ratepayers as well as appropriate instalment reminders.

The pensioner(s) ratepayer may at any time pay any amount to reduce the accrued balance of rates and annual charges while a deferral agreement is in place.

The following conditions will apply to Council's agreement to defer recovery action:

- Interest will accrue on the deferred rates and annual charges in accordance with the Act.
- The application to allow accruing of rates against future estate or sale of the property must be in writing, signed by each owner or person having an interest in that land.
- An eligible pensioner ratepayer must notify Council if the pensioner no longer uses it as their principal place of living or rents it out within 30 days of vacating the premises.

Council may revoke the deferral of recovery action of rates or charges against land in any of the following circumstances and all overdue rate or annual charges and interest will become payable immediately when the pensioner sells the property, the pensioner ceases to occupy the property as his/her principal place of living, or the pensioner rents the property out.

Where an eligible pensioner does not enter into such an agreement, Council will advise the eligible pensioner of their right to negotiate a periodical payment arrangement.

2.7 Writing off of rates, charges and interest

Any rates and/or charges will be written off in accordance with the Regulation. Subject to Council's Instrument of Delegation, the General Manager may write off certain amounts for individual ratepayers.

2.8 Assistance and recovery of outstanding sundry debts (other than rates and annual charges)

Subject to Council's Delegations, any application for hardship assistance in relation to Council's fees or charges, other than rates or annual charges, by waiving or reducing the fees or charges will be assessed using the eligibility and determination criteria outlined in this Policy.

The General Manager or delegate may approve, in writing, a periodical payment arrangement with debtors experiencing genuine difficult circumstances, subject to written agreement from the debtor. This may include allowing a debtor to pay an outstanding account in weekly, fortnightly or monthly instalments, provided the arrangement will have the amount paid in full within 24 months, if approved by the General Manager.

The General Manager is authorised to write-off amounts in accordance with their Instrument of Delegation. Amounts that are written off are reported in Council's Annual Report.

In cases of not-for-profit organisations, charities, and unincorporated community groups, the General Manager retains discretion in relation to the manner in which outstanding debts are recovered.

2.9 Customer Contact

All customer contact will be made in accordance with the Office of Local Government 'Debt Management and Hardship Guidelines' (2018). Council will make every reasonable action to contact a customer with an overdue account before instigating a legal recovery action.

3.0 Version Control

| Date | Type | Minute |
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| 2 May 2023 | Policy adoption by Council resolution. Draft Policy exhibited 9/3/23 to 6/4/23 | 109/23 |