

THE CITY OF
GREATER GEELONG

FINANCIAL HARDSHIP COUNCIL POLICY

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Municipal rates, fees and charges are the primary source of revenue for the City to ensure the ongoing delivery of a range of important services to the local community. In times of emergency, Council recognises significant hardship can be experienced by the members of the community. Managing financial hardship is a shared responsibility and Council has a part to play whilst ensuring it maintains the necessary cashflow to deliver critical services to the community during this time.

PURPOSE

The purpose of this policy is to provide a framework for financial relief to customers who need assistance from the impacts of life events such as loss of employment, family circumstances or natural disasters.

SCOPE

This policy applies to all monies owed to the Greater Geelong City Council including rates, fees and user charges including but not limited to animal registrations, permits and rent. The policy does not apply to fines issued under Council's local laws.

To the extent this policy is inconsistent with other current Council policies, the provisions of this policy shall apply.

Definitions

This section defines the key terms used in this policy.

CITY

The City of Greater Geelong organisation, led by the CEO.

COUNCIL

The City of Greater Geelong Council comprised of elected Councillors and led by the Mayor.

DEFERRAL

Means the suspension for a period of time, which may be short term (less than twelve months) or long term (more than twelve months) but not indefinite.

LOCAL GOVERNMENT ACT 1989

Means the Act governing rates and hardship

FINANCIAL HARDSHIP

Financial hardship is a category within the broader concept of hardship. Many situations can contribute to financial hardship, including (but not limited to):

- bereavement
- financial misfortune such as fraud or electronic scamming
- illness;
- domestic violence; or
- the impacts of natural disaster.

CUSTOMER

A ratepayer or the recipient of services provided by the City who has an outstanding debt.

WAIVER

To permanently exempt a customer from a requirement to pay.

PAYMENT PLAN

An arrangement agreed to between the customer and the City Council based on the customer's capacity to pay.

Policy

1. FINANCIAL HARDSHIP

'Hardship' is a broad concept and may include where a person has a limited/low income (i.e., pension/unemployment) and payment of rates and charges may be detrimental to their quality of life.

Financial hardship is a category within the broader concept of hardship.

Mere inconvenience or difficulty in making a payment is not financial hardship. An inconvenience or difficulty may require the reorganising of finances, prioritising of other payments, or reducing expenditure on social activities and discretionary goods and services, in order to make a timely payment.

Financial hardship denotes more serious circumstances and requires a person:

- cannot afford the necessities of life for themselves and/or dependents; or
- to be in such a circumstance that paying rates and charges means that they would be unable to afford necessities of life for themselves and/or dependents.

Necessities of life that would be impacted if making a payment of all or part of any rates, charges and any interest would:

- Prevent the ratepayer (or a dependent) from seeking essential medical treatments or supplies;
- Prevent the ratepayer from payment of essential utility services (including water and energy);
- Prevent the ratepayer (or a dependent) from access to basic living needs, such as:
 - Food;
 - Accommodation;
 - Clothing;
 - Education for dependent children; or
- Place the ratepayer (or dependent) in any form of harm or danger, including (but not limited to):
 - Family violence¹; or
 - Economic abuse.²

In contrast, financial hardship is not present where a ratepayer is able to afford goods and services such as (but not limited to):

- Restaurant and takeaway meals;
- Services such as hairstyling, beauty treatments, sport and recreational activities, and holidays;
- Entertainment such as streaming services, movies, concerts, and theatre; and
- Private schooling fees (including for dependents) or fee-paying education services.

A person can apply to access the financial hardship provisions of this policy by sending a completed application form (**Attachment A**) by email to Hardship@geelongcity.vic.gov.au, including the details of the circumstances preventing that person from meeting their financial obligations to Council;

2. ASSESSMENT

The City will consider an application for financial hardship relief confidentially and objectively based on the information provided by the person in the application and will advise of its decision in writing within 14 business days of receiving the application and all supporting information.

In considering a ratepayer's circumstances and claims of financial hardship, council may request evidence regarding spending to substantiate claims of financial hardship. Where council ask an applicant to provide evidence to support their claim of financial hardship, the evidence sought must only be relevant to determining the ratepayer's current financial circumstances. Council must inform ratepayers of their obligations in providing evidence, noting that penalties can apply under section 171A (4) of the *Local Government Act 1989* for providing false or misleading information. Sensitive information must be managed securely and in accordance with the requirements of the

¹ Section 5, *Family Violence Protection Act 2008*.

² Section 6, *Family Violence Protection Act 2008*.

Privacy and Data Protection Act 2014.

The following factors will be considered when determining whether to waive rates and charges:

- Can the unpaid rates and charges be paid by rearranging finances and/or selling or drawing on assets?
- Does the ratepayer have access to savings, monetary investments, or other income?
- Has financial hardship been caused by a ratepayer's own actions or expenditure, for example, through spending on non-essential items or through a recent gift or loan to family or friends?
- What has the applicant ratepayer done to alleviate their financial hardship?
- Will the applicant ratepayer sell saleable or liquid assets capable of paying the debt within the next 12 months, including the property with outstanding rates and charges?
- Is the ratepayer able to make payments on other debts (such as mortgage or credit cards) greater than the minimum required?
- Is the ratepayer a company or trust?
- What are the contributory cause/s to the change of circumstances?
- Is there domestic violence or mental health issues?

Property co-owners - A ratepayer's financial circumstances must be considered together with those of other property co-owners during an application for assistance under financial hardship. For example, where there are joint owners of a property and one of the owners is not experiencing financial hardship, the owner not experiencing financial hardship is still liable to pay the full amount of rates and charges on the land.

Where a person is dissatisfied with the outcome of their application, the customer may ask the Chief Financial Officer to review the City's decision by completing and lodging the *Appeal Against Decision* form (**Attachment B**). The Chief Financial Officer will determine the appeal within 14 business days from receipt of the form.

Where the customer is still dissatisfied with the outcome of their application, the customer can refer the matter to the Victorian Ombudsman.

3. DEFERRAL OF FEES, RATES AND CHARGES

The LGA 1989 provides a Council may defer in whole, or in part, the payment by a person of any rate and charge which is due and payable for a specified period and is subject to conditions determined by the Council if it considers that an application by that person shows the payment would cause hardship to the person. Customers may have rates, fees and charges deferred for a short (less than twelve months) or long term (more than twelve months), although they will continue to be charged for their ongoing rates, fees and charges and balance notices will continue to be provided to keep ratepayers informed.

In all applications for deferral, customers will be encouraged to continue to pay that portion of the rates, fees and charges that is affordable given their individual circumstances. This will be mutually agreed for a given period of time and the particular circumstances of the customers individual case.

A ratepayer approved for a deferred payment is no longer liable for payment and therefore cannot be charged interest until the ratepayer is sent a notice by council making them liable and requiring payment. Council may then calculate any interest on the deferred payment in accordance with the conditions of the deferment.

4. PAYMENT PLANS

Payment plans allow the customer to reach an agreement with the City to pay rates, fees and charges or rent over

time in regular instalments where they cannot pay by the instalment or annual due date. The payment plan must meet the following conditions:

- 4.1 Any payment agreement should be set with a known end date that clears the debt within an agreed timeframe preferably within the current financial year or 12 months.
- 4.2 Penalty interest will be charged on amounts that are not paid as required by the payment plan;
- 4.3 Where there have been repeated payment defaults by the customer, the City will review interest charges to be applied and will consider next steps including any debt recovery required. The customer will be advised of the cancellation in writing.
- 4.4 If a customer defaults on two payment plans, another payment plan may not be accepted.
- 4.5 The City and the customer can agree to review and, if necessary, amend the payment schedules and due dates if the customer contacts the City in a timely manner.
- 4.6 The City may request further information.
- 4.7 The City may verify claims by the applicant.
- 4.8 The City will advise the customer of the timeframe to advise if the payment plan has been accepted or rejected. If rejected, reasons must be given as to why it was rejected.
- 4.9 If a payment plan is taken verbally, the information requested must be the same as the requirements for written applications. This information must be recorded on the rate account.
- 4.10 The City will provide options to the customer to appeal an officer's decision if the application is rejected.
- 4.11 Where a customer is dissatisfied with the outcome of their application, the customer may ask the Chief Financial Officer to review the City's decision.

5. WAIVER AND APPLICATION OF PENALTY INTEREST CHARGES

The City will consider the waiver of interest in order to assist the ratepayer in alleviating their situation of hardship. Each case will be assessed on its individual merit.

Interest is charged on overdue rates and charges at the maximum rate permitted under the Penalty Interest Rate Act 1983 or fixed by the Minister for Local Government.

Where rates, fees and charges have been deferred in accordance with this policy, no interest will accrue for the duration those rates, fees or charges are deferred.

No interest will be charged on payment plans being adhered to by the customer.

6. EXCEPTIONAL CIRCUMSTANCES

The LGA 1989 provides for a waiver of rates under section 171 .

Council acknowledges an inequity for ratepayers is created where rates are waived which would otherwise be charged against the property assets and recognises the deferral of rates and charges as a more equitable outcome for the entire community.

However, the City will consider waiving rates for ratepayers where exceptional circumstances are experienced, and where severe impact can be demonstrated.

Consideration of a waiver can only occur if all financial information has been disclosed to the City with supporting documentation as may be requested. Penalties apply for providing false and misleading information for an application for waiver.

Exceptional circumstances will be determined at the sole discretion of the Chief Executive Officer. Waivers approved by the Chief Executive Officer will be for a maximum of one instalment for residential rates (for principal place of residence), mixed use rates, or farm rates. The waiver is excluded for residential investment properties, vacant land rates and other differentials.

Waivers are a one-off reduction and will not be applied for multiple years.

Any waivers approved by the Chief Executive Officer will exclude the waste charge.

7. WHEN RATES, FEES AND CHARGES BECOME FULLY PAYABLE

Despite any payment plan under section 4 and any waiver and application of penalty interest charges under section 5, outstanding rates, fees and charges (and any accrued interest) will be payment in full upon the following:

- 7.1 In the case of a person, the ratepayer becomes deceased;
- 7.2 In the case of a business, the ratepayer enters administration or liquidation;
- 7.3 The applicable property is sold or transferred to another person or entity;
- 7.4 There is a material alteration to the ratepayer's circumstances.

8. DEBT RECOVERY

Where a ratepayer has been informed of unpaid rates and charges and advised of the payment options available and a payment plan is not agreed upon, the City may recover the amount owing in the Magistrates' Court by suing for debt, subject to the requirements of section 180A of the LGA 1989.

External debt recovery is commenced as a last resort as a final attempt to engage with customers prior to legal action. The first contact by the external debt collection agency is a letter to confirm the customer is aware of the debt and offering assistance in the form of payment plans or advising of Council's hardship policy.

The costs of debt recovery will be added to a customer's unpaid rates and charges. Third parties used to undertake debt recovery activities will comply with this policy.

9. SALE OF PROPERTY

Once a Court Order has been obtained requiring payment of unpaid rates and charges, and any unpaid amount is more than three years overdue, a council may determine to sell or cause the land to be transferred into Council ownership.

A report will be presented to the Council for approval to proceed with the sale of property under section 181 of the LGA 1989.

Implementation of this Policy

MONITORING AND REPORTING

This policy will be monitored by the Chief Financial Officer and reported to the Executive Leadership Team from time to time or whenever the City's cash flow position is threatening to be compromised, whichever first occurs.

ADVICE AND ASSISTANCE

The Responsible Officer for this policy manages the provision of advice to the organisation regarding this policy.

RECORDS

The City must retain records associated with this policy and its implementation for at least the period shown below.

| Record | Retention / Disposal Authority | Retention Period | Location |
|--|--------------------------------|------------------|-------------|
| Applications for Hardship Correspondence | Chief Financial Officer | 7 years | EDRMS (ReX) |

References

- *Local Government Act 1989*
- *State of Victoria's Obligations to Act as a Model Litigant.*
- [Investigation into how local councils respond to ratepayers in financial hardship](#)
- Draft Ministerial Guidelines relating to payment of rates and charges