

3.02 – HARDSHIP POLICY – RATES AND CHARGES

1 POLICY PURPOSE

The purpose of this policy is to provide assistance to those ratepayers who are experiencing genuine financial hardship, and to explain the process for assessing and processing requests, payment arrangements, writing off interest on overdue rates and charges, and the applicable criteria for assistance.

2 POLICY OBJECTIVE

The objectives of this policy are to:

- Provide a formal administrative process to objectively determine hardship applications.
- Provide assistance, where possible, in accordance with the *Local Government Act 1993* (NSW) (NI) and *Local Government (General) Regulation 2005* (NSW) (NI) to those ratepayers who are experiencing financial hardship in paying their rates and charges.

3 POLICY SCOPE

Council may agree to a form of rates and charges recovery relief if hardship can be established.

This policy applies to Council’s annual rates and charges only and excludes other Council receivables (i.e. electricity and telecom charges).

This policy applies to all Council ratepayers, Councillors, staff and agents of Council, as well as any other entity involved in Council rates and charges recovery..

4 DEFINITIONS

TERM	DEFINITION
Arrangement to pay	An agreement between Council and a ratepayer to pay rates and charges and interest outside of the normal instalment due dates.
Charges	Charges levied annually on the land shown on the annual Rates and Charges Notice. These may include waste management service charges and other annual charges.
Costs	Amounts incurred by Council in recovering overdue rates and charges (for example Court, interest and professional costs) which can be legally recovered from a ratepayer.
Council	Norfolk Island Regional Council.
General Manager	A person who holds an appointment under section 334 of the Local Government Act 1993 (NSW) (NI). This includes a person acting in this position.

TERM	DEFINITION
Hardship	Any situation where an individual is having difficulty paying legally owed rates and charges. This can result from life changes (for example, because of illness, unemployment or changed financial circumstances) restricting the short-term ability to pay rates and charges that are due.
Interest	Interest raised in accordance with the <i>Local Government Act 1993 (NSW)(NI)</i> and as adopted by Council in the Revenue Policy.
Pensioner	An eligible pensioner as defined in clause 134 of the <i>Local Government (General) Regulation 2005 (NSW) (NI)</i> .
Ratepayer	The person or persons liable for the payment of Rates and Charges levied on a property.
Rates	Council rates levied annually on the land shown on the annual Rates and Charges Notice. These may include Ordinary Rates, Special Rates, and Charges.
Sale of Land	In accordance with section 713 of the <i>Local Government Act 1993 (NSW)(NI)</i> a council has the authority to sell land which has any unpaid rates or charges for more than 5 years, or 1 year for vacant land, where rates and charges owing exceeds the land valuation.
The Act	<i>Local Government Act 1993 (NSW)(NI)</i>
The Regulation	<i>Local Government (General) Regulation 2005 (NSW) (NI)</i>
Write off	The accounting process for interest incurred on outstanding rates and charges that is no longer collectable resulting in its removal from the ratepayer's receivable account.

5 LEGAL AND POLICY FRAMEWORK

Legislation, Policies and Documents:

Legislation:

- *Local Government Act 1993 (NSW) (NI)*.
- *Local Government (General) Regulation 2005 (NSW) (NI)*.
- *Privacy Act 1988 (CTH)*.

Policies:

- Rates and Charges Debt Recovery Policy.
- Complaints Handling Policy.

Documents:

- Office of Local Government (New South Wales) – Debt Management and Hardship Guidelines November 2018.
- Financial Hardship (Rate Relief) Application Form.

6 IMPLEMENTATION

Communication

This policy and any related documents are to be communicated to all Councillors, staff members and the community via Council's external website and intranet.

Implementation

Implementation of this policy will reference supporting procedures, documents and relevant guidelines.

7 POLICY STATEMENT

7.1 Background and Guiding Principles

Council requires all ratepayers to pay their rates and charges in full by the due dates(s). However, some ratepayers experience genuine financial hardship and consequently may request Council to consider alternative arrangements in the payment of their rates and charges.

Relief is offered to ratepayers who are experiencing genuine financial difficulties in paying their rates and charges in the form of:

- An arrangement to pay agreement between Council and the ratepayer, to pay rates and charges and interest outside of the normal instalment due dates; and
- Reducing or writing off accrued interest.

The following principles will be applied when implementing outstanding rates and charges recovery processes and assessing hardship assistance applications:

- Accountability and compliance;
- Fairness and consistency;
- Integrity and equity; and
- Transparency and appropriate confidentiality.

7.2 Ethics and Conflict of Interest

Council officers shall refrain from personal activities that would conflict with proper execution and management of Council's Hardship Policy – Rates and Charges. Council's Code of Conduct provides guidance for recognising and disclosing any conflicts of interest.

7.3 Privacy Obligations

A debtor's personal information will be treated with respect and Council will comply with the *Privacy Act 1988* (CTH) when collecting and disclosing information throughout the hardship application process.

Personal information means information or opinion, whether it is true or not, about an individual that can reasonably allow the individual to be identified.

7.4 Payment Arrangements

Where ratepayers are experiencing financial difficulties in meeting payments of Council rates and charges, they are requested to contact Council to discuss entering into a suitable payment arrangement to clear any outstanding balances.

The basic principle of any agreed financial arrangement is that the repayment should be sufficient to cover the expected future use of the service (as adjusted to ensure the ratepayer's financial position does not worsen over a reasonable period of time) and that repayment plans are established and followed in good faith by both the payer and Council.

It is Council's intention to have outstanding balances paid within three months of an arrangement being made. However, Council is sympathetic to ratepayers with special circumstances and may consider the payment of outstanding amounts with the intention to be settled within 18 months from the date the arrangement is made (including current and future instalments that fall due within that period). In all such cases, unpaid rates will remain attached to the property as an enforceable caveat.

In the case where the hardship still persists beyond the term of the agreement, then the ratepayer will need to reapply by submitting a new application.

All approved hardship applications will be reviewed at least annually, or at any other time Council deems necessary, to ensure the circumstances in which the original application was approved remains relevant.

Where a payment arrangement has expired and an overdue balance still exists, debt recovery proceedings will recommence at the stage where it has ceased.

Interest shall be charged on amounts outstanding as required by the Act.

7.5 Accrued Interest Write Off

Overdue rates will be charged at the adopted rate of interest in accordance with the Act. Accrued interest will not be written off except in accordance with this policy following hardship assessment.

Ratepayers who are unable to pay accrued interest on rates and charges for reasons beyond their control, or because payment of the accrued interest would cause them undue hardship, may apply to have the accrued interest written off.

Ratepayers who have complied with the conditions of an arrangement to pay and who are unable to pay accrued interest for the reasons stated above, may apply to have the accrued interest written off on the basis of hardship.

Application for writing off accrued interest under hardship provisions shall be determined on the merits of each individual case.

7.6 Hardship Application Process

Hardship assistance applications will be assessed on an individual basis with the financial circumstances of all property owners to be considered.

Applicants must submit their request in writing indicating the reason why they are applying for hardship by completing the Financial Hardship (Rate Relief) Application Form.

To enable Council to make an assessment, supporting evidence is to be provided with the application and should detail all income and expenses and include (but may not be limited to) copies of:

- Income statements;
- Mortgage statements;
- Credit card statements and other banking statements;
- Significant bills including all utilities etc; and
- Supporting medical documentation if hardship is requested on medical grounds.

- Any additional evidence to support special or unique circumstances.

Council may also request additional information and/or an interview with the ratepayer/s if considered necessary, to fully understand the issues causing hardship.

Applicants will be advised in writing of Council's decision within 21 days of receipt of their application, subject to the required information and supporting evidence being provided and assessed.

Submitting the financial hardship application does not mean that it will be automatically approved. Hardship assistance is subject to approval, and it can also be declined if the information provided is not sufficient or does not meet the criteria.

All applicants have the obligation of informing Council within 14 days of any change in circumstances that may affect their eligibility under this policy.

In the case where the hardship still persists beyond the term of any agreement, then the ratepayer will need to reapply by submitting a new application for Financial Hardship (Rate Relief).

Council officers can provide assistance to applicants in completing a hardship application form if it is required.

7.7 Hardship Criteria

In order to be eligible for assistance the applicant must meet all of the following criteria:

- Applications must be made on the Financial Hardship (Rate Relief) Application Form and include sufficient supporting information to allow Council to assess the applicant's financial position;
- Hardship relief will only be provided on rates for properties that are categorised as residential and the property for which the hardship application applies is the principal place of residency for the ratepayer;
- The applicant must be the owner or part-owner of the property and the ratepayer be liable for the payment of rates and charges on this property; and
- All ratepayers of the subject property must be included in the application (or Council may require a separate application from each ratepayer).

In relation to applications under section 601 (Hardship resulting from certain valuation changes) of the *Local Government Act 1993* (NSW)(NI) any application must be submitted to Council for consideration within six months of the posting date of the rates notice in the first year of the general revaluation for rating purposes.

7.8 Requests for Review

If the applicant does not agree with the decision made by Council, the applicant may request for a review within 30 days of the decision.

7.9 The General Manager and Manager Corporate Services will review the decision and notify the outcome to the applicant. As part of the review the applicant may be asked to provide further information to support the application. If the applicant remains dissatisfied with the decision, the applicant may lodge a complaint which will be considered in accordance with Council's Complaints Handling Policy. If a complaint does not result in a favourable outcome, the applicant may appeal the decision to Council, which has full discretion to hear the complaint in-person, on the papers or may summarily dismiss it.

Cessation of Assistance

All applicants have the obligation of informing Council of any change to their circumstances that may affect their ability to pay their rates and charges within 14 days of that change occurring.

Council may require payment of overdue rates and charges and interest if any of the following apply:

- The applicant ceases to be the ratepayer liable for payment of the rates and charges on the property;
- The circumstances for which an agreement was approved have changed, such that the ratepayer/s

can afford to pay the rates and charges;

- A change occurs to the property in the form of a subdivision, acquisition in part or any other like circumstance;
- Regular payments have ceased being received to the account as was agreed with the ratepayer when the application was approved or last reviewed; and
- Council decides that payment of the overdue rates and charges (and accrued interest) is in the best interests of the Council and the community.

7.10 Special Circumstances

Where special circumstances exist beyond this policy, individual circumstances are considered on a case-by-case basis and presented to Council for individual consideration.

8 MONITORING AND REPORTING

The monitoring and evaluation of the policy will be conducted in accordance with Council's policy review cycle.

9 REVIEW AND VERSION CONTROL

Policy Number:	3.02	Responsible Officer:	Manager Corporate Services
Next Review Date:	February 2028		
Version:	Resolution Number:	Effective Date:	Description:
1.0	2017/17	15 February 2017	Developed and adopted
2.0	2019/20	20 February 2019	Reviewed and adopted
3.0	2022/132	16 November 2022	Reviewed and adopted
4.0	2023/74	02 August 2023	Reviewed and adopted
5.0	TBC	TBC	Reviewed