

SCS-003 Hardship Policy

TRIM Reference: D21/161053 Due for Review: November 2024
Responsible Officer: Manager Finance

Purpose

The purpose of this policy is to establish a framework by which the Surf Coast Shire Council can offer some form of relief measures to ratepayers/sundry debtors who endure significant hardship in meeting rates and charges including special charge rates and sundry debtor payments.

Policy Principles

The following principles underpin this policy:

- It is recognised that not all ratepayers/sundry debtors require alternate arrangements and for those that do the particulars of the arrangements may vary;
- Support needs to be easy for ratepayers/sundry debtors to access as well as for staff to implement;
- Short term support for individuals needs to be balanced with long term sustainability of Council;
- Financial support provided to individuals needs to be balanced with the burden, equity and fairness for the broader ratepayer base;
- When ratepayers/sundry debtors face difficulty in paying bills, these obligations would likely be to many organisations and it is not reasonable for Council alone to provide relief;
- Council will use its legislative and regulatory powers to achieve its objectives; and
- Council will respect the confidentiality of any person needing to share their financial circumstances with Council or seek its assistance with rates and debts.

Scope

This policy will cover all requests from Council's ratepayers and sundry debtors seeking assistance with financial hardship situations.

Policy

It is acknowledged at the outset that various ratepayers/sundry debtors may experience financial hardship for a whole range of issues and that meeting rates, charges and levy obligations constitute just one element of financial difficulties that may be faced.

The purpose of this policy is to provide options for ratepayers/sundry debtors facing financial difficulty to deal with the situation positively and reduce the strain imposed by financial hardship. Council's approach will be:

- to firstly offer a payment plan, or
- if a payment plan is not possible for rates, then a deferral arrangement (as long as the application meets the eligibility criteria) or
- in exceptional circumstances as a last resort, where a payment plan or deferral arrangement for rates and charges cannot be established and hardship exists, a waiver arrangement may be considered.

Ratepayers experiencing financial difficulty paying rates or charges can contact Council's Revenue Department to confidentially discuss the alternative payment arrangements in this policy.

Payment Arrangement Plans for Rates, Charges, Fees and Sundry Debts

Council will offer to all ratepayers and sundry debtors the ability to negotiate a payment arrangement plan for rates, special charge scheme charges or sundry debtor invoices with a flexible start date. Council

encourages ratepayers/sundry debtors who are experiencing financial difficulty to set up a payment plan tailored specifically to their needs. This will reduce the amount of debt owing in the long term. Rate notices/invoices will continue to be issued while payment arrangements are in place to keep ratepayers informed of the outstanding balance.

All payment arrangement plans should suit the financial capacity of the ratepayer or sundry debtor concerned with a known end date that clears the debt within an agreed timeframe. Payment plans will be flexible with respect to the following:

1. timing of payments (eg. weekly, fortnightly, monthly, quarterly);
2. amount of instalments; and
3. period of the payment plan to be reasonable given the ratepayers/sundry debtors circumstances.

Outstanding rates and charges under a payment arrangement are subject to penalty interest rates as prescribed under the Penalty Interest Rates Act.

A payment arrangement will be deemed withdrawn on the basis of any of the following conditions:

1. the debt is paid in full;
2. the ratepayer advises financial hardship no longer exists;
3. the ratepayer ceases to own or occupy the property; or
4. the ratepayer has defaulted repeatedly in meeting the agreed terms for payment of the debt.

Payment Arrangement Plans require a written agreement to be entered into between the ratepayer/sundry debtor and Council. Council will accept an application in the form of the Rates and Charges Payment Arrangement Application (available on Council's website: www.surfcoast.vic.gov.au/rate-arrangement), or in writing via email to info@surfcoast.vic.gov.au and addressed to the Revenue Department or mailed to Surf Coast Shire Council, 1 Merrijig Drive, Torquay VIC 3228. Applicants are required to acknowledge Council's terms and conditions for payment arrangements.

Deferral of Rates and Charges

Under Section 170 of the Local Government Act 1989, Council may defer the payment of any rate or charge, allowing ratepayers an extended period of time to make payments or alternatively forestall payments on an indefinite basis until the ratepayer ceases to own or occupy the land in respect of which rates and charges are being levied.

Deferral of rates, charges and levies are available where the rateable property is used exclusively for residential purposes, is the person's sole or principal place of residence (not a corporation) and where the ratepayer satisfies the following eligibility criteria:

1. eligible pensioners under the State Concession Act; or
2. Health Care card holders; or
3. ratepayers who can evidence (via Centrelink statement of earnings or ATO tax assessment) that they are of low income status with a maximum income that is less than the Centrelink base rate threshold for the Family Tax Benefit Part A.

Where Council approves an application for deferral of rates and charges, interest will continue to be levied on the outstanding balance of rates and charges but at an interest rate fixed annually by Council through the budget process. This deferred interest rate will typically be lower than the prescribed penalty interest rate levied by Council on unpaid rates and charges).

A deferment will be deemed withdrawn on the basis of any of the following conditions:

1. the ratepayer no longer satisfies the eligibility criteria for deferment;
2. the ratepayer advises financial hardship no longer exists;
3. the ratepayer ceases to own or occupy the property;
4. the ratepayer has defaulted in meeting the agreed terms for payment of the debt;
5. the ratepayer has provided false or misleading information in support of the application for relief.

Deferral of rates and charges require a written agreement to be entered into between the ratepayer and Council. Council will only accept an application in the form of the Rate Deferment Application (available on Council's website: [//www.surfcoast.vic.gov.au/About-us/Permits-and-forms#Rates](http://www.surfcoast.vic.gov.au/About-us/Permits-and-forms#Rates) [surfcoast.vic.gov.au/rate-arrangement](http://www.surfcoast.vic.gov.au/rate-arrangement) or ring customer service on 5261 0600 to request a hardcopy). Submit your application via the website or in writing via email to info@surfcoast.vic.gov.au and addressed

to the Revenue Department or mailed to Surf Coast Shire Council, 1 Merrijig Drive, Torquay VIC 3228. Applicants are required to acknowledge Council's terms and conditions for deferments.

Waiving of Rates and Charges

Under Section 171 and 171A of the Local Government Act 1989, Council may waive payment or part payment of any rate or charge on the grounds of financial hardship. Under section 171(1)(b) of the Local Government Act 1989, payment of rates may be waived in whole or in part if the ratepayer falls into a class of persons which Council has determined eligible on the grounds of financial hardship. For the purpose of this section, a person is considered to be within this class of persons if their circumstances are considered by the Chief Executive Officer to significantly exceed the circumstances ordinarily experienced by someone experiencing financial hardship as defined by this policy.

Waiving of rates and charges is a last consideration when all other avenues are exhausted. Council needs to be mindful in that in applying this section, any rates or charges foregone by way of rate waivers will essentially be passed onto the remaining ratepayers. It is therefore not considered to be an appropriate mechanism to waive rates and charges or special rates.

Waiving of rates and charges requires a written request and will only be considered if all financial information has been disclosed to Council with supporting documentation as requested.

Applications for waivers will be reviewed by the Revenue Coordinator, Manager Finance and the General Manager Governance and Infrastructure. The General Manager Governance and Infrastructure will make a recommendation to the Chief Executive Officer. Waivers for rates and charges can be approved by the Chief Executive Officer to a limited value of \$5,000.

Waiving of Interest, Legal or Debt Recovery Fees

Interest waivers are divided into three categories: administrative, compassionate and financial hardship.

1. Waiver on administrative grounds - Ratepayers/sundry debtors may have interest, legal or debt recovery fees only waived in the event of an administrative issue, error or omission which caused or significantly contributed to the failure to pay rates on time. An administrative error may include:
 - a. Failure to process a change of address notified to Council in writing and the rate notice was sent to a wrong address; or
 - b. Processing of a payment to an incorrect assessment causing interest to be charged incorrectly.
2. Waiver on compassionate grounds - Ratepayers/sundry debtors may have interest, legal or debt recovery fees only waived where they have demonstrated compassionate grounds for a payment being late. Acceptable compassionate grounds would generally relate to illness, a death in the family, sale of property or upcoming scheduled payment.
3. Waiver on Financial Hardship grounds - Ratepayers may have interest, legal or debt recovery fees only, or part thereof, waived where they have demonstrated the payment of such interest would cause severe financial hardship.

Waiving of interest, legal or debt recovery fees on administrative grounds can be applied for via a telephone call to the Revenue Department or in writing. Waiving of interest on compassionate or hardship grounds requires a written request with supporting documentation as requested.

Unpaid Rates and Charges

Under Section 172 of the Local Government Act, Council charges penalty interest at a rate prescribed under the Penalty Interest Rates Act on unpaid rates and charges and sundry debtors.

Debt Recovery

Council will make a reasonable attempt to contact a ratepayer or sundry debtor about their overdue account. This may include a reminder/overdue notice (with appropriate reference to this Hardship Policy to ensure that ratepayers and sundry debtors are well-informed of their options), account statement, email or phone call. Debt recovery action will not be taken on an approved deferment of rates or whilst a ratepayer/sundry debtor is complying with an approved payment arrangement plan.

Local Government Act 2020 Principles

Principles	Applicable to policy	If yes, provide details
Governance Principles (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes	This policy complies with the Local Government Act 1989 Sections 170 and 171.
Community Engagement (Consideration of Community Engagement Principles under s.56 LGA 2020)	No	
Public Transparency (Consideration of Public Transparency Principles under s.58 of LGA 2020)	Yes	This policy will be adopted by Council and available for viewing on Council's website.
Strategies and Plans (Consideration of Strategic Planning Principles under s.89 of LGA 2020)	Yes	This policy considers resources (revenue) needed to implement the Council Plan.
Financial Management (Consideration of Financial Management Principles under s.101 of LGA 2020)	Yes	This policy helps to provide stability and predictability in the financial impact on ratepayers with providing support with providing payment arrangements and limiting waivers.
Service Performance (Consideration of Service Performance Principles under s.106 of LGA 2020)	No	

Definitions

- "Debt" Debt is the amount of money owed by the debtor as a result of a transaction with Council.
- "Deferral" A deferral of payment can be provided in whole or in part for rates, charges and levies which are due and payable for a specified period and subject to any conditions determined by Council if it considers that an application submitted by a ratepayer shows that payment of rates, charges and levies would cause hardship to the ratepayer.
- "Waiver" A waiver removes the liability from the eligible ratepayer to pay the whole or part of any rate, charge or levy by way of a Council resolution if it considers that an application submitted by a ratepayer shows that payment of rates, charges and levies would cause hardship to the ratepayer.
- "Sundry Debtor" Sundry Debtor refers to the individual, organisation or other party that owes a debt as a result of a transaction with Council.
- "Ratepayer" Is the occupier or owner of any rateable property who is liable to pay rates. This may be the property of the owners or a tenant who under the lease agreement is liable to pay rates.
- "Financial Hardship" Financial hardship is defined as a situation where Council reasonably considers that a customer is unable because of prolonged illness, unemployment, or other cause to discharge their financial obligations to Council. Financial hardship will be considered on an individual basis and always with a view to the ratepayer or debtor (a) re-establishing financial capacity and (b) meeting their financial obligations to Council.

Related Procedure

References

Local Government Act 1989 - Sections 170, 171, 171A and 172
 Rates Assistance Council website (www.surfcoast.vic.gov.au)

Centrelink website (www.centrelink.gov.au)

Document History

Version	Document History	Approved by – Date
1	<i>Amended</i>	<i>Council Resolution – 24 July 2018</i>
2	<i>Amended</i>	<i>Council Resolution – 23 November 2021</i>