

SCS-003 Hardship Policy

TRIM Reference:	D25/22559	Due for Review:	April 2028
Responsible Officer:	Manager Finance		

1. Purpose

The purpose of this policy is to support the effective and timely recovery of Rates and Charges and Overdue Sundry Debts whilst providing a framework for fair and consistent relief measures in support of Ratepayers and Service Users experiencing Hardship.

2. Policy Principle

Council is responsible for effective management of revenue and rating and must seek to provide stability and predictability in the financial impact on the municipal community.

Council must balance its revenue and rating responsibilities with its ethical responsibilities to ensure a **fair, supportive, transparent** and **accountable** approach to debt management.

2.1 Fair

- (a) All Ratepayers and Service Users experiencing Hardship and/or Financial Hardship are eligible to apply for relief in relation to Rates and Charges and Overdue Sundry Debts.
- (b) Each application will be considered on a case-by-case basis on its individual merits and approved relief will be appropriate and proportionate to individual circumstances.

2.2 Supportive

- (a) Council will proactively identify Ratepayers and Service Users who may be experiencing Hardship and/or Financial Hardship and assist them in understanding the relief application process.
- (b) Council will ensure systems and processes are implemented to protect the confidentiality of Ratepayers and Service Users affected by Family Violence and Economic Violence.
- (c) Contact information for external support providers will be provided to Ratepayers.

2.3 Transparent

- (a) Council's relief application process will be easily accessible and clear.
- (b) Ratepayers and Service Users will be provided access to consistent billing, debt recovery and relief assistance.

2.4 Accountable

- (a) Decisions made under this policy will be provided to the applicant in writing.
- (b) Decisions are able to be reviewed internally under Council's Complaint Handling Policy and externally to the Victorian Ombudsman.
- (c) Debt collecting agencies acting on behalf of Council will be referred to this policy and are expected to comply with the policy in undertaking Rates and Charges and Overdue Sundry Debt collection.

Hardship and Financial Hardship

To be eligible for certain relief measures under this policy, the Ratepayer must be experiencing Hardship and/or Financial Hardship or the obligation to pay the Rates and Charges in accordance with the rates notice will result in the Ratepayer experiencing Hardship and/or Financial Hardship. Service Users may also be eligible for relief measures where they are experiencing Hardship in paying their Overdue Sundry Debts (refer clause 4.6).

(a) Hardship

Hardship is any situation where a Ratepayer is having difficulty managing the payment of their Rates and Charges or where a Service User is having difficulty managing the payment of their Overdue Sundry Debt. This can result from an unexpected event or unforeseen changes outside the Ratepayers or Service Users control such as illness, unemployment or changed financial circumstances.

(b) Financial Hardship

Financial Hardship occurs where a Ratepayer cannot afford the necessities of life for themselves and/or their dependents or where payment of the Rates and Charges would result in the Ratepayer not being able to afford the necessities of life for themselves and/or their dependents.

The necessities of life include medical treatments/supplies, essential utility services, basic living needs (food, accommodation, clothing, education for dependent children) and safety. For the purposes of clarity, where payment of Rates and Charges places a Ratepayer (or their dependent) in any form of harm or danger such as Family Violence or Economic Abuse, payment will have restricted the Ratepayers ability to afford the necessities of life.

3. Scope

This policy applies to:

- (a) Ratepayers experiencing Hardship and/or Financial Hardship on or after the commencement date of this policy in relation to Rates and Charges;
- (b) Service Users with an Overdue Sundry Debt to Council; and
- (c) Council's debt collection agents.

4. Policy

4.1 Rates and Charges relief applications

Council will consider all eligible relief applications. Applications must be made by or on behalf of a Ratepayer in relation to Rates and Charges levied against Rateable Land who is experiencing Hardship and/or Financial Hardship or would, as a consequence of having to pay the Rates and Charges in accordance with the rates notice, experience Hardship or Financial Hardship. Some relief measures are only available to Ratepayers using the Rateable Land as their Principle Place of Residence or where they are Concessional Ratepayers.

4.1 Rates and Charges relief application process

4.1.1 Accessibility

This policy and all associated relief application forms will be publicly available:

- (a) In electronic form on Council's website;
- (b) In electronic form emailed to the Ratepayers nominated email address by contacting Council;
- (c) In hardcopy form for collection from Council's Civic Building; and/or
- (d) In hardcopy form posted to the Ratepayers nominated address by contacting Council.

4.1.2 Application

Council will consider eligible relief applications within 10 business days of receipt of the application. Council has streamlined the relief application process by publishing its relief application forms online.

In circumstances where Ratepayers are unable to complete the online relief application forms, Council will accept applications verbally or in a more accessible form, as the situation requires. Mere inconvenience in completing an online relief application form is not considered circumstances where a Ratepayer is unable to apply online.

Ratepayers may complete their relief applications with the help of third parties and Council will accept information provided by third parties but only where the Ratepayer has expressly authorised the third party to be their authorised agent, in writing.

4.1.3 Further information

After receipt of a valid relief application, Council will first consider whether the Ratepayer meets the eligibility criteria. Where Council considers that the eligibility criteria has been met, an assessment will be undertaken on:

- (a) the level of Hardship and/or Financial Hardship experienced or potentially experienced; and
- (b) the appropriate and proportionate relief measures available to the Ratepayer by reference to their particular circumstances.

In assessing and determining any of the above matters, Council may need to request further

evidence from the Ratepayer. Requests for further information will be in writing and Council will be flexible in the requisite form and content of evidence.

Requests for further information may also include a request for consent for Council to independently verify information from a third party.

Where a Ratepayer refuses to provide further information, the eligibility criteria may not be met and Council may have no option but to dismiss the relief application.

Ratepayers must inform Council of any change in circumstances relevant to a relief application (whether pending or granted). Ratepayers must also ensure information is not false or misleading. Failure to comply with either of these obligations may, where applicable, be an offence against the Act and penalties may be applied against the Ratepayer.

4.1.4 Decisions

A decision on eligible relief applications will be provided to the Ratepayer (or their authorised agent) in writing. Council will endeavor to provide their decision within 10 business days after all information has been received in accordance with this policy.

A decision will include the following information:

- (a) whether the Ratepayer has been able to meet the criteria of Hardship and/or Financial Hardship;
- (b) the relief measures considered appropriate and proportionate in the circumstances;
- (c) any applicable terms Council considers appropriate and proportionate in the circumstances;
- (d) where the decision is to reject the relief application, the reasons for that rejection;
- (e) options for review and/or complaints; and
- (f) referral for support services.

4.2 Rates and Charges Relief Measures

4.2.1 Payment Plans

(a) Eligibility

Council may enter into a Payment Plan with a Ratepayer to provide relief to that Ratepayer. Council may apply this relief measure in circumstances of Hardship and/or Financial Hardship.

(b) Terms

A Payment Plan will be on the terms and conditions Council considers appropriate and proportionate in the circumstances. Where a Payment Plan is being validly complied with, Interest will not be applied.

Council may approve:

- i. a Personalised Payment Plan tailored to meet individual circumstances whilst supporting payment.
- ii. A Varied Installment Payment Plan for Ratepayers seeking flexibility in payment due dates so they may better manage their finances. Payment due dates may be fortnightly, monthly or any other timeframe Council considers appropriate and proportionate in the circumstances. Payment due dates must not exceed the due dates for payment on their rates notice.
- iii. an Extension Payment Plan for Ratepayers seeking an extension of time to pay an installment of their Rates and Charges due to temporary Hardship and/or Financial Hardship. Extended due dates will only surpass the next installment due date and/or will only be granted for multiple installment due dates in a single rating year, where Council considers that it is appropriate and proportionate in the circumstances.

(c) Cancellation

Council may cancel a Payment Plan at any time if:

- i. the Ratepayer is not complying with the terms and conditions of the Payment Plan; or
- ii. a change in the Ratepayers circumstances occurs and Council determines that the Ratepayer is no longer in Hardship and/or Financial Hardship, no longer satisfies the

criteria or the relief measure is no longer appropriate and proportionate.

If a Payment Plan is cancelled under 4.2.1(c)(i) or (ii) above, the amount will become due and payable upon notice in writing and Council will apply Interest.

A Payment Plan will be deemed to have ended where:

- (a) the amount due is paid in full; or
- (b) the Ratepayer ceases to be the ratepayer for the Rateable Land.

4.2.2 Deferred Payment

(a) Eligibility

Council may defer payments of Rates and Charges to provide relief to Concessional Ratepayers. Council may apply this relief measure in circumstances of Hardship and/or Financial Hardship and in relation to Rateable Land that is the Ratepayers Principle Place of Residence.

(b) Terms

Council may defer payments of Rates and Charges on terms and conditions Council considers appropriate and proportionate in the circumstances. Interest will not accrue on amounts due under a Deferred Payment.

(c) Cancellation

Council may cancel a Deferral Payment at any time if:

- i. the Ratepayer is not complying with the terms and conditions of the arrangement; or
- ii. a change in the Ratepayers circumstances occurs and Council determines that the Ratepayer is no longer in Hardship and/or Financial Hardship, no longer satisfies the criteria or the relief measure is no longer appropriate and proportionate.

If a Deferred Payment is cancelled under 4.2.2(c) (i) or (ii) above, the amount will become due and payable upon notice in writing and Council will apply Interest.

A Deferred Payment will be deemed to have ended where:

- (a) the amount due is paid in full;
- (b) the ratepayer no longer satisfies the eligibility criteria for Deferred Payment under this policy; or
- (c) the Ratepayer ceases to be the ratepayer for the Rateable Land.

4.2.3 Waivers

(a) Interest and/or Default Costs Waiver

Council may waive, in part or in full, any amount of existing Interest or Default Costs in the circumstances of Hardship, Council error, administrative errors or where it is compassionate to do so.

i. Eligibility - Hardship Interest and/Default Costs waiver

Council may waive, in part or in full, any amount of existing Interest or Default Costs to provide relief to Ratepayers. Council may apply this relief measure in circumstances of Hardship and/or Financial Hardship.

ii. Eligibility - Council error waiver

Council will waive all Interest and Default Costs where failure to pay rates and Charges was caused by Council's own administrative error.

iii. Eligibility - Administrative waiver

Council may waive, in part or in full, Interest and/or Default Costs where an administrative error caused or significantly contributed to the failure to pay Rates and Charges on time, such as typographical mistake or error when informing Council of a change of address resulting in a rates notice being sent to an incorrect address.

iv. Eligibility - Compassionate waiver

Council may waive, in part or in full, Interest and/or Default Costs where a payment was or is delayed due to Compassionate Grounds. Council will only

apply a compassionate waiver where the Ratepayer has a proven history of paying Rates and Charges on time and/or where it is appropriate and proportionate to do so.

(b) Rates and Charges Waiver

Eligibility

Council may waive, in part or in full, any Rates and Charges to provide relief to Ratepayers. Council will only apply this relief measure in circumstances of Financial Hardship and in relation to Rateable Land that is the Ratepayers Principle Place of Residence. Waiver of Rates and Charges will only be considered appropriate and proportionate where the individual need and circumstances outweighs the benefit the Ratepayer has in the CIV of the Rateable Land and consequential inequity of other ratepayers subsidising the relief applicants property assets. A Ratepayer may only make one waiver relief application for each rating period in respect of the same Rateable Land.

4.3 Rates and Charges debt management

Council must act to support effective management of revenue and rating in its endeavor to provide financial stability for the Shire. In circumstances where relief measures are not applied, Council will undertake effective and proportionate debt management by utilising the appropriate enforcement mechanisms.

Council will make reasonable attempts to contact a Ratepayer about their overdue account. This may include a reminder/overdue notice, emails or phone call where available. Correspondence will ensure that Ratepayers are well-informed of their payment options.

4.3.1 Interest

Interest will be charged on overdue Rates and Charges not the subject of a relief measure. The Interest amount will not exceed the penalty interest rate fixed by the Minister.

4.3.2 Debt recovery

Rates and Charges and Interest not the subject of approved relief measures under this policy and overdue for payment will be consigned for debt recovery.

Council may issue overdue notices where payment has not been made within two weeks after the payment due date. Overdue notices will require payment immediately. Where payment is still unpaid (in part or in full) for a further two weeks after issue of the overdue notice and the amount due exceeds \$1,000, Council will refer the matter to a debt recovery agency.

Council may commence proceedings to recover unpaid Rates and Charges, Interest and Default Costs in the Magistrates Court of Victoria or otherwise by suing for debt. Proceedings will only be commenced not prior to:

- (a) 24 months after the Ratepayer has been given a rates notice and the Ratepayer has not made payment in accordance with that rates notice; or
- (b) 24 months after the Ratepayer has failed to make payment in accordance with a Payment Plan cancellation notice.

4.3.3 Caveat

Council may cause a caveat to be registered on title to Rateable Land at any time during the debt recovery process.

Council will use caveats where it is necessary to protect its interest in overdue debts. Council considers it necessary to protect its interest in the following situations:

- (a) where, after all reasonable measures have been exhausted, a Ratepayer cannot be located; and/or
- (b) Council has reason to believe the Rateable Land will be transferred prior to debt repayment.

4.3.4 Sale of land

Where Council has obtained a Court order as part of its debt recovery proceedings and the debt is not less than 3 years overdue, Council may sell the Rateable Land to which the Rates and Charges have been levied against. Council will only use its power to sell once all other debt recovery measures have been exhausted and sale is appropriate and proportionate in the circumstances.

Council will only sell Rateable Land under this policy where the sale has been approved by Council resolution.

4.4 Overdue Sundry Debts

Where Council offers goods and services to Service Users for monetary consideration, it will issue a valid GST tax invoice. Service Users who do not pay the full amount in the time specified in the tax invoice will owe an Overdue Sundry Debt to Council. Unless payment is subject to an approved relief measure validly complied with, Council may apply Penalty Interest on Overdue Sundry Debts where it is appropriate and proportionate in the circumstances.

4.4.1 Application

Service Users (or a third party they have authorised in writing) may apply to Council for relief measures outlined in this policy where they are unable to pay their Overdue Sundry Debt in accordance with their tax invoice.

To apply for a relief measure, Service Users must contact Council as follows:

- Telephone: 03 5261 0600
- Online: www.surfcoast.vic.gov.au/complaint
- Email: info@surfcoast.vic.gov.au
- Post: PO Box 350, Torquay, 3228
- In person: Customer Service Desk 1 Merrijig Drive, Torquay.

In considering whether to grant a relief measure, Council may request further information from Service Users in the same manner as outlined above in paragraph 4.1.3 of this policy.

4.4.2 Relief measures

Council aims to support Service Users by offering relief measures to those experiencing Hardship on terms and conditions it considers appropriate and proportionate in the circumstances. Council may cancel a relief measure where the Service User does not comply with the terms and conditions of the relief measure or is no longer in Hardship. Penalty Interest and Default Costs will not be applied to Overdue Sundry Debts for the duration in which an approved relief measure is being complied with.

Council may grant:

- (a) a **payment extension** of the due date for payment. Any extension must not exceed 90 days from the original payment due date.
- (b) a **payment plan** setting out installments due on specified dates for an Overdue Sundry Debt. Any payment plan under this clause will attempt to achieve payment in full on or prior to the end of the financial year on which the Overdue Sundry Debt has accrued.
- (c) A **waiver** of Penalty Interest and/or Default Costs where non-payment has occurred due to an administrative error cause by Council;
- (d) A **waiver** of Penalty Interest and/or Default Costs where non-payment has occurred due to an administrative error as outlined in paragraph 4.2.3(a)(iii) of this policy.
- (e) A **waiver** of Penalty Interest and/or Default Costs where non-payment has occurred due to Compassionate Grounds and the Service User has a history of payment on time and/or the waiver is appropriate and proportionate in the circumstances.

4.4.3 Debt management

Overdue Sundry Debts not the subject of approved relief measures under this policy will be consigned for debt recovery.

Council will issue overdue notices where payment has not been made within two weeks after the payment due date. Overdue notices will require payment immediately. Where payment is still unpaid (in part or in full) for a further two weeks after issue of the overdue notice and the amount due exceeds \$1,000, Council will refer the matter to a debt recovery agency.

Council may commence proceedings to recover Overdue Sundry Debts, Penalty Interest and Default Costs in the Magistrates Court of Victoria or otherwise by suing for debt. Proceedings will only be commenced after at least two weeks have passed since an overdue notice has been issued.

5. Review

5.1.1 Internal review

If a person is dissatisfied with a decision made under this policy, they may request a review or make a complaint under Council Complaint Handling Policy by contacting Council as follows:

- Telephone: 03 5261 0600
- Online: www.surfcoast.vic.gov.au/complaint
- Email: info@surfcoast.vic.gov.au
- Post: PO Box 350, Torquay, 3228
- In person: Customer Service Desk 1 Merrijig Drive, Torquay

5.1.2 External review

If a person is not satisfied with how Council has handled the internal review, the person may make a complaint to an external body. You can request an external review from the following bodies:

- For a complaint regarding Council actions or decisions: Victorian Ombudsman www.ombudsman.vic.gov.au
- For a complaint regarding breach of privacy: Office of the Victorian Information Commission www.ovic.vic.gov.au
- For a complaint regarding discrimination: Victorian Human Rights and Equal Opportunity Commission www.humanrights.vic.gov.au

6. Privacy

All relief applications (including information provided to support a relief applications) are protected by Privacy Laws and will be deemed as provided in confidence unless the Ratepayer specifies otherwise.

7. Referrals

Ratepayers and service users experiencing Hardship, Financial Hardship or are otherwise vulnerable are encouraged to access counselling and/or other support services. Council will provide a list of support services ratepayers may access on its website and will provide access to the information to relief measure applicants during the decision making process.

8. Appendices

Appendix 1: Definitions

Act	means the <i>Local Government Act 1989</i> (Vic).
CIV	means the capital improved value specified on the rates notice for the relevant Rateable Land.
Compassionate Grounds	applies to Ratepayers and Service Users who: <ul style="list-style-type: none"> (a) Are or were experiencing serious illness; (b) Have recently experienced the death of an immediate family member; (c) Have an unconditional settlement date for the sale of property; or (d) Can show payment has or will be made imminently.
Concessional Ratepayers	means Ratepayers who: <ul style="list-style-type: none"> (a) Are eligible pensioners under the <i>State Concessions Act</i> (Vic) 2004; (b) Hold a valid Commonwealth Low Income Health Care Card; or (c) Can evidence (via Centrelink statement of earnings or Australian Tax Office 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.
Council	means Surf Coast Shire Council (ABN 18 078 461 409).
Default Costs	means all costs incurred by Council necessary for debt recovery and management of unpaid Rates and Charges for the relevant Rateable Land or Overdue Sundry Debts and includes (but is not limited to) legal fees, administrative fees, complaint fees, judgement fees, preparation fees, service fees and enforcement costs/fees, caveat lodgement and registration costs and all incidental costs, fees and disbursements necessarily incurred.
Deferred Payment	means an agreement to defer payment of Rates and Charges and Interest under section 170 of the Act.
Economic Violence	has the same meaning ascribed to it under section 6 of the <i>Family Violence Protection Act 2008</i> (Vic).
Family Violence	has the same meaning ascribed to it under section 5 of the <i>Family Violence Protection Act 2008</i> (Vic).
Financial Hardship	occurs where a Ratepayer cannot afford the necessities of life for themselves and/or their dependents or where payment of the Rates and Charges would result in the Ratepayer not being able to afford the necessities of life for themselves and/or their dependents. Mere inconvenience of difficulty in making a payment is not Financial Hardship within the meaning of this policy.
GST	has the same meaning given to it in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Hardship	occurs where a Ratepayer or Service User is having financial difficulty managing the payment of their Rates and Charges or Overdue Sundry Debt.
Interest	means penalty interest charges on outstanding Rates and Charges under section 172 of the Act.
necessities of life	Includes medical treatments/supplies, essential utility services, basic living needs (food, accommodation, clothing, education for dependent children) and safety. For the purposes of clarity, where payment of Rates and Charges places a Ratepayer (or their dependent) in any form of harm or danger such as Family Violence or Economic Abuse, payment will have restricted the Ratepayers ability to afford the necessities of life.
Overdue Sundry Debt	means a monetary amount owed to Council by a Service User which has not been paid in full on the due date for payment as specified on the tax invoice and excludes any amount of Rates and Charges.
Payment Plan	means a Council approved payment plan under section 171B of the Act.
Penalty Interest	means the penalty interest amount set under section 2 of the <i>Penalty Interest Rate Act 1983</i> (Vic).
Principle Place of	means a residence to which:

Residence	<ul style="list-style-type: none"> (a) a principal place of residence land tax exemption is applied by the State Revenue Office pursuant to the <i>Land Tax Act 2005</i> (Vic); or (b) a Ratepayer is unable to use the Rateable Land as their principle place of residence due to actual or risk of Family Violence or Economic Violence being occasioned to them; or (c) the Ratepayer is unable to use the Rateable Land as their principle place of residence due to legal processes where they can establish that relief is only temporarily required pending resolution of legal processes.
Privacy Laws	means the Information Privacy Principles set out in the <i>Privacy and Data Protection Act 2014</i> (Vic) and Council's Privacy Statement as issued from time to time.
Rates and Charges	means all rates, charges, debts and levies specified on Council's annual rates notice issued for Rateable Land. For the purposes of clarity, Rates and Charges includes (but is not limited to) all rates and charges Council is empowered to declare pursuant to section 155 of the Act, any legislated levies to which Council has been declared a responsible collecting agency where such levies are included in the annual rates notice which apply to the Rateable Land, from time to time.
Rateable Land	means land defined as rateable land in section 154 of the Act within the Shire.
Ratepayer	means the entity liable, pursuant to section 156 of the Act, for payment of rates and charges on Rateable Land and, in relation to a waiver relief application under section 171 of the Act, includes those persons listed in section 171(ba) and 171(5A) life tenants and lessee's under long term leases (life leases or leases exceeding 50 years).
Service Users	means an entity, including a natural person, that owes a sundry debt to Council.
Shire	means the local government land area governed and administered by Council.
Waiver	means the writing off by Council, in part or in full, of Rates and Charges in a single financial year in relation to a single Rateable Land by Council pursuant to section 171 of the Act.

Appendix 2: Local Government Act 2020 (Vic) Principles

Principles	Applicable to policy	If yes, provide details
Governance Principles (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes	(a) Council decisions are to be made and actions taken in accordance with the relevant law; (g) the ongoing financial viability of the Council is to be ensured; 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	(a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act; 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)	No	
Financial Management (Consideration of Financial Management Principles under s.101 of LGA 2020)	Yes	(b) Financial risks must be monitored and managed prudently having regard to economic circumstances; and (c) Financial policies and strategic plans, including the Revenue and Rating Plan, must seek to provide stability and predictability in the financial impact on the municipal community This policy helps to provide stability and predictability in the financial impact on ratepayers with providing support with providing payment plans, payment extensions and limiting waivers.
Service Performance (Consideration of Service Performance Principles under s.106 of LGA 2020)	No	

Appendix 3: related policies, legislation, procedure and documents

Related Policies and Procedures

Revenue and Rating Plan

MP-068 Debt Management of Unpaid Rates, Charges & Levies

SCS-031 Privacy and Data Protection Policy

SCS-032 Complaint Handling Policy

References

Charter of Human Rights and Responsibilities Act 2006

Family Violence Protection Act 2008

Fire services property Levy Act 2012

Gender Equality Act 2020

Land Tax Act 2005

Local Government Act 1989

Local government Act 2020.

Penalty Interest rates Act 1983

Privacy and Data Protection Act

State Concessions Act 2004

Valuations of Land Act 1960

Document History

Version	Document History	Approved by – Date
1	<i>Amended</i>	<i>Council Resolution – November 2021</i>
2	<i>Amended</i>	<i>Council Resolution – April 2025</i>