

Policy

Hardship Policy 2022



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D22/1568	23 February 2022	Extension of Hardship to include all types of Debtors Adopted by Council [res.2022/23]

Further Document Information and Relationships	
Related Legislation*	<i>Local Government Act 1993 Local Government (General) Regulation 2021 Privacy and Personal Information Protection Act 1998</i>
Related Policies	Council's Revenue Policy Debt Recovery Policy
Related Documents	Liverpool Plains Shire Council – Fees and Charges Office of Local Government Debt Management and Hardship guidelines

**Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.*

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1. Purpose

- 1.1 Provide financial assistance to Customers who are experiencing genuine financial hardship with the payment of rates and charges.
- 1.2 Provide a decision-making framework for the appropriate assessment of all financial hardship applications.
- 1.3 Fulfil the statutory requirements of the Local Government Act 1993 and other relevant legislation in relation to the waiving or reduction of rates due to hardship.

2. Commencement

This Policy is effective from the date of resolution by Council and shall remain in force until repealed by resolution of Council.

3. Scope

The policy applies to all Council staff, elected members of Council and contracted service providers.

This policy applies to all debtors (including ratepayers) who have outstanding monies owed to Council.

4. Definitions and Interpretation

In this Policy, the following terms shall be interpreted to have the following meanings:

Term	Definition
Act	Local Government Act 1993
Capacity to pay	A payment amount or plan that takes account a Customer's personal circumstances including, but not limited to the total disposable income and current financial commitments; number of dependents; or advice from an accredited financial counsellor
Council	Liverpool Plains Shire Council
Customer	Ratepayer or Sundry Debtor
Default	A failure by the Customer to abide by the terms and conditions agreed under a payment arrangement for the payment of outstanding rates and charges or sundry debtor account
Interest	The fee charges by Council, expressed as a percentage, on rates and charges that remain unpaid after the due date
Interest Rate	Made in accordance with Section 566 of the Local Government Act 1993
Payment Arrangement	An agreement entered into by Council and Customer for the payment of outstanding rates, charges and fees under an agreed instalment payment arrangement plan

Pensioner	An eligible pensioner as defined in Clause 134 of the Local Government (General) Regulations 2005
Pensioner Rebate	A rebate granted to eligible pensioners in accordance with Section 575 of the Local Government Act 1993
Rates and Charges	Ordinary Rates and Annual Charges levied in accordance with the Local Government Act 1993
Ratepayer	The person liable for payment of the rates and charges for the property in accordance with Section 560 of the Local Government Act 1993
Sundry Debtor	A person, organisation, company, or other entity that has a debt or legal obligation to pay an amount to Council
Sundry Debtor Account	An account issued by Council for a charge or service
Write Off	A debt declared non recoverable

5. Background

Council levies annual Rates and Charges on all rateable properties in Council's Local Government area in accordance with the Local Government Act 1993. Water consumption charges are issued quarterly and Council may issue sundry invoices for any other charges specified in the Fees and Charges to Sundry Debtors.

From time to time some Customers will face difficulties, such of loss of employment, or illness, and this Policy specifies a fair and flexible approach to managing Customer debts under hardship.

6. Policy Statement

Council recognises there are cases of genuine financial hardship requiring respect and compassion in special circumstances. This Policy establishes guidelines for assessment of a hardship application applying the principles of fairness, integrity, confidentiality and compliance with statutory requirements. Council will consider applications of financial hardship on an individual basis.

The Local Government Act 1993 provides Council with the following options to assist ratepayers with financial hardship:

- a) Agreement as to periodic payment of Rates and Charges (Section 564).
- b) Writing off or reducing interest accrued on Rates and Charges (Section 564 & 567).
- c) Extension of Pension Concession to avoid hardship (Section 577).
- d) Writing off or reducing rates, charges and interest of eligible Pensioners (Sections 575 & 582).
- e) Waiving, reducing or deferring the payment of the increase in rates because of hardship resulting from a general revaluation (Section 601).
- f) Waiving or reducing Council fees (Section 610E).

6.1 Identifying Financial Hardship

For the purposes of this policy a Customer experiencing financial hardship is defined to be a Customer who wishes to pay their rate instalments, water consumption account, or sundry debtor account as they fall due but does not have the financial

capacity to do so and payment when due would cause the person financial hardship. The Customer must demonstrate a willingness to pay by maintaining contact with relevant Council staff regarding their circumstances and by agreeing to a payment arrangement plan.

In the first instance, Council is to encourage any Customer who may be experiencing financial hardship to seek assistance from a financial counsellor or advisor.

In determining eligibility of personal hardship, Council may use the criteria used by Centrelink for granting of a pensioner concession card, including the assets and income test. Council may also require a request in writing including a statement of reasons, reasonable proof of financial hardship, details of assets, income and living expenses, and such other information required to make a valid assessment. Council requires the completion of a Hardship Rate Relief Application form and may also request the Customer attend an interview to assist Council in the understanding of the issues causing hardship.

In determining eligibility of commercial hardship, information such as bank statements, financial accounts or a letter from their accountant or financial adviser to the statement of affairs of the business and their ability to recover from their financial hardship.

Supporting documentation may include evidence from third parties such as an accountant, evidence from a recognised financial counsellor, a Statutory Declaration from a person familiar with the Customer's circumstances who is qualified to provide Council with a clear unbiased assessment of the Customer's financial hardship status such as a carer or power of attorney.

6.2 Assistance by Periodic Payment Arrangements

This Policy extends the Payment Arrangements outlined in the Debt Recovery Policy past the 12 months required to clear outstanding balances.

It will remain the responsibility of the Customer to communicate with Council, particularly if there are circumstances that may result in the Customer being unable to meet the terms and conditions of the payment arrangement. Council will consider such circumstances on their merit and negotiate alternate payment arrangements if required. Failure to meet the payment arrangement schedule without approval from Council will result in the payment arrangement being cancelled and legal action being commenced.

6.3 Writing off Accrued Interest

Council may write off accrued interest on Rates and Charges payable by a person under Section 567 of the Local Government Act 1993, if:

- a) The person was unable to pay the rates, fees or charges when they became due and payable for reasons beyond the person's control; or
- b) The person is unable to pay the accrued interest for reasons beyond the person's control; or
- c) Payment of the accrued interest would cause the person financial hardship.

Customers requesting that interest charges are written off for one or more of the above reasons need to submit a letter providing details as to why they were unable to pay the instalment by the due date, or why the payment of the accrued interest would cause financial hardship.

Council may consider writing off interest where the ratepayer is experiencing genuine financial hardship and the Customer has complied with all criteria with respect to a Section 564 periodic payment arrangement.

6.4 Assistance to Pensioner Ratepayers

Ratepayers who hold a current Pensioner Concession Card and are solely or jointly liable for the Rates and Charges levied on the land on which a dwelling is situated, which is their principal place of abode, may be eligible for a reduction in rates under Section 575 of the Local Government Act 1993.

Section 577 of the Act, enables Council to make an order deeming certain persons who are jointly liable with an eligible pensioner(s) or solely liable, but who are not themselves eligible, to be eligible pensioners for the purpose of a mandatory reduction in Rates and Charges to avoid hardship.

If the ratepayer continues to experience hardship after the concession period approved by Council has expired, then a new application must be made by the ratepayer.

6.5 Additional assistance to Pensioner Ratepayers

The maximum statutory pension concession provided to eligible pensioners under Section 575 of the Local Government Act 1993 is fifty percent of the total ordinary Rates and Charges up to \$250.00 maximum and \$87.50 each of water and sewer charges.

Section 582 of the Local Government Act 1993 states a council may waive or reduce rates, charges and interest due by any person prescribed by the regulations who is in receipt of a pension, benefit or allowance under the Social Security Act 1991 of the Commonwealth.

Council may, at its absolute discretion, further reduce on a voluntary basis (with no subsidy from the state government) Rates and Charges otherwise payable by an eligible pensioner.

6.6 Assistance Due to General Revaluation of the Local Government Area

Section 601 of the Act, provides that where any ratepayer who suffers substantial hardship as the consequence of the making and levying of a rate following a new valuation, may apply to Council for rate relief.

In order for Council to consider an application for relief under section 601 the following conditions must be met:

- a) The property must be categorised as “Residential” and be the ratepayer’s principal place of residence and be the only property in which the applicant has an interest. The increase in rates must be greater than the general/special

variation % increase applied for the rating year in which the new land valuation comes into effect.

- b) The net ordinary rates payable must be more than 5% of annual gross household income.
- c) The applicant would suffer substantial hardship if required to pay the Rates and Charges when they fall due. Applicants will be required to complete a “Hardship Rate Relief Application Form”.
- d) The application must be made within six (6) months of Council issuing a Rates and Charges Notice based on the new land valuation. Assistance is only available in the first year the new valuation is used to levy rates.
- e) If eligible, Council will defer payment of the amount above the ordinary rate payable on the property for the previous year with the adopted rate percentage increase applied. The payment of this amount will be deferred to the following rating year. One quarter of the amount of the increase will be added to each of the quarterly instalments due in the following rating year. Interest will not be charged on the deferred amount unless it remains unpaid after the instalment due date to which it was applied.

6.7 Continuing Hardship

If the Customer continues to experience hardship after the concession period approved by Council has expired, the Customer will need to reapply providing an updated “Hardship Rate Relief Application form” for assessment. In such circumstances Council may require up-to-date personal and financial information to confirm the Customer’s continued financial hardship.

6.8 Cancelling Hardship Arrangements

A hardship arrangement may be cancelled if the Customer fails to comply with their payment plan; or no longer owns the land; or advises the council that financial hardship no longer applies; or provides false and misleading evidence of financial hardship to Council.

7. Assessment Process

Application for Hardship must be received in writing on the Hardship Rate Relief Application Form (“the Form”). Council may also request the Customer attend an interview to assist Council in the understanding of the issues causing hardship.

In determining eligibility, Council will use the criteria used by Centrelink for granting of a pensioner concession, including the assets and income test.

- a) The applicant must be the Customer;
- b) The Form must be completed in full;
- c) Supporting documentation to be attached to the Form; and
- d) Preferably, a letter from a recognised financial counsellor confirming financial hardship of the applicant.

The General Manager or their delegated representative to assess applications for Financial Hardship.

The Customer will be notified in writing of the outcome of their applications and if approved, requested to sign the agreement.

8. Reporting

Any Council rates and charges, accrued interest charges or legal costs reduced or waived under this policy must be detailed in the Abandonments Register. Overall details of all write-offs shall be provided in Council's Annual Report.