

Rates and Charges Financial Hardship Policy

Document number	DOCID-1968905895-16420		
Policy owner	Finance		
Adopted by	Council		
Adoption date	21/11/2022	Scheduled review date:	31/10/2024
Publication	CardiNet and website		
Revision/version number	Version 1.1		

1 Policy alignment

This policy aligns with the requirements of the Local Government Act 1989 (the Act), and the Rates and Charges Financial Hardship Application Form.

2 Purpose

The purpose of this policy is to enable a person experiencing “hardship”, to make application to Council for assistance relating to unpaid rates or charges levied on a property under the Local Government Act 1989 and the Fire Services Property Levy Act 2012.

The policy outlines the circumstances for which waivers and deferrals can be granted and is to be applied in a manner which both preserves Council’s revenue requirements, whilst taking into consideration the financial hardship of some property owners.

3 Scope

This policy applies to ratepayers of Cardinia Shire Council in accordance with the following sections of the Local Government Act 1989 and the Fire Services Property Levy Act 2012.

Local Government Act 1989

- Section 155 defines the applicable rates and charges covered by this policy
- Section 170 allows Council to defer the payment of rates, charges and interest.
- Section 171 allows Council to waive the whole or part of any rates, charges and interest.
- Section 172 allows Council to raise interest on unpaid rates or charges.

Fire Services Property Levy Act 2012

- Section 27 and 28 allows Council to defer or waive the levy or interest.
- Section 30 requires Council to raise interest on unpaid levies.

4 Policy description

4.1 Application for financial hardship

Ratepayers may apply for the following:

- Payment arrangements
- Deferral of rates and charges
- Waiver of penalty interest and legal charges invoiced to date
- Waiver of rates and charges

Customers are required to submit a Rates and Charges Financial Hardship Application Form for their eligibility to be assessed. *This form is available from Council's website.*

Judgement is required by Council when deeming whether a property owner is experiencing genuine financial hardship rather than simply seeking to defer payment. Council may request supporting documentation or evidence of hardship.

4.2 Payment arrangements

Annual Rates and Charges

Council encourages ratepayers to enter into a payment arrangement each year when they receive their annual rates notice and will be flexible regarding the type of arrangement entered into, to best suit the ratepayer's circumstances. Arrangements extending past the current financial year will be considered for ratepayers experiencing financial hardship on the condition that the ratepayer contact council when they receive the annual rate notice each year to review the arrangement and incorporate the new rates into the arrangement.

It is recommended that where possible, based on the ratepayer's capacity to pay, arrangements be for an amount that will pay off at least the current years rate charges prior to receiving the next year's rates notice. This will avoid an increase in any outstanding arrears each year.

Penalty interest and legal action will be put on hold for properties with an active payment arrangement. Defaults and poor payment history may result in council cancelling the payment arrangement, reinstating interest charges and commencing legal action. It may also result in Council declining payment arrangements in the future. Ratepayers should make regular contact with Council if they are having difficulty keeping up with the agreed arrangement to avoid this occurring.

Special Charge Schemes

Alternative payment arrangements may be considered for ratepayers experiencing financial hardship who are having difficulty making payments in accordance with the instalment plan set by the scheme under the Special Charge Scheme Policy.

Penalty interest and legal action will be put on hold for properties with an active payment arrangement. Instalment interest for special charge schemes is still applicable. Defaults and poor payment history may result in council cancelling the payment arrangement, reinstating interest charges and commencing legal action. It may also result in Council declining payment arrangements in the future. Ratepayers should make regular contact with Council if they are having difficulty keeping up with the agreed arrangement to avoid this occurring.

4.3 Deferral of Rates and Charges (Section 170 of the Act)

Ratepayers who are unable to enter into a payment arrangement, may request to defer the payment of their rates and charges. Penalty interest and legal action will be put on hold during the agreed deferral period. Instalment interest for special charge schemes is still applicable.

Agreed deferrals will be terminated, and the rates and charges will be due in full upon the following:

- the ratepayer becoming deceased
- the property being sold or transferred to another name, or
- a material alteration to the ratepayer's circumstances.

4.3.1 Short term deferrals

Short term deferrals of 3 months at a time can be applied without a financial hardship application at the discretion of the Council Officer.

Where a short term deferral has already been granted, Council may request a financial hardship application for subsequent short term deferrals.

4.3.2 Long term deferrals

Longer term deferrals of 12 months or more will be subject to the following conditions:

- The ratepayer is either:
 - eligible for the municipal rates concession, or
 - unemployed, or
 - able to demonstrate they are experiencing undue and unusual financial hardship
- the agreed deferral period will be dependent on the individual circumstances of the applicant and subject to an annual review process
- The ratepayer must have a plan for paying off the outstanding rates and charges after the agreed deferral period
- Council requires ratepayers to seek advice from a suitably qualified financial advisor or counsellor. Free financial counselling is available at <https://ndh.org.au/>.
- If the property subject to the request for deferral is not residential in nature, independent evidence from the applicant that financial hardship is being experienced, such as a letter from the applicant's accountant, auditor or bank manager is required.

4.4 Waiving of Penalty Interest

A waiver of penalty interest may be considered by Council in limited circumstances including

- in the event of an administrative issue, error or omission
- the ratepayer is experiencing financial hardship and is making an effort to pay the outstanding rates and charges in accordance with their capacity to pay
- all other outstanding rates and charges have been paid in full
- on compassionate grounds which contributed to the late payment

4.5 Waiving of Legal Costs

A waiver of legal costs may be considered by Council in limited circumstances including

- in the event of an administrative issue, error or omission
- the ratepayer is experiencing financial hardship and is making an effort to pay the outstanding rates and charges in accordance with their capacity to pay
- all other outstanding rates and charges have been paid in full
- on compassionate grounds which contributed to the late payment

4.6 Waiving of Rates and Charges

A rates waiver of \$50 is available to unemployed ratepayers receiving JobSeeker payments.

Except for the most exceptional circumstances, Council will not waive any other rates and charges but will rather encourage the person to enter into a payment arrangement, or deferral.

Waiving of rates and charges may be considered in cases of extreme financial hardship subject to the following conditions:

- The request for a waiver of rates and/or charges must be made in writing
- Available only to individuals experiencing extreme financial hardship
- The applicant must be able to provide additional information to prove the extreme financial hardship
- Waiver to be recommended by a suitably qualified independent financial counsellor, or otherwise approved by the General Manager Customer, People and Performance, Chief Executive Officer or through a Council resolution
- Any waiver is a one off in response to the circumstances presented at the time

5 Assessment

5.1 Assessment criteria

The criteria used to determine an individual's eligibility is assessed on a case-by-case basis and is based on a meaningful two-way conversation. Some of the indicators that may highlight an individual's need for additional assistance are listed below:

- Demonstrated inability to pay the amounts owing to Council.
- Demonstrated downturn of income or turnover.
- Referral from a financial counselling agency or community organisation.
- Evidence of health issues.
- Any instance where a customer is identified as being affected by family violence.
- Evidence of current unemployment.
- Demonstrated impact from a natural disaster, or other similar event.

5.2 Assessment process

Enquiries can be made in the first instance to the Revenue Officer (Recoveries) on 1300 787 624 or email at mail@cardinia.vic.gov.au.

A Financial Hardship Assessment Committee will be convened and will consider factors including those listed above and the following in the evaluation of any relief under this policy.

All applications, in the first instance, will be processed and reviewed by designated Cardinia Shire officers with further review and assessment by the Financial Hardship Assessment Committee, where required.

Additional relevant or substitute supporting information may be requested to assist with the application.

6 Responsibilities

Reasonable payment arrangements and short-term deferrals may be approved by the Revenue team or Customer Service Officers without a financial hardship application.

Applications for Financial Hardship will be reviewed and processed by the Revenue Officer (Recoveries), Revenue Specialist or other authorised delegate and a recommendation put forward for approval of any waivers or long-term deferrals.

Payment arrangements substantially lower than the amount required to pay off the current year rates and charges before the next years rates notice is issued, or substantially lower than the amount required to pay out the scheme by the final instalment date, and long-term deferrals are to be approved by the Financial Hardship Assessment Committee. The Financial Hardship Assessment Committee comprises the Coordinator Financial Accounting and Revenue and the Chief Finance Officer.

Penalty interest and legal cost waivers may be approved by the Coordinator Financial Accounting and Revenue.

Rates and charges waivers to be recommended by the Financial Hardship Assessment Committee and approved by:

Up to \$20,000	General Manager Customer, People and Performance
Over \$20,000	Chief Executive Officer

7 Appeals

An applicant may seek a review by the Chief Executive Officer of a decision made by the Financial Hardship Assessment Committee.

If an applicant is not satisfied with the Chief Executive Officer's review, the applicant may refer the matter to the Victorian Ombudsman.

8 Related documents

Type of document	Title and/or document reference
Commonwealth/Victorian legislation	Local Government Act 1989
Strategies	Revenue and Rating Plan
Form	Rates and Charges Financial Hardship Application Form
Policies	Instrument of Sub-Delegation by the Chief Executive Officer Special Charge Scheme Policy

9 Glossary of terms

Council – Cardinia Shire Council, being a body corporate constituted as a municipal Council under the *Local Government Act 1989*.

Ratepayer – the person(s) liable to pay the rates and charges. This maybe the property owner or a tenant who under the lease agreement is liable to pay the rates and/or charges.

Rates and charges – refers to the *Annual Rates and charges* and *Special Charge Schemes* as defined below.

Annual Rates and charges – the rates and charges shown on your annual rates notice including Council rates, the Fire Services Property Levy and the waste charges which are charged in accordance with Sections 158, 159 and 162 of the *Local Government Act 1989*, and Section 21 of the *Fire Services Property Levy Act 2012*.

Special Charge Schemes – Section 163 of the *Local Government Act 1989* empowers Council to levy a special rate or special charge on rateable properties to fund or part fund works or services that are of special benefit to those properties. Refer to the Special Charge Scheme Policy available on Council's website for more information about Special Charge Schemes.

Deferral – a postponement of payment, in whole or in part, and can be for a specified period.

Waiver – not requiring payment for an agreed amount that will be written off.

Financial Hardship – experiencing difficulty paying the outstanding rates or charges due to a change in circumstances such as loss of employment, ill health, death in the family, natural disasters, family violence, marriage breakdown, gambling or substance abuse.

Extreme Financial Hardship – extreme situations such as an emergency event like a bushfire where the ratepayer's residence has been burned down and they have incurred other excessive costs such as costs to rebuild their home.

Compassionate Grounds – Short term circumstances of a compassionate nature that if deferment of payment is not granted would lead to Financial hardship.

Primary residence – the property which is considered to be the main living location.

Independent Financial Counsellor – A free service provided to ratepayers in financial difficulty that is independent of the Council and the Ratepayer.

Payment Arrangement – agreement to pay the council rates and/or charges on a regular basis such as weekly, fortnightly or monthly instead of the standard quarterly instalments. Council has several payment options for payment arrangements including Centrepay deductions, Direct Debit and Bpay.

Municipal Rates Concession – concession applicable under the *State Concessions Act 2004*.