



# Procedure - Hardship Determination

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# CONTENTS

<b>1. Purpose</b>	<b>1</b>
<b>2. Statement</b>	<b>1</b>
<b>3. Provisions</b>	<b>1</b>
3.1. Types of Ratepayers	1
3.2. Criteria for Applications	1
3.3. Hardship Application document	2
3.4. Letters and other forms	2
3.5. Methods of Payment	2
3.6. Reporting	2
3.7. Authorisations	2
3.8. Referrals	2
3.9. Actions/Outcomes	3
<b>4. Implementation</b>	<b>3</b>
<b>5. Review</b>	<b>4</b>
<b>6. Forms</b>	<b>5</b>

## **1. PURPOSE**

Council is committed to ensuring that all applications for the Hardship Policy are evaluated with a standard process and defined determination criteria. This procedure aims to document the steps to be followed in this evaluation, along with authorities, reporting and follow up criteria.

## **2. STATEMENT**

This procedure is designed to meet the requirements of Council's Hardship Policy and to adhere to the following Sections of the Local Government Act (NSW) 1993:

Section 564 – Special payment arrangements ie accrued interest is written off or reduced if the agreement is complied with.

Section 567 – interest concessions – writing off accrued interest

Section 575 – Concessions available to pensioners

Section 582, 583 – writing off rates and charges levied on pensioners or other person receiving social security benefits

Section 601 – Financial Hardship resulting from certain changes in land valuation

Section 712(1) – Limitation period where proceedings for the recovery of rates or charges may be commenced any time within 20 years from the date when the rate or charge became due and payable.

## **3. PROVISIONS**

### **3.1. Types of Ratepayers**

This policy covers applications from the following types of ratepayers, where the criteria will be slightly different depending upon circumstances:

- Pensioners with debt under the old Pensioner Deferral Policy prior to July 2015
- New Pensioners from July 2015
- Jerberra landowners
- Farmers and Business ratepayers
- Ordinary ratepayers

### **3.2. Criteria for Applications**

The Hardship Policy will not be implemented unless the minimum amount outstanding is greater than \$1000 or 3 instalments overdue, whichever is the greater. Amounts under this level will be put on a Payment Plan for full payment within the 12 month period.

Applications for Hardship will expire on 30<sup>th</sup> June each year, which allows time for any interest to be written off before rates are updated for the end of financial year.

A new application will be required each year, on the anniversary date, if the hardship still applies, to ensure that the ratepayer is still eligible.

### **3.3. Hardship Application document**

Appendix 1 shows a copy of the Hardship Application form and the detail required in order for an assessment to be made. This should be filled in by the ratepayer and either mailed, emailed or handed in at the counter at any Council office. It will be delivered to either the Rates Supervisor or the Debt Recovery Officer, who will notify the Debt Recovery Agency, within 24 hours or as soon as practicable, in order to suspend any action on this ratepayer until a determination is made.

### **3.4. Letters and other forms**

There are a number of standard templates used for letters in response to Hardship applications:

Appendix 2 – shows the template for granting the Hardship arrangement

Appendix 3 – shows the template for where the arrangement is insufficient to Councils requirements

Appendix 4 – shows the template for where a payment arrangement is granted

### **3.5. Methods of Payment**

Councils preferred methods of payment for payment plans are either direct debit from the rate payer's bank account or a deduction from their Centrepay payment. For direct debit from the rate payer's bank account, full details should be shown on the Hardship Application. For deductions from Centrelink payments, the rate payer will need to set up a Centrepay arrangement directly with Centrelink, who will then on-forward the payments to Council. This service is free through Centrepay.

### **3.6. Reporting**

Each month a summary of all applications received will be collected, along with the number of applications accepted, and those rejected. The KPI will show the % approved over the total applications received.

### **3.7. Authorisations**

The Hardship committee will meet fortnightly or as required. Applications for hardship can be approved or otherwise at the discretion of the committee.

If there is an appeal to a decision made by the committee, these will be reassessed and if a clear resolution cannot be made, they will be escalated to the Group Directors for a decision.

If there are any requests or requirements to write off any outstanding debts or amounts, the delegations within the Debt Recovery Policy will apply, ie any amounts up to \$4,000 can be approved within Delegated Staff Authorities, any amounts over \$4,000 can only be written off by resolution of Council.

### **3.8. Referrals**

Council has a number of Service Directories for support within the Shoalhaven area. These booklets will be utilised to assist in referrals to other agencies for people who may need additional support. These booklets include:

- Commonwealth Support Program
- Mental Health
- Disability Services

In addition to these booklets Council may also make general referrals to Mission Australia (phone 44249600) or Lifeline (131114) dependent upon the situation.

### **3.9. Actions/Outcomes**

There are 4 different outcomes from a Hardship application at Committee Review:

1. Enter into an arrangement to pay the debt off within the 12 month period
  - Applicant Notified of outcome of Hardship Committee and Account coded hardship in Fujitsu.
  - Account reviewed at end of each month
  - If Hardship complied with, interest is waived at year end for all or part of the accumulated interest and the applicant is notified
  - If Hardship not complied with, applicant notified that matter will be referred to Councils Debt Recovery Agency (R&R) for follow up if applicable.
2. Refuse the application with grounds given
  - Applicant is notified in writing that the application is refused and the matter is referred to Council's Debt Recovery Agency (R&R) for follow up if applicable.
3. Refuse the application with grounds given and recommend a payment plan
  - Applicant is notified in writing with an alternate payment plan offered if more suitable to the individual's circumstances and council requirements.
4. Enter into an arrangement to defer the debt or part of the debt until sale or transfer of the estate, or under extreme circumstances to waive the debt within Authority limits, or under the Mayors Relief Program.

*Note: payment plans may be with or without interest accruing – dependent upon individual circumstances*

## **4. IMPLEMENTATION**

These guidelines will be implemented by the Finance Section of Corporate and Community Services, as per the below list of criteria, also see Attachment 1 for flowchart.

- Has the form been completed correctly
- Is the determination in relation to their primary place of residence for Ordinary and Pensioner requests?
- Is the determination in relation to land in Jerberra Estate?
- Is the determination in relation to farmland or a business, and is there a recognised environmental or economic incident ie flood, or fire of business premise etc
- Is the ratepayer unemployed?
- Does the ratepayer receive a pension or benefit?
- Does the ratepayer hold a health care card?
- What are the reasons for the ratepayer to be in this situation?

- Are there extenuating circumstances?
- How much money does the ratepayer have remaining each week, after all expenses are paid?
- What amount is required for the ratepayer to pay off their overdue rates within the 12 month period?
- Are the rates payable more than 5% of the gross household income and the extent of income producing assets?
- If this amount is more than the amount remaining each week – put a payment plan in place or apply the Hardship Policy.
- Has the ratepayer been supported by the Hardship Policy in the past?
- Should council support the rate payer for 6 or 12 months?

If the rate payer answered Yes to the majority of questions in relation to their circumstances and the reason seems legitimate, and the payment plan can be met than the Hardship Policy can be offered and a payment plan put in place. If all questions are met but the ratepayer cannot afford the required repayments, then a reduced payment plan may be put in place, contingent upon any part of the debt outstanding becoming part of the estate, to be recovered at sale or transfer of the property. This is particularly relevant for Jerberra residents where the Jerberra Payment Relief Policy will be the initial reference point for payment plans.

If this is a subsequent request and the applicant has satisfied all the criteria in the past then Council can continue to offer the policy. If conditions have not been complied with in the past then Council would need to be convinced of a change in circumstances and actions to be taken in order to approve the Application for Hardship.

If the ratepayer maintains a strict regime of regular payments than no further action will be taken. However if regular payments are not being made, then debt recovery action may be instigated.

If payments cannot be met, but a lesser amount is possible then the ratepayer needs to communicate with the rates department to reduce the amount being paid, so that debt recovery action is not taken.

For ratepayers who cannot afford the Payment Plan amount, the ratepayer may be requested to attend Council offices to comprehensively review the Application for Hardship Relief to ensure that all data is captured correctly and substantiated where possible.

For those ratepayers where their property is on the market, Council may defer rates until the property is sold. If the property is not sold within the 12 month period and it is vacant land then Council may apply the Sale of Land for unpaid rates policy.

## **5. REVIEW**

The Corporate and Community Services Group will review this policy:

- Within 12 months of the date of the election of every new Council
- Every four years; or
- As directed by Council; or
- As a result of a review in legislation that affects this policy

**6. FORMS**

**Appendix 1 APPLICATION FOR HARDSHIP RELIEF**

Under Section 583 of the Local Government Act 1993 Council has the option of writing off interest on overdue Rates and Charges.

When would you need to fill in this form:

1. If payment of rates in full is difficult due to reasons beyond the ratepayers control
2. If payment of such accounts in full would cause the person hardship

What detail do I need to fill in this form?:

1. Information or proof with regard to income and expenses
2. Proof of any pensions or other commonwealth or state payments
3. Copy of latest tax return???
4. Bank account details for direct debit for automatic deductions

Any information Council collects for the purpose of assessing your Hardship Application will be used solely by Council officers for this purpose and will not be disclosed to any other parties. You should understand that this information is provided on a voluntary basis and you can apply to Council at any time to amend or access this information.

**My application is for the payment of \$ \_\_\_\_\_ per week/fortnight/month or \$ \_\_\_\_\_ lump sums to be paid at the following intervals \_\_\_\_\_ towards the payment of the outstanding amounts.**

**These amounts will be taken as a direct debit against Bank Account Name: \_\_\_\_\_**  
**BSB Code: \_\_\_\_\_ Account Number: \_\_\_\_\_**

**Signed by \_\_\_\_\_ On (Date) \_\_\_\_\_**

***You should contact Council promptly if your circumstances change. This will ensure Council does not take action to recover the amount outstanding if you do not adhere to the arrangement. Additionally you may be entitled to relief under the new circumstances.***

***You should also be aware that the provision of false or misleading information comes under Section 137.1 of the Criminal Code 1995 and is a serious offence that may carry a prison term on a finding of guilt. If any information supplied is found to be false or misleading this agreement becomes null and void.***

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Postal Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: Home: \_\_\_\_\_  
Work: \_\_\_\_\_  
Mobile: \_\_\_\_\_

Email: \_\_\_\_\_

Property Address: \_\_\_\_\_  
(if different to above)

Shoalhaven City Council – Hardship Determination Procedure

Do you own the property:

- By Yourself
- With another person/s (spouse etc)
- Other - Please indicate details \_\_\_\_\_

Is the property:

- Residential Home
- Vacant Land
- Rural Land
- Other - Please indicate details \_\_\_\_\_

Value of House\Land

\$

Mortgage

\$

Do you have interest in any other properties:

Details including any rental collected \_\_\_\_\_

Are you currently employed:

- No. Go to next question
- Full time
- Part time/casual \_\_\_\_\_ hours per week
- Name of employer \_\_\_\_\_

Do you receive a pension or benefit:

- No. Go to next question
- Yes

Pension Number \_\_\_\_\_

Pension Type \_\_\_\_\_

Do you have a health benefits card:

- No. Go to next question

Yes

Card Number \_\_\_\_\_

**Income Details**

Wages/Salary after Tax	\$ _____	per week
Pension/Benefit	\$ _____	per week
Income (Spouse)	\$ _____	per week
Pension/Benefit (Spouse)	\$ _____	per week
Maintenance received	\$ _____	per week
Family Allowance	\$ _____	per week
Other (Give details)	\$ _____	per week
	\$ _____	per week
	\$ _____	per week

**Total:** \$ \_\_\_\_\_ per week

**Bank/Building Society Accounts**

Name of Bank/Branch	Balance
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

**Total** \$ \_\_\_\_\_

**Regular Expenses**

Mortgage repayments	\$ _____	per week
Rent/Board	\$ _____	per week
Food	\$ _____	per week
Electricity	\$ _____	per week
Rates (Council & Water)	\$ _____	per week
Credit Card Repayments	_____	per week
Vehicle expenses inc petrol	\$ _____	per week
Private Medical Insurance	\$ _____	per week
Telephone	\$ _____	per week
Maintenance payments	\$ _____	per week
School expenses	\$ _____	per week
Insurance/Superannuation	\$ _____	per week
Other	\$ _____	per week
	\$ _____	per week
	\$ _____	per week

**Total:** \$ \_\_\_\_\_ per week

**Debts/Liabilities**

(Personal loans, credit cards)

Owing To:		Balance:
_____	\$ _____ p/w	\$ _____
_____	\$ _____ p/w	\$ _____
_____	\$ _____ p/w	\$ _____
_____	\$ _____ p/w	\$ _____
_____	\$ _____ p/w	\$ _____

**Total:** \$ \_\_\_\_\_ p/w

**Surplus/Deficit** \$ \_\_\_\_\_ per week

Please give details of reasons or circumstances that have led you to make this application:

\_\_\_\_\_

***The information provided in this application is strictly confidential and will not be disclosed to any other organisation.***

**P24**

**APPLICATION FOR HARDSHIP RATE RELIEF**

<

I refer to your recent application for hardship rate relief in respect of the rates for the above property.

I am pleased to advise that after consideration of the circumstances outlined in the application, an interest free hardship rebate for the rates has been approved.

Effective immediately, you will be provided an interest free period of > months on the above property. However please note, in order to receive this interest free period you will be required to make payments of > per >.

Payments should commence on or before > and provided this arrangement is adhered to, no legal action will be taken by Council for the recovery of outstanding rates and charges.

Please note the interest is waived at the expiration of the > month period to ensure the payments are strictly maintained.

**D6**

**OUTSTANDING RATES & CHARGES - \$>**

>

Reference is made to your recent letter requesting agreement to pay \$> per month to reduce outstanding rates and charges.

I advise that the amount tendered will not adequately reduce the amount outstanding together with ongoing quarterly instalments in a suitable time frame. It is therefore advised that a more substantial monthly payment of \$> is required to be made to enable reduction of the total outstanding.

Payments should commence on or before >. Provided the arrangement is adhered to no legal action will be taken by Council for the recovery of outstanding rates and charges however, in accordance with the Local Government Act 1993, interest charges at the rate of 8.5% will be applied to the rates until paid in full.

Should there be extreme circumstances which prevent you paying the required amount please submit the circumstances in writing to Council for further consideration.

Appendix 4 – Letter Template for Arrangement

**D5**

OUTSTANDING RATES & CHARGES ARRANGEMENT  
>

I refer to your recent advice and wish to confirm Council would be pleased to receive monthly instalments of \$< in reduction of rates outstanding. However, in accordance with the Local Government Act 1993, Council is required to apply interest charges of 8.5% per annum on the outstanding rates until paid in full.

It should be noted that payments must be received on or before the last working day of each month commencing <.

Failure to comply with this arrangement will result in Council cancelling your agreement and commencing/continuing legal action without further notice.

All arrangements will be subject to periodic review by Council.

Attachment 1

