



Policies, Procedures and Guidelines

HARDSHIP POLICY

FIN011

BACKGROUND

Lachlan Shire Council (Council) has financial responsibility to ensure that all debtors legally responsible for the payment of rates and charges or other debts with Council pay their accounts in full by the due date/s. However, Council recognises there are cases of genuine financial hardship requiring respect and compassion in special circumstances.

OBJECTIVE

To provide guidelines for the General Manager and staff when assessing applications from those suffering genuine financial hardship.

The policy aims to:

- Provide assistance to all debt owners or those legally responsible for payment of debts, who are experiencing genuine financial hardship;
- Provide a decision making framework for the appropriate assessment of all financial hardship applications;
- Assess applications of financial hardship on an individual basis and be respectful and compassionate when considering their circumstances; and
- Comply with statutory requirements of the *Local Government Act 1993* and other relevant legislation in relation to the waiving or reduction of rates, charges and fees due to hardship.

SCOPE

This policy applies to the applicant/s legally liable for payment of rates and charges on the property assessment, or a sundry debtor, who is suffering financial hardship. This policy applies to all council employees and councillors.

DEFINITIONS

Council: Lachlan Shire Council

Eligible Pensioner: As defined in *Clause 134 of the Local Government (General) Regulations 2005*.

Interest: Raised in accordance with *Section 566 of the Local Government Act 1993*.

Ratepayer: The person legally liable for payment of Rates and Charges for the property assessment 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.

Written Off: A debt declared non recoverable.

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POLICY

Privacy Obligations

A ratepayer's/sundry debtor's information will be treated with respect and Council will comply with the *Privacy and Personal Information Protection Act 1998* when collecting and disclosing information throughout the debt recovery process.

Essential Criteria

Applications will only be considered if the following eligibility requirements have been met:

- a. The applicant must be able to demonstrate that they are legally liable for the payment of the rates and charges.
- b. The applicant is listed as the sundry debtor account holder.
- c. Hardship applications for properties categorised "Residential" must be the principal place of residence, or where owned by an aged pensioner the property is vacant whilst the ratepayer is in out of home care.
- d. Properties categorised as "Farmland" or "Business" may apply under these hardship provisions for assistance by Periodic Payment Arrangements only.
- e. The ratepayer/sundry debtor has a history of paying on time, and/or has shown a genuine concerted effort to pay the outstanding amount.
- f. Other circumstances that fall outside of (a) to (e) above may be considered if the applicant can demonstrate financial hardship.

Legislative Options/Hardship Provisions

The *Local Government Act 1993* provides Council with the following options to assist ratepayers / sundry debtors with financial hardship.

Assistance by Periodic Payment Arrangements

Section 564 of the *Local Government Act 1993* provides that Council may enter into a formal agreement with a ratepayer for periodic payments for due and payable rates and charges. Under this Section Council may also write off or reduce interest accrued on overdue monies if the payment arrangement has been met.

Details of acceptable payment arrangements are outlined in Council's Debt Recovery Policy.

Assistance by writing off accrued interest and costs

Accrued interest on rates or charges payable by a person may be written off under *Section 567* of the *Local Government Act 1993*, if:

- The person was unable to pay the rates or charge when they became due for reasons beyond the person's control; or
- The person is unable to pay accrued interest for reasons beyond the person's control; or
- Payment of the accrued interest would cause the person hardship.

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Any interest which has to be written off due to hardship will be written off at the end of the financial year after confirming if the ratepayer has adhered to the agreed arrangement. Where an arrangement is broken due to missed payments or dishonoured payments, the interest will not be written off.

All applications requesting interest charges to be written off for one or more of the above reasons must detail why they were unable to pay by the due date, or why payment of the accrued interest would cause hardship in section 3 of Council's *Hardship Relief Application Form*.

Assistance to extend pensioner concession to avoid hardship

Section 577 of the *Local Government Act 1993*, 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.

Applications under this provision will only proceed until the end of the current financial year. If the ratepayer continues to experience hardship after the concession period has expired, a new application must be made.

Reduction of Pensioner's Rates and Charge

In accordance with Section 582 of the *Local Government Act 1993*, Council may further reduce Rates and Charges payable by an eligible pensioner. This reduction will be solely at Council's discretion and no further subsidy from the State Government will be granted.

Assistance due to General Revaluation of the Local Government Area

Council will not consider hardship applications under this provision, as valuations are independently determined by the NSW Valuer-General. Council will encourage aggrieved ratepayers to make an appropriate application under the appeal provisions of the *NSW Valuation of Land Act 1916*.

Waiving or reducing Council Fees

Applications received for assistance relating to Council fees or charges due to hardship, by waiving or reducing fees under Section 610 (E) of the *Local Government Act 1993*, will be assessed with the same eligibility criteria used to assess hardship applications for Rates and Charges.

The *Local Government (General) Regulation 2005* may specify additional circumstances in which Council may write off Rates & Charges, including water consumption charges, Interest and Sundry Debtor Accounts.

Waiving or reducing council fees for community groups will be dealt with under Council's Community Donation Program Policy.

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Drought Hardship Arrangements

Due to the ongoing drought conditions, Council has introduced a simplified application form for any ratepayer/sundry debtor affected by the drought. These applications will be assessed individually and on a case by case basis.

A negotiated minimum payment arrangement will be required for rates and/or water and will be applied to all accounts.

Current drought conditions are assessed as per DPI (Department of Primary Industries) NSW Combined Drought Indicator map.

Any ratepayer/sundry debtor on drought hardship arrangements must re-apply each new financial year until the special provisions no longer apply.

COVID 19 Hardship Arrangements (in place until 31 December 2020)

Due to the current COVID 19 pandemic, Council has introduced a simplified application form for business owners affected by COVID 19. These applications will be assessed individually and on a case by case basis.

Hardship concessions granted under this special provision are only in place until **31 December 2020**. Any business owners requesting hardship after this date will be required to follow the standard hardship application process.

Review/Cancellation of Hardship

Hardship applications will be reviewed yearly and ratepayers/sundry debtors may be required to re-apply.

Financial Hardship arrangements will be cancelled if the ratepayer/sundry debtor:

- Fails to comply with their payment plan;
- Provides false or misleading evidence of financial hardship to Council;
- Advises that financial hardship no longer applies, or
- Sells the property.

Where a ratepayer/sundry debtor fails to comply with the agreed payment plan and has not contacted Council, a reminder letter will be issued. If no response is received within 14 days Council will issue a letter advising the hardship concession has been cancelled and regular debt recovery action will commence.

The General Manager has delegated authority to withdraw any Financial Hardship Application for breaches of conditions included in this policy.

Assessment Process

Applications for hardship must be made on Council's *Hardship Relief Application* form and will be assessed on a case by case basis. Council will also require the following supporting information:

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- Reasons why the person was unable to pay the rates and charges when they became due and payable; and / or
- Reasons why the person was unable to pay the sundry debtor when they became due and payable;
- Copies of recent bank and credit card statements for all accounts;
- Details of assets and liabilities; and
- Letter from a recognised financial counsellor or financial planner confirming financial hardship for all amounts owing of \$1,000 or more.

Council may also request the ratepayer attend an interview, or provide supplementary information to assist in the understanding of the issues causing hardship.

Council will endeavour to assess applications within 21 days upon receiving the completed *Hardship Relief Application* subject to having received all the relevant supporting information. Applications will be assessed based on the information provided and all applicants will receive notification in writing outlining the reasons for Council's decision.

The General Manager has delegated authority to make a decision on all applications.

Reporting

Overall details of all write-offs will be provided in Council's Annual Report.

Right to vary or terminate

Council reserves the right to terminate or vary this policy at any time.

RELATED DOCUMENTS

Local Government Act, 1993
 Local Government (General) Regulation 2005
 Privacy and Personal Information Protection Act 1998
 NSW Valuation of Land Act 1916.
 Council's Debt Recovery Policy

Greg Tory

GENERAL MANAGER

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