

Rates Financial Hardship Assistance Policy 2023/2024

CD18520

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1. Policy Overview

1.1 Purpose of Policy

The purpose of this policy is to enable Council to provide financial relief to ratepayers who are experiencing hardship, due to circumstances, that impact on their ability to pay rates and charges. This policy aims to provide ratepayers with a clear understanding of options and assistance available.

Council is committed to assisting its ratepayers in genuine financial hardship and to provide policy for decisions made to defer rate and charges payable on property and/or waive the whole or part of any interest or charges payable as outlined in Sections 170, 171, 171A and 172 of the *Local Government Act 1989*.

1.2 Scope

This policy extends to all properties in Banyule from 1 July 2023 to 30 June 2024. This policy extends to all applications received between 1 July 2023 and 30 June 2024 to Council for relief from any rates, levy, special rate, charge or interest.

1.3 Objectives

The policy will give direction to Council Officers to ensure that the principals of transparency, efficiency, equity and capacity to pay are adhered to. This will ensure that all ratepayers are treated fairly, and financial relief is provided as efficiently as possible.

This policy will also ensure that all provisions of the *Local Government Act 1989* and *Local Government Act 2020* are adhered to and will further ensure that Council will not jeopardise the funding of its operations.

1.4 Method

All applications for assistance will need to be made in writing. Council prefers all applications to be made electronically, through Council's website. Where this is not possible, scanned and emailed documents are preferred. Applications and correspondence will be accepted via mail, however it is necessary to state that this is the slowest form of communication

1.5 Timelines

Generally, applications will be responded to within 21 days. This may extend out in periods of high application volumes

1.6 Confidentiality

Applications for financial hardship will be treated in accordance with Council's Privacy Policy.

2. Policy Detail - General

2.1 Financial Hardship

Financial hardship is a circumstance of experiencing a lack of financial means, which may be either ongoing or temporary.

2.2 Eligible Applicants

Council will only accept applications for assistance from owners or life tenants. Applications from tenants of commercial properties will not be accepted as any arrangements put in place could negatively impact owners of properties who are legally responsible for payment of rates.

2.3 Administration Charges

Council will levy an administration charge during the operation of this policy for direct debit payments that dishonour through lack of funds. Three consecutive direct debit dishonours will result in a direct debit arrangement being cancelled.

3. Application and Eligibility for Hardship Assistance

Any eligible applicant may apply for hardship assistance for a property that they own. Applicants not able to make a written application due to disability, age, language or lack of access to technology can make an application using the assistance of a friend, relative, support person or council officer, who will be able to submit a written or on-line application on their behalf.

Applications from self-managed superannuation funds, family trusts and other corporate entities will not be supported due to the long-term design of these entities being long-term investment vehicles focused on appreciating assets, not current income generating assets.

There is no limit on the number of applications that can be made if more than one property is owned or if personal circumstances change. Applications should be made via Council's website at <https://www.banyule.vic.gov.au/About-us/Rates/Paying-your-rates/Financial-hardship-application>

Council will then consider what assistance can be provided using the following scoring matrix:

Table 1 | Scoring Matrix

Result	Points
Hardship not established	Under 50 points
Partial hardship – extended hold/minimal arrangement requested. Penalty interest to held for a 6-month period	50 points and under 70 points
Partial hardship - Penalty interest to be waived/held for a 12-month period (may be retrospective)	70 points and under 100 points
Hardship – Rate Waiver of 33% to a maximum of \$500 for owner occupied properties (excludes non owner occupied properties) and penalty interest to be waived/held for a 12-month period (may be retrospective)	100 points or over

Criteria	Points
Is the ratepayer struggling to meet financial commitments?	Yes = 20 Points / No = 0 points
Has the ratepayer supplied a letter of support from a financial counsellor?	Yes = 20 Points / No = 0 points
Does the ratepayer own other substantial assets?	Yes = 0 Points / No = 10 points
Does the ratepayer own another / other properties?	Yes = 0 Points / No = 10 points
Is the property owner occupied?	Yes = 20 Points / No = 0 points
Is the owner impacted by family violence	Yes = 20 Points / No = 0 points
Is the owner unemployed?	Yes = 20 Points / No = 0 points
Is the owner on a pension?	Yes = 20 Points / No = 0 points
Does the owner have a mortgage on the property?	Yes = 10 Points / No = 0 points
Does the owner have dependents or is a carer?	Yes = 10 Points / No = 0 points
Is the owner suffering from illness?	Yes = 10 Points / No = 0 points
Does the owner have a Health Care card?	Yes = 10 Points / No = 0 points

3.1 Rates Waivers

Waivers are designed to be granted as a short-term assistance, not a long-term support.

Waivers will only be granted when the following criteria apply:

1. The applicant must be an owner-occupier or life tenant of a Residential Improved property.
2. The applicant must not own other properties or other substantial assets.
3. The applicant must have been assessed using the above criteria as receiving 100 points or greater
4. If the applicant received a waiver under hardship in the 2022/2023 financial year, a waiver under this policy will only be granted when supported by a letter of support from a financial counsellor, dated not more than three months prior to the date of application. Details on how to access financial counselling services that operate on a pro-bono basis are found under the section 7 of the policy.

5. Ratepayers who have received a waiver under this policy, applying for a waiver in subsequent years will only be granted a waiver when the applicant supplies a letter of support from a financial counsellor, dated not more than three months prior to the date of application.
6. Details on how to access financial counselling services that operate on a pro-bono basis are found under section 7 of this policy

3.2 Conditions of Waiver Applications

1. All waivers granted will be applied in the 2023/2024 rate year.
2. Waivers granted will be allocated as one-off credits
3. Fire Services Property Levy will not be waived.
4. Only one successful application per applicant can be made for waivers. For the purposes of this policy, multiple owners who jointly own properties are considered one applicant.
5. Other properties includes properties owned through family trusts in which the applicant has a beneficial interest
6. Waivers will be capped at 33% of general rates, kerbside waste rate and public waste rate to a maximum of \$500 per year
7. Incomplete applications or applications not including all required documentation will not be processed until the required information is submitted.
8. Applicants holding pension cards and / or health care cards will be required to supply a copy of this card
9. Tenants are not able to apply for waivers, unless they are life tenants of residential properties and therefore responsible for payment of rates
10. Waivers of rates that result in a ratepayer having a credit balance will not generally be eligible for a refund of the amount in credit.
11. Applications are subject to audit by Council or Council's appointed auditors. Failure to supply documentation when requested may result in the waiver being withdrawn and penalty interest charged.
12. Any decision by Council to not grant a waiver will be communicated in writing. Unsuccessful applicants will be able to request a review by a senior officer, not responsible for the assessment of the original application.
13. Applicants not able to make a written application due to disability, age, language or lack of access to technology can make an application using the assistance of a friend, relative, support person or council officer, who will be able to submit a written or online application on their behalf.

3.3 Compassionate Waivers

1. Where an applicant is not eligible for a partial waiver of rates under the points-based table above, the Director Corporate Services may authorise a waiver under compassionate grounds where the nature of the trauma, demonstrated to Council, leads to hardship which significantly impacts the life of the ratepayer. These waivers can be granted in line with the amounts delegated in section 8 of this Policy.

4. Deferral of Rates and Charges

This option will apply to long term cases of extreme financial hardship.

Ratepayers may have rates and charges, or part thereof, deferred for a set period and are subject to the following conditions:

- Must be the ratepayer's sole or principal place of residence (owner/occupier).

- The ratepayer must be able to demonstrate they are or will experience undue and unusual financial hardship.
- A confidential statement must be submitted by the ratepayer or their representative as evidence of such circumstances.

Where practicable, the ratepayer may enter into a payment arrangement and Council may require the ratepayer to attend Financial Counselling.

Rates, charges, special rates and charges and interest normally accrue during this period, however, a partial interest waiver may be granted. No legal action to recover the debt will be instigated whilst the deferral is in place.

Council will review the application annually and may contact the ratepayer or nominated representative to confirm that financial hardship conditions still exist.

5. Waiving of Interest & Legal Costs

Interest and legal costs may be waived for compassionate grounds, financial hardship or special circumstances where an application has been made.

Special Circumstance:

A waiver due to special circumstances is applied as a one-off event and not ongoing.

The owner of the property will be requested to:

- Make a formal written request for interest to be waived and may be required to submit written evidence of their circumstances.
- Agree to an acceptable payment arrangement to pay the outstanding amount.

The reason given, documentation and previous payment history should be taken into account before making a decision.

Once interest has been waived due to special circumstance, the ratepayer will not be eligible to receive any further waivers for as long as they own the property unless under financial hardship.

Interest charged in the current financial year will be waived only

Interest Waiver - Hardship

Waivers of penalty interest charged in the current financial year may be waived when the applicable points threshold has been met

Compassionate Grounds

Waivers of penalty interest charged in previous financial years must be authorised by the Director Corporate Services and current interest

5.1 Waiving of Rates and Charges (Prior Year)

Rates and charges levied in the previous year may be waived to the value of the waiver resolved by Council for that year, in part or in full in such circumstances where an applicant can provide a letter from a financial counsellor detailing such circumstances that contributed to:

1. The hardship that existed in previous years
2. The reason that a waiver of arrears and penalty interest will reduce current hardship

3. A payment plan that the ratepayer is able to abide by over the coming twelve months that is judged acceptable to Council.

Any waiver of arrears and/or penalty interest from previous years must be authorised by the Director Corporate Services and not exceed the balance owing.

6. Payment Plan

Ratepayers experiencing financial difficulties and unable to pay the outstanding rates and charges outlined in the annual rates notice may apply for a payment plan.

Payment arrangements comprise weekly, fortnightly or monthly direct debit amounts and are set up and monitored. Council will pro-actively review and communicate with ratepayers to ensure payment arrangements are adhered to or modified as circumstances change.

Long-term payment assistance will generally continue for an indefinite period, until such time as the circumstances improve or the property is sold or transferred to another entity. In cases where hardship lasts over one year, a limit of 25% of the Capital Improved Value will be allowed to accrue against the property. Should this limit be exceeded, Council will consider provisions as outlined in s181 of the *Local Government Act 1989*.

Debt recovery may commence should the ratepayer default in making their periodic payments as agreed with council by payment arrangement or does not comply with or meet the criteria of the conditions stated in this policy.

As an incentive to encourage payments made by Direct Debit, interest will not be charged on rates and charges paid by direct debit until 30 June each financial year.

7. Financial Counselling

Council recommends that all hardship applicants seek financial counselling as a counselling service has access to a greater range of support options. Council does not recommend a particular financial counselling service. Rates can contact the National Debt Helpline to find a suitable financial counselling organisation via:

<https://ndh.org.au/financial-counselling/find-a-financial-counsellor/> or via 1800 007 007 - Monday to Friday, 9.30 am – 4.30 pm or <https://fcvic.org.au/get-help/>

8. Delegations

D22/117667- S7 - Instrument of Delegation from the CEO to Members of Council Staff- as required in Section 98 of *Local Government Act 1989* applies throughout this document.

Officers are authorised to waive rates, levies, charges, legal fees and interest in accordance with the provisions of this policy to the following amounts:

Position	Amount
Director Corporate Services	\$50,000
Manager Finance and Procurement	\$25,000
Revenue Services Coordinator	\$5,000
Rates Team Leader	\$2,500
Rates Hardship and Collections Officer	\$1,000

9. Definitions

Term	Definition
The Act	The <i>Local Government Act 1989</i> and the <i>Local Government Act 2020</i>
Ratepayer	<p>For the purpose of this policy the ratepayer can be the person or persons, business or company within whose name the rates, charges, special rates and charges debt applies.</p> <p>The director of a company who is responsible for payment of rates, the occupier who is responsible for payment of rates or a nominated third party who is responsible for payment of rates.</p>
Long Term hardship	Where an individual is unable to provide for themselves, their family or other dependents e.g., food, accommodation, clothing, medical treatment, education and other basic necessities. Hardship is likely to continue for an indefinite period, longer than 1 year.
Deferral	<p>Deferral is a postponement of payment in whole or in part and can be for a specified period and subject to any conditions determined by Council. Rates and Charges are deferred until such time as the ratepayer's circumstances improve or the property is sold or transferred to another entity.</p> <p>Rates, Charges and Interest normally accrue during this period. However, a partial interest waiver may be granted.</p>
Substantial assets	Items of value, property, investments, and other things or entities that can be sold or disposed of to realise funds, valued in excess of \$10,000. This excludes items considered necessary for participation in economic, social and civic life, such as one vehicle per ratepayer, the property where the applicant resides and other household items deemed necessary.
Waiver	A waiver of a debt permanently exempts payment of the rate, charge, special rate or charge or legal cost under discussion. It may include the whole or part of any rate, charge, interest or legal costs accumulated.
Interest Waiver	A waiver of a debt permanently exempts payment of the interest charge under discussion.
Current Overdue	A rate or charge raised and overdue within the same financial year.

Term	Definition
Distributional Effect	Where rates and charges being waived on one property result in a higher rating burden being applied to other properties to raise the same level of rates revenue.

10. Relevant and Related Legislation / Policies

10.1 Relevant Legislation

Council is empowered to defer or waive rates, charges and interest based on the following provisions of the *Local Government Act 1989*.

Section 170 of the *Local Government Act 1989*

Council may defer in whole or in part the payment by a person of any rate or charge which is due and payable for a specified period and subject to any conditions determined by the Council if it considers that an application by that person shows that the payment would cause hardship to the person.

10.2 Section 171 and 171A of the Local Government Act 1989

Council may waive the whole or part of any rate or charge or interest on the grounds of financial hardship.

10.3 Section 172 of the Local Government Act 1989

A Council may exempt any person from paying the whole or part of any interest either generally or specifically.

10.4 Section 181 of the Local Government Act 1989

Council may sell any rateable land that is more than 3 years overdue for overdue rates or charges, in accordance with the legislation.

10.5 Related Legislation

Charter for Human Rights and Responsibilities Act 2006

Cultural and Recreational Lands Act 1963

Fire Services Property Levy Act 2012

Local Government Act 1989

Local Government Act 2020

Penalty Interest Rates Act 1983

Privacy & Data Protection Act 2014

State Concessions Act 2004

10.6 Related Policies

13825 Information Security Policy

14678 Records Information management Policy

16138 Rating Strategy

16435 Privacy Policy

12.0 Implementation and Review

This policy is effective from 1 July 2022 through to 30 June 2023.

11. Implementation and Review

This policy is effective from 1 July 2023 through to 30 June 2024.