



# RATES HARDSHIP ASSISTANCE POLICY

## 1. PURPOSE

- To ensure ratepayers experiencing hardship and seeking rate relief are given the opportunity to present their case.
- To provide policy for decisions made in accordance with Section 170 of the Local Government Act 1989. Council may defer in whole or part, the payment by a person of any rate or charge, which is due and payable on the grounds of genuine financial hardship.
- To provide policy for decisions made in accordance with Sections 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 genuine financial hardship.
- To provide policy for decisions made in accordance Section 172 of the Local Government Act 1989. Council may exempt any person from paying the whole or part of any interest either generally or specifically.
- To provide policy for decisions made in accordance with sections 27, 28 and 29 of the Fire Services Property Levy Act 2012.

## 2. OBJECTIVES

- To ensure ratepayers experiencing genuine hardship situations are aware of their entitlements regarding rating assistance available under the Local Government Act 1989 and the Fire Services Property Levy Act 2012, and also provide them with a clear understanding of the options and assistance available by Whitehorse City Council.
- To ensure appropriate assistance is granted to ratepayers enduring genuine hardship.
- To ensure all applications for rate relief are considered with respect and sensitivity and treated in a confidential manner.

### 3. SCOPE

This policy applies to all applications for relief from any rate, levy amount (Fire Services Property Levy), special rate, charge or interest. This policy does not apply to applicants for a concession in accordance with Section 169 of the Local Government Act 1989.

In accordance with the Fire Services Property Levy Act 2012, the levy amount may only be deferred or waived in whole or part if Council waives whole or part of any rate, charge or interest under sections 170, 171 and 171A of the Local Government Act 1989.

### 4. DEFINITIONS

**“Hardship”** means a ratepayer who wants to pay but cannot for financial reasons.

A **“deferral”** of payment of rates, levy amount or a special rate or charge, can be provided in whole or part and be specified for a period of time determined by Council. At the discretion of the Rates Administrator, interest may be charged at a reduced rate. When rates are deferred, payment is not required until such time the property is sold and transferred to another entity or their financial circumstances improve, and Council sends a Valuation and Rate Notice requesting payment or issues a Land Information Certificate for payment purposes.

A **“waiver”** exempts whole or part payment of any interest or associated costs where applicable. Any waiver is a one off waiver in response to circumstances presented at the time. Under this policy a waiver does not apply to any rate, levy amount, special rate or special charge.

A **“payment arrangement”** is made available to any ratepayer who through hardship is having difficulties meeting their payment(s) by the required statutory payment date(s). Payments are required periodically for example weekly, fortnightly or monthly and must be adhered to.

### 5. POLICY

#### 5.1. Council

- Council’s annual Valuation and Rate Notice will carry advice that eligible pensioners are entitled to a concession under the State Concessions Act 2004, the Local Government Act 1989 and the Fire Services Property Levy Act 2012.
- Council’s annual Valuation and Rate Notice will carry advice that any ratepayer experiencing difficulties in paying their rates should contact the Rates Department to discuss alternative options.
- Periodic payments will be accepted on current rates and charges on the condition that all rates and charges are paid in full by the statutory due date of the lump sum payment. Or, if the 1<sup>st</sup> instalment is fully paid by the statutory due date; have until the statutory due dates of the three

remaining instalments to pay rates and charges in full. Any ratepayer who carries rate arrears and applies for a payment arrangement must provide relevant financial details.

- Council will allow complete suspension of further penalty interest until 30 September 2020. Effective from 1 October 2020, interest will be charged on overdue rates and charges in accordance with Section 172 of the Local Government Act 1989 and the Penalty Interest Rates Act 1983. However, in the event of the ratepayer entering into a deferral, payment arrangement or applying for a waiver of interest or other charges due to financial hardship, the Rates Administrator may reduce rate interest by a maximum of five (5%) percent below the current penalty interest rate set under the Penalty Interest Rates Act 1983. At the time of writing this policy the penalty rate as set by the Penalty Interest Rates Act 1983 was ten (10%) percent.
- The Rates Administrator may refer a ratepayer to an authorised Financial Counselling service should it become evident the ratepayer requires further assistance.
- Applications will be considered with regard to the owner/ratepayer's principal place of residence, residential properties that are tenanted and all non-residential properties.
- A ratepayer who is deemed eligible for a deferral of rates, or a ratepayer who complies with an agreed payment arrangement, and does not default in their payments, will not be subject to legal proceedings. This will minimise costs to the ratepayer associated with debt recovery.
- Ratepayers will not be granted rate assistance i.e. by deferment, payment arrangement or waiver if they find it suitable to them because of any motive or principle other than genuine hardship.
- In some instances Council may place a caveat on the certificate of title to ensure protection in recovering the debt.
- All matters will be treated confidentially in accordance with the Privacy and Data Protection Act 2014 (Vic).
- Whole or part of rate and levy amount interest and/or legal costs may be waived for reasons other than financial hardship where:
  - i. the late payment is the first occasion upon which a late payment has been received;
  - ii. the ratepayer has displayed a first class payment history;
  - iii. compassionate grounds i.e. family illness, trauma or hospitalisation, death of an immediate family member;
  - iv. genuine error of rate payment by ratepayer;
  - v. an administrative issue, error or omission which caused or significantly contributed to the failure to pay rates in a timely manner;
  - vi. such other circumstances considered appropriate.

- Ratepayers will be shielded from legal action and additional debt recovery costs, whilst they adhere to and continue to make payments according to their agreed arrangement with Council and/or its debt recovery agency, or whilst deferral of rates and charges are officially currently in place with Council.
- Withdrawal of Deferment.  
A deferment or payment arrangement will be withdrawn on the basis of any of the following conditions:
  - i. application for renewal of deferment of rates regarding ongoing hardship is not received within 30 days of application being sent to the ratepayer;
  - ii. the ratepayer gives to Council any information which is false or misleading in respect of their application;
  - iii. the ratepayer has defaulted in meeting any payment agreements with Council or its debt recovery agency;
  - iv. it is found the ratepayer has entered into a deferral or payment arrangement because of any other motive or principle other than hardship;
  - v. the ratepayer advises that the hardship conditions no longer exist;
  - vi. the ratepayer no longer owns or occupies the land.

## **5.2 Ratepayer**

- Eligible ratepayers in genuine financial hardship will be provided with assistance and an explanation of their entitlements to rate concessions, normal payment options, rate, levy amount, charge and interest deferral, payment arrangement options and interest waivers.
- Requests for deferral of rates, levy amount and/or special rates or charges by reason of financial hardship, must be submitted in writing on the relevant application form to Council's Rates Administrator. Application forms are sent to the ratepayer by Council. Council may also request an interview in order to arrive at its decision.
- Deferments of rates, charges and interest may only be granted in each rating year. Applicants requiring deferrals for future years will be required to re-apply each year. A renewal form will be sent with the annual Valuation and Rate Notice.
- Ratepayers applying for a deferment acknowledges the debt will be recouped when the property is sold, transferred to another entity or their financial circumstances improve.
- Ratepayers entering into a payment arrangement with Council or its debt recovery agency will be required, wherever practicable, to meet the agreed arrangement and satisfy the rate debt within the current rating year.

- Should arrears and/or current rates not be paid in full in the current rating year, ratepayers entering into a payment arrangement with Council or its debt recovery agency, and are requesting a waiver of interest charges, will be required to provide financial details on the relevant application form. Application forms are sent to the ratepayer by Council.
- Requests for assistance for whole or part waiver of rate interest and/or legal costs must be in writing, providing sufficient explanation to justify the granting of the assistance.
- Payments of the first instalment received late i.e. after the statutory due date, will be accepted as a first instalment only at the discretion of the Rates Administrator. If not accepted full payment is required by the lump statutory due date (15 February).
- A ratepayer can in writing appeal against a decision made by Council in accordance with Council's Rates Hardship Assistance Policy. The ratepayer must state their grounds for appeal.

### **5.3. Incentive for Early Payment of Special Rates and Charges**

Council currently offers a discount for prompt payment of special charges (schemes) in accordance with Section 168 of the Local Government Act 1989.

It does not offer any incentive for prompt payment of rates and other charges as it can be seen as further disadvantaging low income earners or people experiencing financial hardship, therefore not benefiting from the discount.

### **5.4. Debt Recovery**

Whilst hardship assistance is available, there are some circumstances which may lead Council to instigate debt recovery in order to achieve a resolution. Council will make attempts to inform the ratepayer of possible legal proceedings and give the opportunity for the ratepayer to resolve the issue before Council lodges the matter with the Magistrates' Court.

Examples of incidents may be that the ratepayer regularly defaults 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 noted earlier in this policy, ratepayers will be shielded from legal action and additional debt recovery costs, whilst they adhere to and continue to make payments according to their agreed payment arrangement with Council or its debt recovery agency, or whilst deferral of rates and charges are officially currently in place with Council.

### **5.5. Counselling Services**

Ratepayers are encouraged to utilise counselling and other support services.

Financial Counselling Australia provides letter templates, fact sheets, information on financial counselling services and a debt management self-help tool. Visit [ndh.org.au](http://ndh.org.au) or telephone 1800 007 007.

Counselling services provided within the Whitehorse region are listed on Council's website. These include financial counselling services. Visit <https://www.whitehorse.vic.gov.au/community-directory> or telephone 9262 6333.

## **5.6. Additional Penalties**

In accordance with Section 171 and 171A of the Local Government Act 1989, ten (10) penalty units may apply if:

- a person who-gives to a Council any information which is false or misleading in any material particular in respect of an application under this section; or
- fails to notify a Council of any change in circumstances which is relevant to an application or to a waiver granted under this section-is guilty of an offence.

At the time of writing this policy, the value of one (1) penalty unit is \$151.67. The value of each unit is set annually by the Department of Treasury and Finance, and is updated on 1 July each year.

## **6. RELATED LEGISLATION AND DOCUMENTS**

- Local Government Act 1989
- State Concessions Act 2004
- Penalty Interest Rates Act 1983
- Cultural and Recreational Lands Act 1963
- Fire Services Property Levy Act 2012
- Privacy and Data Protection Act 2014 (Vic)
- Charter of Human Rights and Responsibilities Act 2006
- Whitehorse City Council Rating Strategy June 2014
- Municipal Association of Victoria Hardship Policy Guidelines
- Victorian State Government's Model Litigant Guidelines