

RATES FINANCIAL HARDSHIP POLICY

Policy Reference No.	POL305
File No.	HCC22/614
Strategic Objective	3.2: Deliver responsible and transparent governance, services and sustainable assets that respond to community needs.
Adopted by Council	28 November 2022
Re-Adopted Date for Review	June 2024
Responsible Officer	Manager Finance
Department	Finance

1 POLICY STATEMENT

In accordance with the *Local Government Act 1989* (the Act), Council levies Rates and Charges on rateable land to provide for services to the community. Hume City Council recognises that ratepayers at times will experience genuine financial hardship and is committed to helping those experiencing financial hardship and are having difficulty meeting obligations to Council. This policy ensures that regardless of their circumstances, our community will face no judgement, and will be treated with understanding, dignity, and respect.

For this policy to be successful it requires the co-operation of both parties to communicate with each other openly and honestly.

Hume City Council's guiding principles of 'Sustainability' and 'Social Justice' and commitments to Child Safe Standards and Gender Equality (as outlined in the Council Plan), and Social Justice Charter (2021) guide the application of financial hardship assistance.

2 PURPOSE

The purpose of this Policy is to establish a framework to define what support is available for ratepayers who are experiencing financial hardship and the method of managing and collecting unpaid rates.

If debt collection is required, this policy provides the framework for the collection of unpaid rates and charges (Attachment 2). However, a payment arrangement will be offered to avoid the need for debt collection.

This Policy aims to make it easier for ratepayers to enter into a payment arrangement and therefore utilise the hardship provisions by removing the need to formally prove financial hardship.

3 SCOPE

- 3.1 This policy applies to all ratepayer's principal place of residence in the Hume municipality. Other property type owners may apply for the hardship provisions under this Policy in limited circumstances at the discretion of the Chief Financial Officer. In particular, the policy applies to those ratepayers who have been identified, either by themselves, Council Officers or by an independent accredited financial counsellor, as having the intention to pay their rates, but who do not have the financial capacity to make the required payments.
- 3.2 This policy applies to revenue included on the rate notice (rates, waste charges, fire services property levy, legal costs, interest and other relevant charges).
- 3.3 The hardship provisions will only be granted to individuals experiencing financial hardship for payment of rates on their principal place of residence only.
- 3.4 Council frequently enters payment arrangements with property owners. This form of assistance is not categorised as "financial hardship assistance". In these circumstances Council's Finance team will monitor progress towards clearing the debt within a specified time, but if the debt is not cleared, further assistance may be considered.

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3.5 This policy is binding upon Council and its agents, including Council employees, contractors and consultants.

4 OBJECTIVE

4.1 This Policy will:

- 4.1.1 Provide a mechanism that enables our community to feel comfortable and supported when approaching Council to discuss their financial circumstances, including any difficulties they may be experiencing in meeting their obligations to pay rates and charges.
- 4.1.2 Encourage a proactive approach in identifying and assisting those experiencing financial hardship.
- 4.1.3 Encourage and support access to legal, welfare and financial counselling services.
- 4.1.4 Reduce the number of instances that are referred to Councils' debt collection agency.
- 4.1.5 Detail collection procedures and assist ratepayers who are experiencing financial hardship, to manage their payment of rates in a manner acceptable to both parties and provide a greater understanding of financial hardship, which effectively manages Councils financial hardship for ratepayers and will result in improved customer satisfaction and a reduction in debt collection expenses.

5 POLICY IMPLEMENTATION

5.1 Rates and Charges Collection

All rates and charges are raised and issued in compliance with s158-166, s181A-181E and 185A-185G of the Act.

The current instalment due dates are:

- First Instalment 30 September
- Second Instalment 30 November
- Third Instalment 28 February
- Fourth Instalment 31 May

Council does not offer an in full annual payment option.

The current Direct Debit due dates are the end of each month (over 9 months). Direct debit payments are evenly calculated over nine months and due on the last day of each month commencing 30th of September to 31st of May inclusive. Payments are deducted from a nominated bank account. If any of the above dates fall on a non-business day, the payment date is moved to the next business day.

In most circumstances interest will be charged on all overdue amounts in accordance with the rate fixed by the Minister under s172A of the Act.

5.2 Calculating Interest

Late payments are subject to interest and interest will continue to accrue on overdue amounts unless a payment arrangement exists and is being maintained.

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5.3 Payment Arrangements

When a property owner has outstanding payments, they may apply to make payments over time that falls outside the due dates. While a payment arrangement is maintained by the property owner, interest will not apply and any legal action will be put on hold.

5.3.1 Arrangements reducing debt

Applications are to be made via the relevant payment arrangement application form (online, email or post) and may be considered under the following conditions:

- applications are expected to bring the account up to date within the current financial year or a twelve (12) month period from the application date.
- applications must include a payment schedule on a weekly, fortnightly or monthly basis.

5.3.2 Arrangements increasing debt

Any application for an arrangement where the account will be increasing in debt should be made in writing to Council’s Revenue Coordinator or Team Leader.

5.3.3 Arrangements after legal action

If the outstanding payments have been referred for legal action with an external collection agency, applications may be required to be submitted to the agency for management via direct debit. Such applications would only refer to outstanding payments, and would be required to be paid in full:

- by the end of the financial year; or
- within a six (6) month period.

5.3.4 Arrangement Terms

Accounts on active arrangements will not accrue interest on overdue amounts. Should a ratepayer reapply where Council has previously withdrawn from an arrangement due to a default, new arrangement terms will need established.

Where rate payments are in arrears any default from the payment arrangement where no payment has been made or no new arrangement has been entered into for a 24-month period, may result in legal action to recover the debt without further notice.

Council’s Finance team will be flexible regarding the type of arrangement entered into, to best suit the ratepayer’s circumstances.

If the ratepayer is unable to make a regular repayment arrangement their application will be assessed under the financial hardship provisions in this policy.

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5.4 Financial hardship

Financial hardship refers to difficulty meeting everyday living expenses for themselves, their family and dependents and may include the ability to provide food, accommodation, clothing, healthcare and other basic necessities.

This Policy will be used to support all financial hardship requests.

Supporting documentation may be required where:

- It appears that the financial agreement will need to be long term,
- The property owner has had payment issues with Council in the past,
- The amount outstanding or remaining overdue is considered large or significant, or
- Financial Hardship has been utilised by the property owner in the past.

The Financial & Consumer Rights Council of Victoria (FCRC) is the peak body for Financial Counsellors in Victoria. The FCRC can help affected persons find a financial counsellor, please visit www.fcrc.org.au for more information.

The National Debt Helpline is a not-for-profit service that helps people in Australia tackle their debt problems. This is a Government service providing free, confidential counselling for people experiencing financial difficulty. Visit www.ndh.org.au or call 1800007007 for more information.

5.5 Application for financial hardship

Ratepayers may apply for the following, pursuant to s170, s171A and s171B of the Act:

- Deferral of rates and charges.
- Waiver of interest or part thereof and legal charges invoiced to date.

Generally, legal costs that have been incurred by a debt collection agency will not be waived. The exception to this is where it is to correct an administrative error of Council.

5.6 Deferment of Rates

A deferral of rates and charges may be considered where the applicant provides a request for financial hardship. A deferral of rates and charges is a postponement of payment in whole or in part and can be for a specified period and is subject to any conditions determined by Council's Finance team. In all applications for rate deferrals, the property owners who are the subject of a Deferral under this paragraph should be urged to continue to make such contributions to Rates payments as they are able.

5.6.1 Short-term Deferral

Requests for deferral for the following periods may be made either verbally or in writing within the below constraints:

- verbally accepted deferrals are limited to instances where an overdue instalment/s will be paid in full within sixty (60) calendar days of the due date of the instalment
- deferrals for period exceeding sixty (60) calendar days should be requested in writing where possible

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- deferral requests for partial payment are considered arrangements (see section 5.3 of this policy)
- interest will not accrue
- no more than two (2) of these requests may be made successively in regard to the same overdue payment.

All further requests will be treated as a long-term deferral.

5.6.2 Long-term Deferral

Long-term Rate deferral agreements will be for a maximum of twelve (12) months, with the applicant having a maximum of a further twelve (12) months in which to fully repay all rates deferred. A request for long term deferrals should be made in writing to Council's Revenue Coordinator or Team Leader.

No more than two (2) of these requests may be accepted successively in regard to the same overdue payment.

Rates that accrue during the interim period must also be paid by the extended payment date.

Deferred rates are a charge on the property and will continue to accrue interest until the account is paid in full.

5.7 Waiver of interest

A waiver of interest or part thereof on a rated property will only be considered in extenuating circumstances where:

- Waiver for administrative reason/error – property owners may have the interest waived or part thereof in the event of an administrative issue, error or omissions which caused or significantly contributed to the failure to pay rates in a timely manner.
- Waiver of interest application - property owners may apply for the waiver of interest that has been charged where the debt will be substantially repaid/paid in full or where hardship exists and an agreed payment arrangement is maintained.
- Waiver on compassionate grounds – property owners may have interest and/or costs waived where they have demonstrated compassionate grounds for a payment being late.

Non-receipt of a rate notice, travelling overseas, forgetfulness, failure to contact Council's Finance team prior to the due date to advise of financial difficulty, a failure to advise of a change of residential or mailing address in writing, or previous payment arrangements not being maintained are not deemed to be extenuating circumstances.

5.8 Waivers

Any rate, levy, charge, special rate or special charge will not be waived in order to ensure that financial hardship assistance offered to one ratepayer or group of ratepayers does not

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adversely impact other ratepayers through a higher rating burden being applied to other properties to raise the same level of rates revenue.

Determination on applications for waiver or write-off of interest charges will be subject to approval by:

Who can approve?	What can be approved?	\$ value
Revenue Coordinator or Team Leader	Determination to waive rates and charges for administrative purposes	\$10
Revenue Coordinator or Team Leader	Determination on applications to waive interest or part thereof	\$500
Manager Finance	Determination on applications to waive interest or part thereof	\$2,500
Chief Financial Officer (CFO)	Determination on applications to waive interest or part thereof and legal charges in full or in part	Greater than \$2,500

5.9 Privacy

Personal information requested in regard to a payment arrangement application is being collected by Council for the purpose of entering into and maintaining a payment arrangement. Council may disclose this information to contracted debt collection agencies upon default of the payment arrangement. The personal information will not be disclosed to any other external parties without consent, unless required or authorised by law. Applicants may apply to Council for access and/or amendment of the information.

5.10 Complaints and feedback

If there are disputes or complaints with the handling of the collection arrangement, property owners can make a complaint in accordance with Councils Complaints Policy. A complaint can be raised by one of the following options:

Preferred options	
Online via Council's website	https://www.hume.vic.gov.au/Your-Council/Contact-Us - via the 'Share your feedback link'
Telephone	03 9205 2200 Translating Interpreting Service - 131 450 TTY Phone (Teletypewriter) - 1800 555 677 National Relay Service (NRS) - 133 677
In person	Via a Council Customer Service Centre. Visit https://www.hume.vic.gov.au/Your-Council/Contact-Us for locations and opening hours.
Alternative options	
Consistent with our policy principle of 'accessibility', Council will accept complaints through informal channels, either in writing or verbally. These include, but are not limited to:	
Face-to-face with any Council Officer or Councillor	Downloadable paper-based forms
Written letters or emails to any Council Officer or Councillor	Council managed social media pages/sites
Through a carer, advocate or support person	

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6 DEFINITIONS AND ABBREVIATIONS

Term / Abbreviation	Definition
“Deferment”	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’s Finance team.
“Waiver”	Is the relinquishment or removal of the liability to pay and may include the whole or part of any interest applicable to unpaid rates and charges.
“Genuine Financial Hardship”	<p>Is a situation where a ratepayer or property owner is reasonably unable, because of illness, unemployment or other reasonable cause, to discharge their financial obligations.</p> <p>Financial hardship involves an inability of the property owner to meet their commitments (bills), rather than an unwillingness to do so. Customer hardship can arise from a variety of situations.</p> <p>Common causes of hardship may include, but are not limited to:</p> <ul style="list-style-type: none"> • Loss of employment of the property owner or family member; • Family breakdown; • Illness, including physical incapacity, hospitalisation, or mental illness of the property owner or family member; • A death in the family; or • Other factors resulting in unforeseen change in the property owner’s capacity to meet their payment obligations, whether through a reduction in income or through an increase in non-discretionary expenditure.
“Payment Arrangement”	A proposal accepted by a relevant council officer, to pay the outstanding rate or charge over the agreed period of time
“the Act”	<i>Local Government Act 1989</i>
“Property Owner”	Is the registered proprietor of Rated property within the municipality, who is legally responsible to pay Rates under section 156 of the Local Government Act 1989 (Vic).
“Ratepayer”	The occupier of any rateable property who is liable to pay rates. This may be the property owner or a tenant who under the lease agreement is liable to pay rates.

7 RELATED DOCUMENTS

- a) *Local Government Act, 1989*
- b) *Local Government Legislation Amendment (Rating and Other Matters) Act, 2022*
- c) Hume City Council Complaints Policy
- d) Hume City Council Social Justice Charter 2021

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e) Hume City Council Plan 2021-2025

ATTACHMENT 1 – Social Justice Principles and application of Rates Financial Hardship Policy

The table below outlines each of the *Social Justice Principles* and how they will be applied as part of the application of the Rates Financial Hardship Policy:

Social Justice Principle	How this principle will be considered as part of the Financial Hardship Policy
<p>Access and Inclusion</p> <p>Hume City Council’s standards for access and inclusion support all residents to be well informed, connected, and able to participate in community life. We consider the needs of all people, including possible barriers they may face, how they access information, utilise services and engage in spaces.</p>	<p>All applicants requesting financial hardship assistance will be treated fairly and in accordance with this policy regardless of gender, sexual orientation, race, ethnicity, religion, age, socioeconomic status, physical or mental ability.</p>
<p>Equity and Fairness</p> <p>Hume City Council delivers policy, programs and services with an active consideration of equity and fairness. We prioritise fairness in all initiatives, including a fair assessment of the unique and sometimes overlapping challenges community members may face, whether that is on the basis of age, ability, gender, religion, socio-economic status, sexuality and gender identity or nationality.</p>	<p>Council recognises that providing an equitable approach to rates and charges requires a multi-tiered approach that includes consideration within the annual Council Budget, Council’s Rating Strategy, as well as debt recovery and financial hardship policies. This Policy plays an important role of providing targeted relief to ratepayers experiencing payment difficulty with rates and charges.</p>
<p>Engagement and Participation</p> <p>Council seeks to address systemic challenges that may prevent or limit participation in community life and decision-making processes, particularly those faced by people who have been historically under-represented. We will engage with individuals and communities to work collaboratively and deliberatively to facilitate and encourage community involvement.</p>	<p>Council recognises the importance of engaging the community during Annual Draft Budget processes and when designing rating strategies. Through community consultation residents and ratepayers can have their say regarding how rates and charges are raised, as well as how waivers and discounts are applied.</p>
<p>Rights and Accountability</p> <p>Council has an ethical duty and legal obligation to respect, protect, and fulfil the human rights of our residents and to hold ourselves accountable for human rights outcomes. Council will measure the advancement of social justice across Hume’s policies, services and programs.</p>	<p>As a third-tier of government, Council recognises Rates and Charges as a property tax for which all ratepayers are liable. The <i>Victorian Charter of Human Rights and Responsibilities Act 2006</i> does not restrict Council from collecting lawfully raised rates and charges under Section 180 and Section 181 of the Act, however Council recognises the value of engaging residents and offering support prior to assessing any unpaid amount for legal action.</p>

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ATTACHMENT 2 – Debt Recovery Process

Collection arrangements where no financial hardship has been identified.

Where the payment of rates remains outstanding after the communicated due dates, or where there has been a default in an agreed payment arrangement, the following debt recovery process may occur:

Reminder Notice

Following the second, third and fourth instalment payment dates, a reminder notice will be issued to property owners who have previously elected to pay by instalments requesting payment within fourteen days.

Final Notice

If no payment or action has been taken by the ratepayer after a reminder notice has been sent, and the amount of rates outstanding is greater than \$10 a Final Notice will be issued by Council.

Email and Phone Contact

Where Council's property and rating database has a phone number and or email recorded, Council or its collection agency will attempt contact via these communication lines and record the result.

Solicitors Letter of Demand

If the ratepayer has failed to respond to the Final Notice the property owner will be issued with a Letter of Demand by Council's debt collection agency, requiring payment within fourteen days.

Solicitors Letter of Demand Reminder

Property owners, who fail to respond to the Letter of Demand issued by Council's debt collection agency, will be sent a SMS or will be hand delivered a letter requiring payment within fourteen (14) days or to make an arrangement to pay.

Field Call

Where no contact has been possible with the property owner, Council's collection agency will attempt a field call at the property address and/or the address listed for service of notices.

Legal Action

Property owners who fail to respond to the solicitor's Letter of Demand or Letter of Demand Reminder will be referred for the commencement of legal proceedings by Council's debt collection agency. This will occur where no payment has been made or no new arrangement has been entered into for a 24 month period

Summons

A summons (complaint) will be issued to those property owners who meet the following criteria:

- Have an amount outstanding of at least \$3,000 or more as the costs of legal action (as set by the Magistrate's Court) are significant and are charged to the property owners. This amount will be reviewed annually considering the applicable court and legal fees that would apply, as these change periodically.

Once a summons/complaint is prepared and lodged with the Court for issue, the associated legal costs become chargeable to the property owner. The property owner is obligated to:

- Pay the claim in full plus costs; or
- Request a suitable payment arrangement; or

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- Lodge a completed Notice of Defence with the Court (thereby giving notice of their intention to dispute the claim).

If the property owner has failed to carry out any of the above, an application will be made to the Court for an Order against the property owner for the debt plus costs. Once an Order has been made the following execution proceedings to recover the debt will be considered depending on the history of the property owner:

- Summons of Oral Examination (property owner is interviewed by the Clerk of Courts regarding their financial situation and intentions in relation to repaying the debt).
- Letter to mortgagee (a Court Order is not necessary but this action would normally only be taken after a property owner failed to respond to an order being obtained).
- Issue a rent demand. If the property is being leased, either for residential or commercial purposes, Council can demand that the rental payments be used to repay the outstanding rates or charges.
- Warrant seizing goods (some goods are not able to be seized like necessary household goods, tools of trade and low valued motor vehicles).
- Garnishee of wages.

Possible Sale of Property

As an absolute last resort, should the debt remain outstanding, Council will receive a report recommending the possible sale of the property if all the following criteria are met:

- The rates or charges have been outstanding for more than three (3) years; and
- No current payment arrangement exists; and
- The Mortgagees/Mortgagees have been advised; and
- A magistrate's Court Order has not resulted in payment.

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