



Moreland
City Council

Hardship Policy

Policy ID No

Date Authorised by Chief Executive Officer or Council:

Commencement Date:

Review Date (10 years from authorised date):

Responsible Department

Finance & Procurement

This policy has been authorised.

<Insert Date signed here>



1. Introduction

This policy outlines the principles that Council officers must consider when collecting debt and providing relief to individuals who are experiencing financial hardship.

2. Context

2.1 Alignment

Council implemented a COVID Hardship Policy to provide a policy framework to provide financial relief to individuals and business who may need assistance from the impacts of the Coronavirus Pandemic. This Policy expired on the 30th of June 2022.

The updated Hardship Policy has been structured to incorporate long-term assistance provisions that may be required to support individuals and businesses to recover. It also addresses the observations made in the Victorian Ombudsman's review of Hardship - Local Councils as published in May 2021.

2.2 Organisational Context

Council commonly enters transactions where payment is not received for provision of the goods and services or application of fines. Thus, Council provides credit to those parties from the time that the service or good is provided (or fine levied) until they pay the full amount due. During that time, Council must recognise those parties as debtors.

In considering all aspects of debt collection, Council must consider that some debtors may be experiencing financial distress or hardship and in the principles of fairness, transparency and equity, relief may be provided to those individuals who are experiencing financial hardship.

3. Objectives

To provide transparency when collecting and providing for debts owed to Council and to ensure Council manages its accounts receivable in such a way that it does not jeopardise the funding of its operations. The objective is also to take into consideration the financial hardship of debtors and requirements under the Local Government Act 1989.

The policy is guided by the following principles:

- Transparency, efficiency, capacity to pay and equity by treating all debtors consistently and in a fair manner.
- Customers are encouraged to utilise financial counselling, legal and other supports.
- Legal action to recover debt should be the last resort.

4. Policy details

4.1 Payment Terms

Council's payment terms are 28 days from the date the document is issued unless specific regulations apply, or an alternative due date is displayed.

4.2 Payment Arrangements

Any debtor who is having trouble in paying a debt is encouraged to contact Council's Finance Unit to make a payment arrangement to pay off the debt in a reasonable and manageable timeframe. Depending on the element of the debt, provision of service may not commence until the debt is paid. Council's payment plans may be managed by our appointed external collection agency.

4.3 Continuation of Provision of Service

In some cases, Council will continue to supply services regardless of outstanding debts.

In the case where the service is discretionary (for example Sports Ground Hire) and is not governed by specific regulation the relevant Department or Unit must not continue to supply service where debts are more than 60 days old, and no payment arrangement has been agreed.

4.4 Debt Recovery

Council will make a reasonable attempt to contact a customer about their overdue account. This may include a reminder letter, account statement, email or phone call.

Council will not pursue further recovery action against a ratepayer who has an agreed periodic payment arrangement, while the arrangement is current, and the ratepayer adheres to the agreed repayment schedule. Council reserves the right to renegotiate or cancel a payment arrangement should circumstances change where the debt will not be paid within a reasonable time frame.

All debt that does not have an active payment plan, deferral or hardship application in place or in progress, may be referred for formal debt collection. Where these terms cannot be met the account will generally be referred for recovery action as detailed in paragraph 4.6. The debtor will be liable for all legal costs incurred by Council in the debt collection process.

4.5 Interest on overdue rates and charges

Interest will be charged on overdue rates and charges in accordance with section 172 of the Local Government Act 1989 (Act), unless otherwise specified in this policy and will be set at the prevailing rate fixed by the Minister.

The interest will be calculated at the rate fixed under the *Penalty Interest Rates Act 1983*. Interest is calculated from the legislated date the rates and charges are due.

The interest will not be charged to accounts where a payment plan or deferral is in place and the debtor is adhering to the agreed repayments and timeframes.

4.6 Legal Process

Accounts may be forwarded to Council's debt collection agent for recovery action based on the following actions by the debtor or ratepayer:

- Has been uncontactable for the Council or Council has notified the person in writing and advises them of available payment options, including deferrals and payment plans; and
- It has been at least 24 months since that occurred and the person has not deferred the payment, entered a payment plan or used any other available payment option. Noting; this does not apply to legal action to recover the payment of fines.

Contact will be made by the debt collection agent detailing the debt and confirming they have been instructed to act on Council's behalf to recover the debt and providing contract instruction.



If no communication, payment or payment arrangement has been received, then a final demand letter will be sent on Council's behalf to recover the debt and advise that failure to attend to the request may result in further legal action and costs.

The Chief Financial Officer may instruct an agent acting for Council to take steps necessary to recover overdue rates and charges, including bringing court proceedings on behalf of Council.

Unless an acceptable payment arrangement is made, payment in full including all legal outlays is required prior to the withdrawal of the recovery action.

Accounts referred to the debt recovery agent may be left under their control and updated from time to time with the balance of accruing rates, charges and interest until the debt is paid in full.

4.7 Financial Hardship

Financial hardship is a circumstance of experiencing a lack of financial means, which may be either ongoing or temporary. Some common causes of financial hardship are, but not limited to; loss of employment, family violence or breakdown, illness of the debtor or family member or death.

A business is considered to be in financial hardship when facing closure, disconnection of utilities, repossession of a vehicle necessary to the operation of the business or imminent legal action for non-payment of debts.

To establish financial hardship under this policy, the person or business must also show that the financial hardship is capable of remedy if payment arrangements were to change.

4.8 Financial hardship principles

The principles of Council's hardship framework are:

- Early identification as successful hardship programs have good identification and communication strategies;
- Accessibility to information about hardship programs, including proactive material on council websites and rates notices;
- A range of forms of assistance should be available;

- The form of hardship assistance provided should match the level of financial difficulty;
- Council should encourage ratepayers to utilise financial counselling, legal and other supports; and
- Legal action to recover debt should be a last resort.

4.9 Application process

Any debtor who is having trouble in paying a debt is encouraged to contact Council's Finance Unit directly or via the late payments form. If they feel that they are experiencing financial hardship council will discuss the options available in relation to the application being:

- An application for Rate special payment arrangement (Payment Plan).
Where evidence of financial stress is indicated, a payment plan will be negotiated. Where possible the payment plan should be set to recover the arrears within twelve-month period to prevent the account from falling further behind.
- An application for Rate special payment arrangement (Deferral 3 Months). Where evidence of financial stress is indicated, a deferral for a period not to exceed 3 months may be considered by council rate staff.
- An application for Financial Hardship.
Council will provide debtor with a referral to an independent financial counsellor; Debtor will attend appointment with financial counsellor, who will then provide Council with a written report detailing the debtor's financial circumstances and recommendation in relation to the relief measures required. The report will then be assessed by the Unit Manager Finance and a financial hardship approval/rejection letter will be issued with confirmation of relief measures to be applied.
- An application for Exceptional Circumstances.
Council will provide the opportunity for relief or deferral of payments based on a person's particular circumstances where it would be unjust for the general rule to apply.

Payment negotiated for payment plans should ensure current rates and charges are paid as issued to ensure the account does not fall further in arrears.

Arrangements with periods greater than those outlined above may be approved in cases of extenuating circumstances (for example long term illness or unemployment) at the recommendation of the Team Leader, Rates.

Where a debtor has been unable to meet the special payment arrangements or has indicated further deferral may be required, a referral for hardship assessment will be offered. If referral is not acceptable to the ratepayer, interest will apply regardless for the amount or timeframes.

4.10 Assessment process

The following items will be considered when assessing a financial hardship application:

- A summary of previous payment history with council;
- Debtors payment history;
- Severity of financial hardship (temporary financial stress or financial hardship); and
- Independent financial counsellors written report.

Financial hardship will not be granted in the following circumstances:

- When the rates financial hardship application is not for the ratepayer's principal place of residence;
- When the rates financial hardship application is not for a residential assessment;
- When rates are due on vacant land;
- When the debtor is an owner of multiple properties (whether they are all located in Moreland or not); and
- When the application is not supported by the Financial Councillor.

4.11 Hardship relief

Relief to a debtor experiencing hardship may include legal action recovery being suspended, interest being placed on hold, an interest waiver, waiver of legal fees incurred or a rates payment deferral.

4.12 Debtor responsibilities

If financial hardship is approved by Council, the debtor must enter into a payment arrangement where an amount is paid on a regular basis to clear all outstanding debt within a reasonable timeframe.

If the payment arrangement (as above) is not maintained, financial hardship status will be reversed, and the appropriate recovery action will recommence.

4.13 Waiver of rates and charges

Council does not allow the waiver of rates or charges except in exceptional circumstances. This is to ensure that financial hardship assistance offered to one group of ratepayers does not adversely impact other ratepayers. An exceptional circumstances waiver would be appropriate only if the person's particular circumstances made it unjust for the general rule to apply. Their circumstances would need to distinguish their situation from that of the many other people who do have to repay their debts.

Any application made for exceptional circumstances that requests a waiver or partial waiver of rates or charges will be reviewed by the Chief Financial Officer (CFO). At the discretion of the CFO, the application may be referred to the Chief Executive Officer for approval.

In most instances, council is unable to waive the Fire Services Levy.

5. Roles and responsibilities

The following roles and responsibilities are outlined in this Policy:

Role	Responsibility
Chief Executive Officer	- Review and approve the merit of applications for exceptional circumstances as referred by the CFO



Chief Financial Officer	<ul style="list-style-type: none">- Chief Financial Officer may instruct an agent acting for Council to take steps necessary to recover overdue rates and charges, including bringing court proceedings on behalf of Council- Review applications made for exceptional circumstances that requests a waiver or partial waiver of rates or charges.- On a bi-annual basis and at the recommendation of the debt recovery agent, the Chief Financial Officer will provide council a list of ratepayers with high value outstanding debt in relation to rates and charges for consideration to progress to the sale or acquisition of land in satisfaction of the outstanding debt.
Manager, Finance	<ul style="list-style-type: none">- Oversight of overall debt levels and to ensure appropriate action is implemented in a timely manner.
Team Leader Rates	<ul style="list-style-type: none">- Consider payment arrangements with longer timeframes to allow for cases of extenuating circumstances (for example long term illness or unemployment)

6. Monitoring, Evaluating and review

On a bi-annual basis and at the recommendation of the debt recovery agent, the Chief Financial Officer will provide a list of ratepayers with high value outstanding debt in relation to rates and charges for consideration to progress to the sale or acquisition of land in satisfaction of the outstanding debt.

Action of this nature is not progressed without resolution from Council. To protect the identity of the rate payer, this report is provided as a confidential report.

7. Definitions

This section sets out definitions for technical terms and other key terms referred to in the policy that are not in common use.

Term	Definition
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Council	Moreland City Council, being a body corporate constituted as a municipal Council under the Local Government Act 2020
Debt	Debt is the amount (of money) owed by a debtor because of a transaction with Council.
Debtor	Debtor refers to the individual, organisation or other party that owes a debt because of a transaction with Council.
Ratepayer	Is the occupier of any rateable property who is liable to pay rates. This maybe the property owner or a tenant who under the lease agreement is liable to pay rates
Specific Regulation	A regulation set out in the Local Government Act 1989, Local Government Act 2020, the Magistrates Court Act 1989 or the Infringements Act 2006

8. Associated Documents

- Infringements Act 2006
- Accounts Receivable Policy
- S.7 Instrument of sub delegation CEO to Council Staff

9. References

- Victorian Ombudsman Report: Investigation into how local councils respond to ratepayers in financial hardship. Date posted: 5 May 2021
- Introduction of Local Government Legislation amendment (Rating and other matters) Bill 2022