

## COUNCIL POLICY



<b>TITLE:</b>	FINANCIAL HARDSHIP – RATES AND CHARGES
<b>ID NUMBER:</b>	CPO-CORPS-RV-002 (DocSetID: 764199)
<b>DEPARTMENT:</b>	Corporate Services
<b>UNIT:</b>	Rates
<b>RESPONSIBLE OFFICER:</b>	Rates and Valuations Coordinator

<b>ADOPTED DATE AND BY WHOM:</b>	Council – 25 July 2023
<b>EXPIRY DATE:</b>	25 July 2027
<b>REVIEW DATE:</b>	25 May 2027 <i>This procedure will be reviewed every four years or in accordance with any legislative or council changes.</i>

<b>AVAILABILITY:</b>	Staff - Unit only
<b>ADVISE AVAILABILITY:</b>	Email designated Groups & Staff

## 1. References

- *Local Government Act 1989* (Section 170 & 171)  
[http://www.legislation.vic.gov.au/domino/Web\\_Notes/LDMS/LTObject\\_Store/ltobjst10.nsf/DDE300B846EED9C7CA257616000A3571/763794FC6BB1A30BCA25829D001835F3/\\$FILE/89-11aa147%20authorised.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst10.nsf/DDE300B846EED9C7CA257616000A3571/763794FC6BB1A30BCA25829D001835F3/$FILE/89-11aa147%20authorised.pdf)
- Local Government Legislation Amendment (Rating and Other Matters) Act 2022 – Part 2
- *Penalty Interest Rates Act 1983*  
<https://www.justice.vic.gov.au/justice-system/fines-and-penalties/penalties-and-values>
- Glenelg Shire Council Customer Complaint Handling Guideline (DocSetID: 2299279)
- Glenelg Shire Council Privacy Policy (DocSetID: 643084)
- Ratepayer Application form for deferral, or waiver of outstanding rates, charges and interest. (DocSetID: 764209)
- Glenelg Shire Council, Records Management Policy OPO-CORPS-RECM-001 (DocSetID: 1933907)
- The Victorian Ombudsman’s Report “Investigation into how local councils respond to ratepayers in financial hardship” -  
<https://www.ombudsman.vic.gov.au/our-impact/investigation-reports/investigation-into-how-local-councils-respond-to-ratepayers-in-financial-hardship/>

## 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.

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. Policy Principles

- Ensure that the process undertaken is transparent and equitable and that ratepayers are treated with courtesy, respect, sensitivity and compassion.
- Provision of a comprehensive range of payment options to assist ratepayers in meeting their responsibility to pay their rates and charges.

- 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.
- Encourage a proactive approach in identifying and assisting those experiencing financial hardship.
- Encourage and support access to legal, welfare and financial counselling services.
- Reduce the number of instances that are referred to Councils' debt collection agency.
- For this policy to be successful it requires the co-operation of both parties to communicate with each other openly and honestly.
- Ensure that the collection of Council's rate revenue is maximised and undertaken with efficiency and diligence.
- Comply with the requirements of the Local Government Act 1989 and Local Government Legislation Amendment (Rating and Other Matters) Act 2022 – Part 2.

#### **4. Scope**

This policy applies to all ratepayer's principal place of residence in the Glenelg Shire 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.

This policy applies to revenue included on the rate notice (rates, waste charges, legal costs, interest and other relevant charges).

#### **5. Council Policy**

##### **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 - September
- Second Instalment - November
- Third Instalment - February
- Fourth Instalment - May

Council also offers an in full annual payment option due in February.

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.

## **5.3 Payment Arrangements**

Council encourages all ratepayers to meet their rate commitments as they become due. When ratepayers are unable to pay their rates, charges, levies and interest, they are encouraged to enter into a payment arrangement where regular payments are made until such time as the outstanding amounts are paid. The focus of the Rate Unit is to negotiate payment arrangements that ensure that the ratepayer is able to pay their rates within an acceptable time period or to ensure that the debt does not become unmanageable.

While a payment arrangement is maintained by the property owner, interest will not apply and any legal action will be put on hold.

### 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.

### Arrangements increasing debt

Any application for an arrangement where the account will be increasing in debt should be made in writing to Council's Rates and Valuations Coordinator.

### 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.

### 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.

Council's Rate Unit 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.

## 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 (exceed 12 months)
- 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 Glenelg Shire provides a range of support services for citizens that are experiencing financial difficulties when they are utilising Council services or when rate payments are due.

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](http://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](http://www.ndh.org.au) or call 1800 007 007 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 rates, charges and interest or part thereof and legal charges invoiced to date.

## 5.6 Deferment of Rates and Charges

Ratepayers may have rates and charges, or part thereof, deferred subject to satisfying the following conditions:

- 5.6.1 Where the ratepayer is a pensioner qualified under the *Local Government Act 1989* Section 171 (1) (a) - deferment will be granted upon receipt of their application.
- 5.6.2 The ratepayer that submits a request for the payment deferment must reside at their principal place of residence and is, or will, experience undue and unavoidable financial hardship. Where there is more than one property owned by the applicant in the same name it may be also considered for the deferral.
- 5.6.3 If a deferment request is received from a tenant or occupier, the owner of the property must be advised in writing. As the owner is always primarily liable for the payment of rates and charges under the *Local Government Act 1989*, no rate deferral will be entered into without the consent of the property owner.

Where applicable, the ratepayer must enter into an agreement with Council on a payment arrangement and generally comply with such agreement.

Applications for deferral received from ratepayers for commercial, industrial and investment properties will be assessed using the criteria in this policy and will be referred to Director Corporate Services for consideration if deemed necessary.

### **A deferment will be deemed withdrawn on the basis of any of the following conditions:**

The ratepayer advises that the hardship conditions no longer exist.

The ratepayer no longer owns or occupies the land.

The ratepayer has defaulted in meeting any agreements in regards to the deferment without prior consent from the Rate and Valuation Coordinator.

The Director Corporate Services upon receiving a recommendation from the Rate and Valuation Coordinator will determine if any deferment agreement is to be withdrawn.

If deferment agreement is withdrawn a notice is to be issued to the ratepayer providing up to 30 days' notice.

## 5.7 Waiving of Rates, Charges and Interest

The *Local Government Act 1989* enables the waiving of rates, charges and interest.

A ratepayer that requests the waiver of rate, charges and interest must reside at their principal place of residence and is, or will, experience undue and unavoidable financial hardship.

If a waiver request is received from a tenant or occupier, the owner of the property must be advised. As the owner is always primarily liable for the payment of rates and charges under the *Local Government Act 1989*, no waiver of rates, charges or interest will be entered into without the written consent of the property owner.

### 5.7.1 If a request to waive rates, charges and interest is approved the following shall occur:

- a) Waivers on compassionate grounds and administration waivers shall be one off and ratepayers will need to re-apply if a subsequent waiver is requested.
- b) For financial hardship waivers may be extended on an annual basis subject to terms and conditions contained in this policy.
- c) For financial hardship waivers, no interest will be charged or legal action taken.

A waiver of rates, charges and interest for financial hardship will be presented to Council for consideration in a confidential report if deemed necessary. Administrative and compassionate waivers will be approved by the Director Corporate Services in conjunction with the Rates and Valuations Coordinator.

### 5.7.2 A waiver of interest, rates and charges granted under clause 5.7.1 will continue unless any of the following occurs:

- a) The ratepayer advises that the financial hardship conditions no longer exist.
- b) The ratepayer no longer owns or occupies the land.

- d) The ratepayer has defaulted in meeting any conditions of the waiver agreement.
- e) Information is received that indicates that the financial hardship no longer exists.
- f) On full rate payment from the date the full payment was due and instalment payments from the date the instalment was due.
- g) The interest is calculated at the rate fixed under Section 2 of the *Penalty interest Rates Act 1983*.
- h) If waiver agreement is withdrawn a notice is to be issued to the ratepayer providing up to 30 days' notice.

## 6. Definitions and Abbreviations

Term/Abbreviation	Definition
Deferment	A “deferment” (Section 170 of the Act) of payment can be provided in whole or in part and be for a specified period and subject to any conditions deemed necessary. When rates and charges are deferred, payment is not required until a notice is sent to the ratepayer requesting payment.
Waiver	A “ <b>waiver</b> ” (Section 171 of the Act) is a one-off abandonment, which removes the liability to pay, and may include the whole or part of any interest.
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"> <li>• Loss of employment of the property owner or family member;</li> <li>• Family breakdown;</li> <li>• Illness, including physical incapacity, hospitalisation, or mental illness of the property owner or family member;</li> <li>• A death in the family; or</li> <li>• 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.</li> </ul>



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”	Local Government Act 1989
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. Privacy and Confidentiality

The privacy of the applicant and any information provided by the applicant and the financial advisor and documentation prepared by Glenelg Shire staff relating to the application will be kept confidential.

## 8. 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 Customer Complaints Handling Guideline.

Any member of the public can make a complaint.

### Complaints can be made by:

**Online:** [Making a Formal Complaint | Glenelg Shire Council](#)

Via the Contact Us page on the website [www.glenelg.vic.gov.au](http://www.glenelg.vic.gov.au)

**Telephone:** 1300GLENELG (1300 453 635) normal business hours

### Hearing or Speech Impaired:

Call us via the National Relay Service ([www.relayservice.com.au](http://www.relayservice.com.au)) on 13 36 77 then ask for 1300 453 635.

Speak and Listen users phone 1300 555 727 then ask for 1300 453 635.

**Post:** Glenelg Shire Council, PO Box 152, Portland Victoria 3305

**In person:** Customer Service Centre

Portland – 71 Cliff Street  
Casterton – 67 Henty Street  
Heywood – 77 Edgar Street

Refer to full details in the Glenelg Shire Council Complaints Policy (DocSet ID 2299280)

## 9. Records Management

All Council records created and managed as a result of implementing this guideline will be managed in accordance with the Council's Records Management Policy.

The Records Management Policy assigns responsibilities for records management to employees, supervisors, volunteers and other specific positions.

No Council records are to be destroyed without consideration of the requirements of the Act(s) that govern the functions relevant to this guideline. Prior to destruction, advice must be sought from the Records Management Unit, with consideration to the requirements of the appropriate Retention and Disposal Authority (RDA).

## 10. Victorian State Legislation Copyright Acknowledgement

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