

# Rate Payment and Financial Hardship Policy



<b>Approval Body:</b>	Council
<b>Endorsement Date:</b>	29 June 2021
<b>Council Plan Reference:</b>	3.2 An efficient and effective customer focused Council with sufficient resources to meet priorities
<b>Current Version:</b>	<p>Add here</p> <p><i>Council policy documents change from time to time and it is recommended that you consult the electronic reference copy on Casey Council's Website to ensure that you have the current version. Alternatively, you may contact Customer Service on 9705 5200.</i></p>
<b>Compulsory Review Cycle:</b>	1 years
<b>Review Date:</b>	<p>June 2022</p> <p><i>It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively.</i></p> <p><i>Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of ELT.</i></p>
<b>Responsible Department:</b>	Finance and Rates
<b>Relevant Legislation:</b>	<i>Local Government Act 2020; Local Government Act 1989</i>
<b>Relevant Council Documents:</b>	Revenue and Rating Plan.
<b>Breaches:</b>	Complaints or allegations concerning the application of this policy will be investigated in accordance with Council's Complaint Handling Framework.
<b>ECM ID:</b>	XX

## 1. Purpose and Intent

In accordance with the *Local Government Act 2020* and the *Local Government Act 1989*, Council levies Rates and Charges on rateable land to provide for services to the community.

The City of Casey recognises that some property owners may from time to time experience financial difficulty which will vary in its extent and duration depending on individual circumstances.

This policy ensures that all property owners, regardless of their circumstances will face no judgement, and will be treated with understanding, dignity and respect with a focus on customers who may be vulnerable to financial difficulties. Council officers:

- are committed to continual improvement through our learning, working with partners and experts in the field of customers facing financial vulnerability
- will work with ratepayers to ensure they feel listened to and understood, with payment arrangements established that are realistic and affordable based on their individual financial situation.

Our experience is that financial vulnerability is complex and varied, with different requirements needing a range of options for assistance available.

The City of Casey recognises there are cases for genuine financial hardship requiring respect and compassion.

This policy:

- sets out the processes for the Council to collect rates and charges on rated property
- establishes a framework for Council to manage payments and communicate with property owners who have unpaid rates accounts
- provides a framework for the collection of rates and charges in circumstances where property owners are experiencing financial hardship
- addresses instances where there is an overpayment of rates.

## 2. Scope

This policy applies to:

- all property owners of the City of Casey
- revenue included on the rate notice (rates, waste charges, fire services property levy, legal costs, interest and other relevant charges).

In particular, the policy applies to those property owners who have been identified, either by themselves, Council officers or by an independent accredited financial counsellor, as having the intention to pay, but who does not have the financial capacity to make the required payments.

Where financial hardship cannot be established, Council may avail itself of the collection options under Sections 180 and 181 of the *Local Government Act 1989* (the Act), to recover overdue amounts. These recovery methods include legal action and, in extreme circumstances, the sale of property.

Assistance can only be granted to individuals experiencing financial hardship for payment of rates on their principal place of residence or those liable to pay rates and charges on Commercial and Industrial properties. Applications for financial hardship consideration on residential investment properties will not be considered.

Council frequently enters into payment arrangements with property owners. This form of assistance is not categorised as "financial hardship assistance". In these circumstances Council will monitor progress towards clearing the debt within a specified time, but if the debt is not cleared, further assistance may be considered.

### 3. Definitions

Key term	Definition
<b>Council</b>	means Casey City Council, being a body corporate constituted as a municipal Council under the <i>Local Government Act 2020</i>
<b>Councillor</b>	means the individuals holding the office of a member of Casey City Council
<b>Council officer</b>	means the Chief Executive Officer and staff of Council appointed by the Chief Executive Officer.
<b>Deferment</b>	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. Deferred rates are a charge on the property and will continue to accrue interest until the account is paid in full. A deferment of Rates, is for a maximum of three years and cannot be applied for more than once.
<b>Genuine Financial Hardship</b>	<p>Financial hardship is a situation where a 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, hospitalization, or mental illness of the property owner or family member</li> <li>• a death in the family</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>
<b>Property Owner</b>	Is the registered proprietor of Rated property within the municipality, who is legally responsible to pay Rates under section 156 of the <i>Local Government Act 1989</i> (Vic).
<b>Ratepayer</b>	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.
<b>Waiver</b>	Is the relinquishment or removal of the liability to pay and may include the whole or part of any interest or where applicable part of rates and charges.

## 4. Rate Payments

### 1.1. Rates and Charges Collection

Arrangements for the payment of rates and charges are detailed in section 167 of the *Local Government Act 1989*.

The current **annual** due date is: 15 February

The current **instalment** due dates are:

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

The current **Direct Debit** due dates are: 28<sup>th</sup> of each month (over 9 months)

Direct debit payments are evenly calculated over nine months and due on 28<sup>th</sup> of each month commencing 28<sup>th</sup> of September to 28<sup>th</sup> 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 circumstances where financial hardship is not established and waivers have not been agreed by council, interest will be charged on all overdue amounts in accordance with section 172 of the *Local Government Act 1989* at the rate set under the *Penalty Interest Rates Act 1983*.

### 1.2. Calculating Interest

Late payments are subject to penalty interest and will continue to accrue on overdue amounts.

- Where rates are paid by instalments and an instalment amount is not paid by the due date, interest will accrue from the due date of the missed instalment to the date the payment is made in full.
- If the first instalment was not paid by the due date, the Property Owner will be deemed to be paying the full sum due by 15 February and interest will be levied and payable, as if the Property Owner was paying by instalments and has missed the relevant instalment or instalments, and continues until the Rates are paid in full. Interest is charged from the date of rate strike in these instances.

### 1.3. Payment Arrangements

A payment arrangement can be made at any time but are subject to the following conditions:

- Accounts on arrangement will continue to accrue interest on overdue amounts.
- Where rate payments are in arrears, any default from the payment arrangement may result in legal action to recover the debt without further notice

Council will be flexible regarding the type of arrangement entered into, to best suit the property owners circumstance.

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

## 1.4. 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 will 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.

### ***Final notice reminder***

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

### ***Solicitor's 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.

### ***Solicitor's 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 days or to make an arrangement to pay.

### ***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. A summons (complaint) will be issued to those property owners who have an amount outstanding of \$1,000 or more as the costs of legal action 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. Within twenty-one days from the date of service of a summons/complaint the property owner is obligated to:

- Pay the claim in full plus costs or
- Request a suitable payment arrangement or
- Lodge a completed Notice of Defence with the Court (thereby giving notice of their intention to dispute the claim).

If, at the expiration of the twenty-one days, 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.

The Companies Code provides Council with the authority to commence liquidation proceedings for commercial premises, where the outstanding rates/charges exceed \$2,000 and preceding steps have been unsuccessful.

**A.** Should the debt remain outstanding Council will receive a report recommending the possible sale of the property if all the following criteria are met:

- I. The rates or charges have been outstanding for more than three (3) years; and
- II. The Mortgagors/Mortgagees have been advised; and
- III. A magistrate's Court Order has not resulted in payment.

**B.** At the request of the property owner or their representative, Council may, at its discretion, provide a letter to the relevant Super Fund or to Australian Department of Human Services stating that the property will be sold to recover unpaid rates or charges if the criteria in section **A** above have been met. Payment in full is required within 30 days of the date of the letter issued to avoid such a sale. Please visit [www.humanservices.gov.au](http://www.humanservices.gov.au) for more information.

Council's debt management practices will remain consistent with the ACCC and ASIC's debt collection guidelines. Any debt collectors contracted by the Council are subject to clear and enforceable requirements to:

- be familiar with the council's rates hardship policy
- inform the ratepayer of the council's rates hardship policy where there are reasonable grounds to believe the ratepayer is in financial hardship

Council will remain the holder of the debt for balances owed for outstanding rates, and will not seek to sell debt to other parties.

Council will not take legal action unless there have been reasonable efforts to contact the property owner about the debt and ensuring that the property owner has been informed of the council's hardship policy and how to apply. All letters and emails sent to ratepayers throughout the debt collection process will reference the Rate Payment and Financial Hardship Policy.

If there are disputes or complaints with the handling of the collection arrangement, property owners can make a complaint directly to Council via <https://www.casey.vic.gov.au/make-complaint>. Complaints can also be made to Council under this Complaint Handling Procedure about the conduct of Council's debt collection agency. Property owners who are dissatisfied with the internal review can also contact the Victorian Ombudsman at <http://www.ombudsman.vic.gov.au> and the City of Casey will cooperate with any review by the Victorian Ombudsman.

## 5. Genuine Financial Hardship

## 5.1 Principles for Hardship

The following key principles underpin Council's consideration of hardship matters.

### a. Customer Rights

Each property owner has the right to:

- be treated sensitively and have their circumstances kept confidential by Council
- receive information about payment arrangements and the Rate Payment and Financial Hardship Policy
- either nominate themselves or have their financial counselling representative nominate a payment arrangement
- redirect the account to another person for payment provided that person agrees in writing
- renegotiate the amount of their arrangement if there is a change in their personal circumstances
- choose from various payment methods in accordance with their circumstances and financial ability
- receive written confirmation of the agreed alternative payment arrangement
- be referred to an accredited financial counsellor in a timely manner
- receive a language interpreter service if required.

### b. Transparency and Accessibility

We will work with the property owner and/or their advocate with clear communication and make available our Rate Payment and Financial Hardship Policy. The policy is also available on request and via the Council website.

### c. Respect and Engagement

The operating protocols that are established under the Rate Payment and Financial Hardship Policy define how all Council officers interact with customers to provide assistance in a respectful manner.

It is recognised that property owners may have a range of pressures and at times this may limit their ability to engage in open dialogue regarding their personal circumstances. We approach these discussions recognising it requiring sensitivity and compassion on our part.

### d. Continual Improvement

The Rate Payment and Financial Hardship Policy and associated procedures are reviewed regularly to ensure they remain appropriate and adequately meet our customer needs.

## 5.2 Identification of Genuine Financial Hardship

All property owners seeking to apply for hardship assistance are assessed on a case by case basis. The identification of genuine financial hardship can be determined by:

- Assessment by Council officers
- Self-assessment by the ratepayer
- External assessment by, for example, an independent accredited financial counsellor.

Where an assessment takes place to determine a ratepayer's eligibility to relief under this policy, judgement is required by Council when deeming whether a property owner is experiencing genuine financial hardship rather than simply seeking to defer payment

If Council requires tangible evidence of hardship, they may request:

- Documentation providing evidence of the property owner having consulted with, and/or being accompanied by a recognised financial counsellor or a booking to see a financial counsellor or
- Documentation such as a statutory declaration from a person familiar with the property owner's circumstances (family doctor, bank officer etc).

Council may also require supporting documentation 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](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.

Consistent with ACC guidelines, a flexible approach involves making meaningful and sustainable payment arrangements that reasonably take into account a debtor's ongoing living expenses to enable them to live in basic comfort and prevent impoverishment or humiliation.

### **5.3 Application for financial hardship**

Customers may apply for the following, pursuant to sections 170 and 171A of the *Local Government Act 1989*:

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

Customers are required to submit an "Application for Assistance Due to Financial Hardship" for their eligibility to be assessed – refer attached.

### **5.4 Assessment of genuine financial hardship**

Assessment of genuine financial hardship will be objectively based on the information provided by the customer on the attached form "Application for Assistance Due to Financial Hardship".

Determination on applications to defer rates and charges or for waiver or write-off of interest, legal charges and the waiver of rates and charges will be subject to approvals in line with the responsibilities included in Section 9 of the Policy.

## 6. Deferment of Rates

A deferral of rates and charges may be considered by Council where the applicant can provide supporting documentation of the following:

- A. Is in receipt of a Commonwealth Centrelink aged pension payment, a veteran's pension as a war widow, because they are totally or permanently impaired, or they are subject to an extreme disability adjustment evidenced by:
  - a Pensioner Concession card; or
  - a Veterans Affairs Gold card;

Or

- B. They can provide evidence genuine financial hardship as certified by an assessment carried out by an independent financial counsellor;

A deferral of rates and charges 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. 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.

Rate deferral agreements will be for a maximum of three years, with the applicant having a maximum of three further financial years in which to fully repay all rates deferred. 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.

Where the Council Officer determines that this policy may apply, the Applicant must complete the attached "Application for Assistance Due to Financial Hardship" form.

If on receipt of the Deferral Application Form, the CFO determines that a failure to defer would:

- cause Serious Financial Hardship to the Property Owner; and
- it is appropriate and equitable in the circumstances,
- the CFO will then arrange to:
  - enter the appropriate Deferral on to Council's Information System;
  - notify the Property Owner in writing of agreement.

The Council Officer will ensure that its contracted Debt Collection Agency is notified that action is deferred on a property the subject of this paragraph. Those that have been assessed for a successful deferral are ineligible to reapply in the future for further deferrals.

## 7. Waiving Interest

A Waiver of penalty interest on a Rated Property will only be considered by Council in extenuating circumstances where:

- **Waiver for Administrative Reason/Error** – property owners may have the penalty interest waived in the event of an administrative issue, error or omissions which cause or significantly contributed to the failure to pay rates in a timely manner.
- **Interest waiver application** - property owners may apply for Council to waive interest that has been charged in the current financial year where the debt has been paid in full.

- **Waiver on Compassionate Grounds** – property owners may have penalty interest and/or other charges 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 prior to the due date to advise of financial difficulty, a failure to advise of a change of residential or mailing address, or previous Payment Arrangements not being maintained are not deemed to be extenuating circumstances.

## 8. Waiving Rates

Section 171 of the *Local Government Act 1989* allows Council to waive the whole or part of any Rates or Interest in relation to an eligible recipient or any other class of persons as determined by Council.

A person who is an eligible recipient who is suffering Genuine Financial Hardship or would suffer Genuine Financial Hardship if that person paid the full amount of the Rates for which he or she is liable, may apply to Council for a waiver of the whole or part of any Rates.

Council will generally not waive any Rates (unless in exceptional circumstances) but rather will encourage the person to enter into a Payment Arrangement under Section 1.3 of this Policy, or where the person meets the criteria for Deferment of Rates under section 6, to defer the Rates.

Council will waive Interest as per section 7 of this policy.

Where it is thought that exceptional circumstances exist such that waiver of the Rates is appropriate, the Applicant must complete the Application for assistance due to Financial Hardship. That waiver must be authorised by either the CFO or the Director of Corporate Services in accordance with their delegation.

Any waiver above \$50 is a one off waiver in response to circumstances at the time, those that have been assessed for a successful waiver are ineligible to reapply in the future for further waivers.

## 9. Responsibilities

Who	What	Limit per property
Team Leader, Rates and Valuations	Determination to waive rates and charges for administrative purposes	\$10
Team Leader, Rates and Valuations	One-off determination on applications to waive or write-off of interest and legal charges	\$1,000
Chief Financial Officer	Determination on applications to: <ul style="list-style-type: none"> <li>- defer rates and charges</li> <li>- waiver or write-off of interest and legal charges</li> </ul>	\$2,500
Director, Corporate Services	Determination on applications to: <ul style="list-style-type: none"> <li>- defer rates and charges</li> <li>- waiver or write-off of interest and legal charges</li> <li>- waiver of rates and charges</li> </ul>	Greater than \$2,500

## 10. Overpayment of Rates

The *Local Government Act 1989* makes provisions for Councils to refund balances that are in credit as a result of an overpayment of rates. Overpayments of rates can be made in error at any time. All amounts overpaid shall be carried forward as a credit for the following financial year, unless:

- a) The ratepayer is a pensioner and requests to have the amount refunded, or
- b) The refund is warranted at the discretion of a council officer.

## 11. Breaches

Complaints or allegations concerning the application of this policy will be investigated in accordance with Council's Complaint Handling Framework.

## 12. Reporting and Transparency

On a quarterly basis, officers will report to council and the community on the status of rates in arrears and collection processes.

## 13. Relevant Forms

Title	Link
Application for Assistance Due to Financial Hardship	Attached

## 14. Document History

Date approved	Change Type	Version	Next Review Date
29 June 2021	Consolidation and Changes	2.0	June 2022
17 October 2017	Document Initiation	1.0	30 June 2021