



Council Policy

Financial Hardship

Version 3 - 26 August 2024

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Introduction

Purpose

Lake Macquarie City Council's Financial Hardship Policy is designed to provide support to ratepayers and customers who are facing financial difficulties and are struggling to pay their rates or other invoices. The policy aims to ensure that the Senior Debt Management Officer can evaluate each case of financial hardship individually and in accordance with relevant legislation and guidelines.

This policy outlines the objectives and principles guiding the council's approach to addressing financial hardship, specifies who is covered by the policy, and offers instructions for adhering to its goals and procedures. By providing a framework for assessing and assisting those in financial need, Lake Macquarie City Council aims to ensure fairness and compliance with legislation while helping members of the community who are experiencing financial challenges.

Scope

Council recognises there are cases of genuine financial hardship, where customers find it difficult to meet their commitments to pay rates, charges and other fees.

This policy will provide assistance to customers who meet the eligibility criteria outlined in this policy.

Policy statement

Council is committed to providing appropriate support for customers who may be experiencing genuine financial hardship due to the payment of Rates and Charges, and other fees (sundry debtor invoices) and as a result, may need assistance to meet their payment responsibilities.

This policy establishes financial assistance that may be provided, pursuant to provisions within section 564 and 567 of the Act, which state:

564 Agreement as to periodical payment of rates and charges

- (1) *A council may accept payment of rates and charges due and payable by a person in accordance with an agreement made with the person.*
- (2) *The council may write off or reduce interest accrued on rates or charges if the person complies with the agreement.*

567 Writing off of accrued interest

The council may write off accrued interest on rates or charges payable by a person if, in its opinion:

- (a) *the person was unable to pay the rates or charges when they became due and payable for reasons beyond the person's control, or*
- (b) *the person is unable to pay the accrued interest for reasons beyond the person's control, or*
- (c) *payment of the accrued interest would cause the person hardship.*

Council will apply the same principles (sections 564 and 567 above) to other overdue fees and charges.

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Hardship Assistance

The Act permits Council to exercise the following assistance to ratepayers and debtors:

- Periodical payment arrangements for overdue rates and charges under Section 564.
- Writing off or reducing interest accrued on rates and/or charges under Section 564 and 567.
- Waiving, reducing or deferring the payment of the increase in the amount of rate payable because of hardship resulting from a general revaluation of land in the Local Government Area under Section 601.
- Waiving or reducing rates, charges and interest of eligible pensioners under Section 575 and 582.
- Council will apply the principles of sections 564 & 567 of the Act to other overdue fees and charges.

In order for Council to determine eligibility for financial hardship assistance, applicants are required to complete Council's Financial Hardship Application form.

Council will assess eligibility based on the information provided on the form and may request documented proof or further information from the customer in order to make the determination.

Supporting documentation confirming genuine financial hardship from a recognised financial counsellor or financial planner would assist in Council's determination. All information provided will be treated as confidential in accordance with Council's Privacy Management Plan.

Council can provide customers with suggested support services which provide financial counselling to assist in resolution of debt issues through free, tailored expert advice.

Council may negotiate a formal regular periodical payment agreement with a customer eligible for financial hardship assistance in accordance with section 564(1) of the Act.

The agreement will require that rates, charges and other debts owed to Council are paid as soon as possible whilst considering the applicant's current and estimated future repayment capabilities. The preferred method of payment will be via a direct debit payment plan, however, Council will accept other available methods.

When assessing applications for Hardship Relief (including the waiver of interest charges) the following circumstances are to be considered, but not limited to:

- Is the applicant the owner or part owner of the property
- Is the property categorised as residential or farmland or business for rating purposes.
- Has the customer previously had a good payment record.
- Does the applicant own another property.
- Are there circumstances beyond the customer's control which have resulted in the outstanding debt.
- Prolonged or serious illness of the customer, or the immediate family of the customer, the loss of employment, death in the family, separation, divorce or other family crisis, natural disasters or other extraordinary circumstances which have led to the rates and charges or other debts owed to Council becoming overdue.
- Has the applicant been referred to an accredited financial counsellor, welfare agency or legal assistance service,
- Council may refuse an application where a customer has defaulted on payment arrangements more than twice within the last 12 month period.

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Hardship Rates Assistance Due to Valuation changes

Under Section 601 of the Act, any ratepayer who incurs a rate increase following a new valuation of land may apply to Council for rate relief in the first year the valuation is used for rating purposes, if the new rate payable causes the ratepayer to suffer substantial hardship.

Applications for hardship relief under section 601 of the Act will be considered on an individual basis in accordance with the criteria for hardship relief under Financial Hardship Assistance. Forms are available on Council's website.

If applications are approved under section 601 of the Act, Council will reduce the rates levied in the current year by 50% of the difference between the current year rates and the rates levied in the previous year multiplied by the maximum permissible rate increase for the current year.

Rates Assistance to Eligible Pensioners

For the purpose of this policy an eligible pensioner is a person in receipt of a pension, benefit or allowance under Chapter 2 of the *Commonwealth Social Security Act 1991* or a service pension under Part 3 of the *Veterans' Entitlement Act 1986* of the Commonwealth and who is entitled to a Commonwealth Pensioner Concession Card - as prescribed in Clause 134 of the Local Government (General) Regulation 2005 (NSW).

A mandatory rebate of Rates and Charges (includes Domestic Waste Management) to the maximum amount determined by Section 575 of the Local Government Act will apply for eligible pensioners under the provisions of the Act.

If a ratepayer is an eligible pensioner, currently receiving a pension rebate on the property considered to be their sole or principal place of abode and is then required to enter an aged care facility for health or care reasons, the pension rebate will continue to apply for a period of 12 months providing the property is not being rented or occupied.

As provided by Section 577 of Act, Council may grant a rate concession where an eligible pensioner, not the owner of the property, has a life interest in the property and is responsible for payment of rates. Council requires confirmation in writing from a legal representative with a copy of the will of a deceased estate, copy of the Certificate of Title if the life tenancy is registered or relevant documentation to validate a life tenancy agreement.

Pensioner rebate concessions will be applicable only in the year the application is made and the rating year immediately preceding it.

Deferring payment of Rates - Eligible Pensioners

Aged pensioners who satisfy the eligibility criteria may make application to defer the payment of rates, allowing them to accrue as a charge on the land, to be paid upon the death of the pensioner or the sale of the property, or if the pensioner ceases to occupy the property as his/her principal place of abode.

Deferment will only apply to the general rates on the property. The pensioner will be expected to pay the annual domestic waste service charge, On-site Sewage Management Charge or Hunter Valley Catchment charge each year, if the service is available to the property.

The criteria used to determine eligibility will include:

- The applicant must be in receipt of an age pension (Centrelink or DVA) in relation to the property
- The property must be used for residential purpose

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- The property must be the pensioners principle place of abode
- The property must be a single dwelling house or a residential strata unit
- The applicant must be approved under Council's Financial Hardship Assistance Policy

Council will continue to provide an annual rates and charges notice each year showing outstanding rates and charges and quarterly instalment notices as per the provisions of the Act. In addition, Council will make contact with the pensioner each year to confirm that the eligibility criteria is still current.

Interest charges accrue in respect of deferred rates and charges at the rate determined under the Local Government Act. No deferred rates, charges or interest are to be written off under this Section of the policy.

If any of the events listed below occur the Agreement to Defer Rates and Charges will become null and void and the amount of outstanding Rates and Charges will become due and payable. Recovery action will be instigated to recover the outstanding Rates and Charges, as per Council's Debt Recovery Policy:

- there is a change of ownership of the property;
- any of the eligible pensioners listed as owners of the property cease to occupy the property as their principle place of abode, (except in the situation where the pensioner is in a care facility on a temporary basis being a period less than 12 months)
- The property is being leased for a rental income;
- any of the pensioners listed as owners of the property are no longer eligible for a concession;
 - the rates and charges outstanding on the property exceed nineteen years from the date they became due and payable.

Section 712 of the Act states;

"712 (1) Proceedings for the recovery of a rate or charge may be commenced at any time within 20 years from the date when the rate or charge became due and payable."

Due to the constraints in section 712, Council will require that the ratepayer commences payment of any outstanding rates and charges on the property, such that their total debt to council does not exceed nineteen years from the date they became due and payable. Should the ratepayer be unable to adhere to any of the above, Council will commence legal action in order to recover all outstanding rates and charges on the property.

Interest will continue to accrue on all outstanding rates and charges in accordance with the provisions of the Act.

All applications to Defer Rates & Charges must be approved by the CEO or a delegated officer.

Privacy

In accordance with the Council's Privacy Management Plan, personal information collected as a consequence of this policy will only be used for the purpose of assessing eligibility under the Policy and will not be used for another purpose or disclosed to any other person unless we are required by law to do so or authorised to do so by the person to whom that personal information relates.

Objectives

The objectives of the Financial Hardship Assistance policy are:

- To assist those customers who are experiencing genuine financial hardship and respond with respect and compassion.

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- To provide a framework that is ethical, transparent, compliant with legal obligations, open and accountable when determining financial hardship applications.
- To provide assistance to enable customers to enter into arrangements for periodical payment outside the statutory due dates in cases of hardship or other exceptional circumstances.
- To comply with the provisions of *Local Government Act 1993* (the Act), The Debt Management and Hardship Guidelines issued from Office of Local Government, November 2018 and other relevant legislation in relation to the waiving or reduction of rates and charges, including interest, due to financial hardship.

Review and Evaluation

This policy will be reviewed every four years or earlier as required.

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Controlled Document Information

Authorisation Details

Folder No:	F2004/11224-004	TRIM Record No:	D11670859
Audience:	External - LMCC ratepayers, Council Staff, Customers experiencing financial hardship, Pensioners		
Department:	Financial Services	Officer:	Senior Debt Management Officer - Courtney Melvin Coordinator Revenue and Debt - Jessica Hansen
Key focus area(s):	Lifestyle and Wellbeing		
Review Timeframe: Max < 4 years	4 years	Next Scheduled Review Date:	26 August 2028
Authorisation:	Adopted by Council - 26 August 2024		
Authorisation - Council Adoption Date:	26 August 2024		

Related Document Information, Standards & References

Related Legislation:	Local Government Act 1993; Section 564,566,567&712 Office of Local Government Debt Management and Hardship Guidelines – November 2018	(Relationship/Context)
Related Policies:	Debt Recovery Policy	(Relationship/Context)
Related Procedures, Guidelines, Forms, WHS Modules/PCD's, Risk Assessments, Work Method Statements:	(Document Name)	(Relationship/Context)
Standards, COP's & Other References	(Standard, COP or Other References)	(Relationship/Context)

Definitions

Term / Abbreviation	Definition
The Act	Local Government Act 1993

Consultation (update for each version created)

Key Departments, Teams, Positions, Meetings:	Revenue & Debt Management Coordinator, Senior Debt Management Officer, Revenue and Debt Team, Chief Financial Officer, Executive
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Version History

Version No	Date Changed	Modified By	Details and Comments
1	29/10/2019	Jane Steiger	New Document to replace Payment Assistance Policy in line with Office of Local Government guidelines.
2	14 April 2020	Jane Steiger	Broadened scope to include businesses and landlords
3	16 August 2024	Jessica Hansen	Realigned purpose and updated new format template Included sundry debtor in policy statement