

Name of policy:	Debt Recovery and Hardship		
Adoption by Council:	7 September 2022	Minute number:	352/2022
Last review date:	August 2022		
Review timeframe:	4 years or each Council term		
Next scheduled review date:	October 2026		
Related legislation:	<i>Local Government Act 1993</i> <i>Local Government (General) Regulation 2005</i>		
Associated policies/documents:	Office of Local Government – Debt Management and Hardship Guidelines		
Responsible division:	Corporate Services		

Policy objective

To provide fair, respectful and consistent processes to both the recovery of outstanding amounts (including rates, annual & user charges and interest) and to provide assistance to those customers who are experiencing genuine financial hardship with the payment of these debts. A key objective is to work with customers to achieve flexible alternatives to legal action where possible.

In developing this Policy, consideration has been given to the statutory requirements in the *Local Government Act 1993* (the Act) and the Debt Management and Hardship Guidelines issued under Section 23A of the Act by the Office of Local Government.

Policy statement

Council recognises that customers may, from time to time, fail to pay amounts when they become due and payable to Council, and that there are cases of genuine financial hardship requiring respect and compassion. It is not the intention to cause hardship to any customer through the recovery procedures and consideration will be given to acceptable arrangements to clear any debt before the end of the current financial year, where possible.

This policy establishes guidelines and procedures when assessing a hardship application, applying the principles of fairness, integrity, confidentiality and compliance, within the statutory requirements. It applies to all applications for waiving, alternative payment arrangements or writing off rates, fees, annual and user charges and interest accrued on these debts.

Coverage of the policy

This policy applies to:

- all elected members, staff, and any person or organisation contracted to or acting on behalf of MidCoast Council.
- all members of the public when interacting with Council in respect of outstanding debts.

- all debts owing to Council including rates, annual and user charges and interest charges accruing on outstanding amounts.

Strategic Plan link

Values: This Policy supports the Community Strategic Plan – ‘Strong Leadership and Shared Vision’ through the ‘provision of strong corporate and financial management that is ethical, fair transparent and accountable’.

Principles

When assessing or reviewing applications for assistance or hardship there are three key components.

1. Debt Recovery
2. Customer contact
3. Hardship assistance
 - a. Assistance by Periodical Payment Arrangements
 - b. Assistance by writing off accrued interest and costs
 - c. Assistance to extend pensioner concession to avoid hardship
 - d. Abandonment of Pensioners’ Rates and Charges
 - e. Assistance due to General Revaluation of Land in the Local Government Area and Changes to the Rating Category of Properties

1. Debt Recovery

Council has a responsibility to recover monies owing in a timely, efficient and effective manner to ensure effective financial management.

The aim is to monitor and manage overdue rates, charges and interest and to establish debt management procedures for the recovery of any outstanding debts, including deferment and alternative payment arrangements.

The key principles that will apply to the collection of overdue rates and charges are as follows:

- Collect all rates and charges by the end of each rating year;
- Have a fair and reasonable approach to recovery;
- Assess each case of financial hardship individually;
- Council will not reduce rates or charges, however, will consider alternative approaches to cases of financial hardship;
- Consider periodical payment arrangements in cases of hardship or extenuating circumstances;
- Council may use the services of Mercantile Agents (where required) to undertake all or part of any legal or other recovery proceedings. Any costs incurred by Council in relation to legal and recovery proceedings will be added to the customers outstanding account and will accrue against the applicable property;
- Review each case before commencing legal action to recover debts and make reasonable efforts to contact customers before commencing legal action;
- Council will not provide financial advice to customers, however, may recommend to customers experiencing financial hardship that they should seek their own independent legal and financial advice, if relevant;
- Aim to achieve the Office of Local Government’s performance benchmark in relation to the Rates and Annual Charges Ratio;
- Apply the provisions of the Act relating to the sale of land to recover overdue Rates, Annual Charges and Interest when appropriate;
- Restrict water supply as a last resort where other reasonable attempts to recover an unpaid charge have failed and after appropriate notice has been given;

- Suspend debt recovery, legal action and interest accrual while a customer's hardship application is being reviewed by Council.

2. Customer Contact

A reasonable effort will be made to contact a customer with an overdue account before initiating any legal recovery action. Contact efforts may include:

- known mailing and/or property address details in Council's rating system
- telephone, mobile phone/SMS and email details recorded in Council's systems
- internet and other searches to find contact details
- company searches where appropriate
- using the resources of Council's Mercantile Agents (who may also attend the property in person)

It is the customers responsibility to notify Council of any changes to their contact and address information relating to each property that they own (or part own) and to ensure that contact information is kept up to date.

3. Hardship Assistance

This policy recognises that customers may at times experience financial hardship, making it difficult for them to pay their rates and charges when due, or follow a regular payment arrangement.

Exceptional circumstances considered by Council may include (but are not limited to):

- the loss of employment
- loss of income
- illness
- separation or divorce
- family violence
- impacts of unforeseeable events (such as the impacts of a pandemic or natural disasters)
- significant changes to rates and charges related to legislative and regulatory changes
- impacts following a general revaluation of land by the Valuer General
- impacts due to significant changes to a Council's rating structure (such as changes required to harmonise rates and charges due to council amalgamations or boundary changes).

The Act provides Council with the following options when providing assistance to customers who are experiencing difficulties paying their rates and charges due to financial hardship:

a) Assistance by Periodical Payment Arrangements

Council may enter into an agreement (of regular payments) to pay rates and charges due (as outlined in Section 564 of the Act). If the customer follows the terms of the agreement Council may write off or reduce interest accrued on rates or charges.

b) Assistance by writing off accrued interest and costs

Council may write off accrued interest (as outlined in Section 567 of the Act) on rates or charges payable by a person if:

- the person was unable to pay the rates or charges when they became due and payable for reasons beyond their control, or
- the person is unable to pay the accrued interest for reasons beyond their control, or

- payment of the accrued interest would cause the person hardship.

c) Assistance to extend pensioner concession to avoid hardship

There may be certain circumstances when Council can make an order that a person is an eligible pensioner to receive a reduction in their rates and charges. For example, if you are jointly responsible for the rates with a pensioner but are not a pensioner yourself (as outlined in Section 577 of the Act).

d) Abandonment of Pensioners' Rates and Charges

Council may waive or reduce rates, charges and interest due by any person who receives a pension, benefit or allowance under the Social Security Act 1991 of the Commonwealth and is the holder of a pensioner concession card issued by or on behalf of the Commonwealth Government (as outlined in Section 582 of the Act).

e) Assistance due to General Revaluation of Land in the Local Government Area and Changes to the Rating Category of Properties

If a customer suffers substantial hardship due to a valuation being applied by Council, they may apply for relief (as outlined in Section 602 of the Act).

Council has the discretion to waive, reduce or defer the payment of the whole or part of the increase in the amount of the rate in these circumstances, for a period and subject to conditions.

Procedures

Process and procedures in applying this policy are outlined in Annexure A.

Definitions

Arrangement – An agreement accepted by Council or its agents for a person to repay a debt within a specified period of time and with conditions applying thereto.

Customer - includes residents, ratepayers, contractors or any person who has a debt to Council

Person – Includes an individual, a corporation and a body corporate or politic.

Responsible officer

Manager Finance

Debt Recovery & Hardship Procedures

a) Payment Arrangements

i. Assistance by Periodical Payment Arrangements

Council recognises that some customers may experience financial difficulties in meeting their commitments. Council will work with customers to agree arrangements where a regular payment program is able to be achieved.

When assessing each person's capability to pay, personal circumstances may be considered including (but are not limited to):

- the customers total disposable income and current financial commitments
- the number of children and/or dependents of the customer, and/or
- advice from an accredited financial counsellor.

Customers experiencing financial hardship are encouraged to seek their own independent financial advice from suitably qualified financial counsellors.

Payment arrangements may include an extension of time to pay or an agreement to regular manageable payments. In assessing a proposed payment arrangement, Council may also consider an applicant's previous history in relation to compliance with prior payment arrangements (where applicable). Where a previous arrangement has not been complied with, Council has the discretion whether to accept a new arrangement or continue with further recovery action.

ii. Payment Arrangements - Guidelines

A customer may at any time make arrangements to pay-off their outstanding accounts through regular payments, as agreed with Council and subject to the following guidelines:

- The amount and frequency of the payments are to be agreed with Council in writing. Generally, the customer will be required to enter into and maintain a payment arrangement to pay all current rates or charges (including future interest charges if applicable), by the due date and/or significantly reduce any arrears at the end of the payment arrangement period.
- Arrangements should work towards having the outstanding rates and charges paid within a 6 - 12-month period or as acceptable to Council. A further hardship application may be considered after this period.
- All payment arrangements must be agreed by both parties in writing. The arrangement may include the duration of the arrangement, amount and timing of payments, the requirement for the customer to contact Council promptly should the circumstances change, and details of interest charges that may be accruing during the payment arrangement.
- Payment arrangements can only be made with the customer whose details are recorded on Council's property records or a person authorised in writing by the customer to act on their behalf, for privacy reasons. The authorisation needs to meet certain requirements and be to the satisfaction of Council.
- Council may enter into an agreement (of regular payments) to pay rates and charges due (as outlined in Section 564 of the Act). If the customer follows

the terms of the agreement Council may write off or reduce interest accrued on rates or charges.

- Where the customer does not comply with their payment arrangement or does not contact Council in advance of the payment due date to advise of any relevant circumstances or financial difficulties, the total amount outstanding becomes due and payable (including any accrued interest) and normal recovery procedures will apply.

b) Hardship Assistance

i. General Principles

Applications for Hardship Assistance must be made on the Hardship Rate Relief Application Form, available from Council's website or Customer Service Centres. In extenuating circumstances Council may waive the requirement to complete the Hardship Rate Relief Application Form when there is an impact on a customer's capacity to complete the form (and provided that sufficient and relevant information has been provided to assess the application).

When completed the form must be legible and contain sufficient information to assess the application. If the form is not legible and/or does not include enough information the form may be rejected and/or a request for clarification and/or further information to be provided.

The applicant must be an owner or part owner of the property or be the person liable for the payment of the rates on the property (or other person authorised in writing by the customer to act on their behalf).

Council will suspend debt recovery, legal action and interest accrual while a customer's hardship application is being assessed.

Customers experiencing financial hardship are encouraged to seek their own independent financial advice. Where relevant, a customer may provide evidence of the advice to Council to assist in assessing their hardship application.

ii. Assessment Guidelines

Hardship Rate Relief Applications will be assessed by the relevant Council Officers.

Considerations in assessing applications may include (but are not limited to):

- appropriate evidence of financial and/or other hardship has been provided
- sufficient relevant information has been provided to consider and assess a person's capacity to pay
- the applicant receives Centrelink and/or Department of Veteran Affairs benefits
- the applicant receives other benefits (e.g. emergency relief funding)
- the applicant could be considered in acute financial hardship, for example, if an individual earns below 75% of the minimum weekly wage
- the applicant is experiencing domestic or family violence involving financial abuse
- the applicant has been referred by an accredited financial counsellor, welfare agency or legal assistance service
- the property is categorised as residential, farmland or business for rating purposes
- the customer previously had a good payment record

- the customer has defaulted on previous payment arrangements

If the circumstances are assessed to fall within a category of hardship, Council may consider deferring the payment, negotiating flexible payment arrangements or to consider writing off any accrued interest.

While Council's intention is that rates will not be reduced or waived, it has the authority to defer payment of rates for a maximum period of 2 years once a hardship application is approved. This ensures that Council's rate revenue is protected. Where the application is approved and payments are made in accordance with the arrangement, interest charges may (at Council's discretion) be waived.