



Brighton Council

POLICY NAME: Financial Hardship Assistance **POLICY NO:** 1.3

ADOPTED BY COUNCIL: 21/4/2020

POLICY:

The purpose of this policy is to enable Council to provide assistance to community members who are suffering financial hardship by providing an appropriate level of relief from Local Government rates.

SCOPE:

This policy applies to ratepayers experiencing genuine and serious financial hardship and needing assistance to meet both their basic needs and their rate payment obligations to Council. It is not intended to be used to maintain financial positions for those who do not need it and are not genuinely impacted by serious financial hardship.

This policy applies only to Council rates and charges levied in accordance with Part 9 – Rates and Charges of the *Local Government Act 1993*. This policy does not apply to rates or fees collected on behalf of other authorities in accordance with section 88 of the *Local Government Act 1993*., such as fire service contributions collected pursuant to section 79B of the *Fire Service Act 1973*.

BACKGROUND:

This policy was developed and implemented during the 2020 COVID-19 coronavirus pandemic that is spreading across the world. To respond to the disease, governments around the world are shutting down social activities and interaction to prevent transmission, which is necessarily causing significant impacts on many economic activities and transactions. As a result, many people have lost jobs, their clients or their business, destroying incomes and spending. Council is determined to assist those most critically impacted by the economic slowdown caused by the pandemic with a robust and fair hardship policy.

Despite this, serious financial hardship can occur at any time, so this policy is designed to address a range of circumstances.

1.1 Principles

This policy will be applied in accordance with the following principles:

- (1) Consistent, equitable and respectful treatment of all residents and ratepayers that is sensitive to their specific circumstances.
- (2) Maintaining Council's ability to provide essential services to our community through appropriately applied rating.

- (3) Assisting ratepayers who are suffering serious financial hardship, so that they may overcome these circumstances and return to financial stability and contributing equitably to local services.
- (4) Ensuring that those able to contribute to local services, continue to do so.
- (5) Minimising the opportunity for misuse, exploitation or fraud by ensuring decisions made to provide special relief or assistance are supported by sufficient evidence.
- (6) Maintaining confidentiality and privacy of applicants and ratepayers, their applications and any information provided.

1.2 Genuine Financial Hardship

According to the Australian Taxation Office (ATO)¹, individuals are considered to be in serious hardship when they are unable to provide the following for themselves, their family or other dependants:

- (1) Food;
- (2) Accommodation;
- (3) Clothing;
- (4) Medical treatment;
- (5) Education;
- (6) Other basic necessities.

A number of factors can contribute to or trigger serious financial hardship, including:

- (1) Loss of employment of the property owner, family member or household primary income earner;
- (2) Serious illness, including physical incapacity, hospitalization, or mental illness of the property owner or family member;
- (3) A natural disaster;
- (4) A public health emergency or declared state of emergency;
- (5) Family tragedy;
- (6) Family breakdown;
- (7) Financial misfortune;
- (8) Other serious or complicating circumstances.

Community wide issues and circumstances, such as the COVID-19 pandemic, may impact financial hardship, but hardship is always assessed at an individual level, and requires reviewing personal circumstances.

¹ See: <https://www.ato.gov.au/General/Financial-difficulties-and-serious-hardship/Individuals-with-serious-hardship/>

Serious financial hardship involves both low income/cash flow and a low asset base. Personal property portfolios beyond a primary residence or a business's primary operating space can be employed to improve an applicant's cash flow and financial sustainability. Applications for assistance on residential investment properties will not be considered.

1.3 Evidence of Financial Hardship

Applicants will need to provide evidence of their circumstances of financial hardship to justify Council's special consideration of their case. The type of evidence required will depend on your circumstances and may include, for example, one or more of the following:

- Assessment by an independent accredited financial counsellor demonstrating an inability to both pay rates and to rearrange asset portfolios to facilitate payment;
- A statutory declaration from an appropriate and independent professional, familiar with the applicant's circumstances (e.g. a family doctor for health-related evidence, a bank official, insurance policy manager, etc.);
- Pending disconnection of essential services, like water, electricity, gas (does not include mobile phone or internet bills);
- Notice of impending legal action;
- Letter from charitable organisation regarding loss of employment or inability to provide for basic necessities;
- Bank notice for example, overdraft call or mortgaged property repossession;
- Employer notice of redundancy or termination of employment;
- Overdue medical bills;
- Letter from doctor verifying the inability to earn an income due to illness or caring for a sick family member;
- Final notice from school regarding payment of mandatory fees;
- Funeral expenses;
- Repossession notice of essential items, like a car or motorcycle.

1.4 How Council can Help

The *Local Government Act 1993* provides Council with three methods of rate relief:

- (1) Postponing rate payments (sections 125-127)
- (2) Remission of late payment penalties or interest (section 128)
- (3) Remission of rates (section 129)

1.4.1 Postponing Rate Payments – Deferral Arrangements

In confirmed cases of financial hardship, Council may choose deferral of individual rates payments within a defined period, in whole or in part, to be paid back at a later date, subject to any conditions Council determines. The deferral arrangement applies to specified payments and other rate payments are not affected and continue to accrue as normal.

The terms of rate deferral arrangements will be proportionate to the applicant's demonstrated financial hardship circumstances, so supplying sufficient evidence of these circumstances is important for developing the appropriate terms.

Rate payment deferrals approved under this section are typically deferred by 3 months. However, rate deferral arrangements can only defer individual payments up to a maximum of two (2) years and only in the most serious circumstances.

All deferred payments must be repaid as specified in accordance with the deferral arrangement, otherwise regular late payment penalties and/or interest will apply.

Ratepayers who are subject to a deferral arrangement who overcome their financial hardship circumstances are encouraged to begin repaying their deferred rates payments as early as they are able.

Note that Council may revoke any postponement of rates payments at any time, in accordance with section 127 of the *Local Government Act 1993*, by giving 60 days notice in writing to the ratepayer.

1.4.2 Remitting Late Payment Penalties and Interest

For typical circumstances that are not of financial hardship, rates must be paid by the due date and Councils may charge a penalty or daily interest or both for each late payment. However, for confirmed cases of financial hardship, Council may waive either the applicable late payment penalties, or the interest accumulated, or both, for a specified period that relates to the period of financial hardship.

Council will not charge any late payment penalties or interest for late rate payments during the 2020 COVID-19 state of emergency until 30 June 2020.

1.4.3 Remitting Rates

Remission of any rates, late payment penalties or interest, in part or in full, is reserved only for the most serious and exceptional of financial hardship cases. Even in these cases, deferral of rate payments must be applied for and granted first, before an application for rates remission can be considered.

After the applicant has entered into a deferral arrangement with Council, the applicant may apply for remission of rates. The application must demonstrate:

- (1) Financial hardship;
- (2) Exceptional and serious circumstances;
- (3) How the applicant's exceptional financial hardship circumstances make the maximum term deferral arrangement under section 1.4.1 unfeasible and unreasonable to fulfil; and
- (4) How enforcing fulfilment of the maximum term deferral arrangement would only deepen the seriousness of applicant's financial hardship and critically impact their ability to provide for the basic living necessities (food, accommodation, clothing, medical treatment) of the applicant and dependents.

In the interests of community fairness and equity, wherever possible and appropriate in determining rates remission applications:

- (1) Deferral arrangements are preferable to rates remission;

- (2) Amounts or proportions of rates to be remitted are to be minimised, for example, below \$1000 or 50%; the remainder subject to payment arrangements;
- (3) Instances of rates remission are to be minimised to no more than one rates remission per applicant.

2 Applications

2.1 *Applying for Financial Hardship Assistance*

To seek financial hardship assistance from Council, an application must be made in writing, addressed to the General Manager, and submitted as follows:

- Emailed to admin@brighton.tas.gov.au; or
- Mailed to 1 Tivoli Road Old Beach.

Applications must:

- Demonstrate and provide evidence for financial hardship and circumstances (see section 1.3 – Evidence of Financial Hardship);
- Describe the type of assistance sought, being:
 - Postponing rate payments (a deferral arrangement);
 - Postponing or waiving late payment penalties or interest;
 - Remitting rates, late payment penalties or interest, in part or in full;
- Address the requirements of the relevant subsections of section 1.4 – How Council can Help

2.2 *Assessing Applications*

Applications for deferral arrangements must be decided by:

- (1) For amounts less than \$2,500 – Deputy General Manager; or
- (2) For amounts of \$2,500 or greater – General Manager.

Applications for remission of any rates or late payment penalties or interest charges must be decided by Council and require absolute majority to be approved

REFERENCES:

This policy relates to and depends on other Council policies, as well as Tasmanian Government legislation, including:

- *Local Government Act 1993*, Part 9 – Rates and Charges², particularly:
 - Section 86A – General principles in relation to making or varying rates
 - Sections 125-127 – Postponement of payment
 - Section 128 – Late payments
 - Section 129 – Remission of rates
- *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*³

² See: <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1993-095#HP9@HD9@EN>

³ See: <https://www.legislation.tas.gov.au/view/whole/html/inforce/current/act-2020-011>

- Rates and Charges Policy (pursuant to section 86B of the *Local Government Act 1993*).

ADMINISTRATIVE DETAILS:

Policy compiled: April 2020

To be reviewed: August 2021 and thereafter, every four years

Responsibility: Deputy General Manager