

Policy type	Council
Adopted by	Moirá Shire Council
Responsible General Manager	General Manager Corporate
Responsible officer	Team Leader Revenue
Date adopted	25 September 2019
Scheduled for review	This policy will be reviewed four years from the date of adoption, or sooner if required.

1. PURPOSE

To provide guidelines in situations of financial hardship in the payment of municipal rates and charges. The Policy takes into account the principles of fairness, integrity, confidentiality and compliance with statutory requirements, whilst being empathetic in the process.

2. SCOPE

This policy applies to all property owners of Moirá Shire Council. 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 their rates, 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.

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

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 farm, commercial and industrial properties.

3. DEFINITIONS

Financial hardship – Residential

When a ratepayer in their primary place of residence has difficulty in meeting basic living costs and the payment of their rates and charges significantly contributes to their financial burden. They are considered in hardship when the owner is reasonably unable, because of illness, unemployment or other reasonable cause, to discharge their financial obligations.

Financial Hardship – Non Residential

When a non-residential property suffers financial hardship by way of imminent business closure, disconnection of essential services, effects of drought, flood or other major weather related events, repossession of vehicles used for business purposes, court orders or settlements the business are responsible for. Council will consider future capacity to pay when determining financial hardship applications from non-residential ratepayers.

Payment arrangement

A payment arrangement is a schedule of payments that is negotiated with Council to establish an agreed amount and a payment frequency

Waiver

Is the relinquishment or removal of the liability to pay and may include the whole or part of any interest or legal costs

Deferral

Payment is suspended or withheld for a certain time period

4. POLICY

Financial hardship involves an inability of the property owner to meet their commitments (bills), rather than an unwillingness to do so.

Council recognises that there may be those who are not in a financial position to pay their rates and charges by the instalment due dates.

Council may provide assistance to property owners who can provide proof of financial hardship by, deferring payments, establishing payment plans and waiving interest payable on overdue accounts.

Applications for financial hardship on residential investment properties will not be considered.

4.1 Types of financial hardship

Council offers two type of arrangements to meet the differing needs of ratepayers

1. Short Term Arrangement

Short term assistance may be provided to property owners, subject to compliance with specified conditions (please see Financial Hardship Procedure)

2. Long Term Arrangement

Property owners experiencing long term financial hardship may make application for an extended payment arrangement, subject to compliance with the specified conditions (please see Financial Hardship Procedure)

4.2 Deferring Payments

Under s170 of the *Local Government Act 1989*, Council may defer payment of rates and charges in whole or in part if a person is able to show that the payment would cause them financial hardship. Consideration for a deferral will only occur when all financial information has been disclosed to Council by each property owner with appropriate supporting documentation, as requested.

Where property ownership changes or there is a sale of a major asset of the company, all overdue rates and charges must be paid in full at settlement date as a deferral is not transferable.

Penalty interest charges will accrue each rating year at the applicable interest rate consistent with the Penalty Interest Act 1983.

4.3 Payment Plans

A 'payment plan' is a schedule of payments that is negotiated with Council to establish an agreed amount and a payment frequency

Payment arrangements will attract penalty interest on outstanding balances, unless otherwise determined by the delegated authority.

4.4 Waiver of interest and legal fees

Council may allow the waiving of interest on outstanding rates in accordance with section 171 of the Act.

If payment of the outstanding rates and charges are made by according to the agreed payment arrangement, the waiver of interest can apply to interest already incurred to date and during the payment arrangement period.

If the payment arrangement (as above) is not maintained, the amount of interest waived will be withdrawn and the interest reinstated on the assessment.

The waiver of penalty interest or legal fees will be made on a once-off basis.

There are three categories of interest and legal waivers which will be confined to the three categories below.

1. Administrative Error
2. Compassionate Grounds
3. Financial Hardship

4.5 Delegation to waive interest or legal fees

The General Manager Corporate or Finance Manager has delegated authority from Council under section 171(A) of the Act, to waive in whole or in part, interest charges due where the application of the interest would cause financial or undue hardship.

4.6 Waiving of Rates and Charges

Council will not waive rates and charges as doing so may cause a redistributive side-effect on the rating base.

5. Approval of Financial Hardship Applications

Approval process

The Team Leader Revenue will review applications in accordance with this policy and if satisfied that financial hardship exists, a report will be provided to the Finance Manager or General Manager Corporate for consideration and approval. The payment plan will be confirmed in writing to the ratepayer once it has been approved.

RELATED POLICIES

Rates and Charges Policy

RELATED LEGISLATION

Local Government Act 1989

Charter of Human Rights & Responsibilities Act 2006

REFERENCES

Financial Hardship Application Form

Financial Hardship Procedure

Instrument of (Sub) Delegation by the Chief Executive Officer