

Category: Financial Management

Adoption: Council

Date: October 2016

Review period: Four years

Responsible Manager: Manager Financial Services

CEO Signature



Date 9 December 2016

Purpose / Objective:

The purpose of this Policy is to establish a framework for Mount Alexander Shire Council to manage payments and communicate with ratepayers who are identified as experiencing financial hardship. For those ratepayers not experiencing financial hardship, this policy provides the framework for the collection of rates and charges.

Scope of this Policy

This policy applies to all ratepayers of the Mount Alexander Shire. In particular, the policy applies to those ratepayers 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.

This policy applies to revenue includes on the ratepayers rate notice (rates, waste charges, fire services property levy, legal costs, interest and other relevant charges). Other revenue collection processes are detailed in Councils Revenue and Debt Collection Policy.

Assistance can only be granted to individuals experiencing financial hardship for payment of rates on their principal place of residence. Applications for financial hardship consideration on other properties will not be considered under this Policy.

Council frequently enters into payment arrangements with ratepayers. 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.

Any form of assistance provided under this policy will be up to a maximum of twenty four months. A further application for financial hardship consideration may be submitted after this period.

Background / reasons for Policy:

This policy is to detail collection procedures and assist ratepayers who are experiencing financial hardship, to manage their payment of rates in a manner acceptable to both the ratepayer and the Council. The policy provides a greater understanding of financial hardship, which effectively manages our residential hardship ratepayers and will result in improved customer satisfaction and a reduction in debt collection expenses. For this policy to be successful it requires the co-operation of both parties to openly and honestly communicate with each other.

Policy content:

Rates and Charges Collection

Arrangements for the payment of rates and charges are detailed in s167 of Act. The current instalment due dates are:

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

If any of the above dates fall on a non-business day, the payment date is moved to the next business day.

In most circumstances interest will be charged on all overdue amounts in accordance with s172 of the Act at the rate set under the *Penalty Interest Rates Act 1983*.

Payment arrangements

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

- All requests for payment arrangements are to be made in writing by the ratepayer.
- Interest will continue to accrue 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, in order to best suit the ratepayer's circumstances but, as a minimum, payments over a twenty four month period must cover the outstanding amount, the annual rates and charges to be charged and any interest applied to arrears. Ratepayers who are unable to make this minimum repayment should be assessed under the financial hardship provisions of this policy.

Collection arrangements where no financial hardship has been identified

Where the payment of rates remains outstanding, or where there has been a default in an agreed payment arrangement, the following process will occur:

Reminder notice

Following the second and third instalment payment dates, a reminder notice will be issued to ratepayers who have rates outstanding, requesting payment within fourteen days. Failure to respond to the reminder notice (by making payment in full or requesting a payment arrangement) may result in the account being referred to Council's debt collection agency for further action.

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 \$500, a final notice will be issued by Council's debt collection agency.

Solicitors Letter of Demand

Ratepayers who fail to respond to the final notice will be issued with a letter of demand by Council's debt collection agency, requiring payment within fourteen days. Any costs associated with the production of this letter will be charged to the ratepayer.

Legal Action

Ratepayers who fail to respond to the solicitor's letter of demand will be referred for the commencement of legal proceedings by Council's debt collection agency. A summons (complaint) will be issued to those ratepayers who have an amount outstanding of \$1,500 or more as the costs of legal action are significant and are charged to the ratepayer. This amount will be reviewed annually in light of applicable court and legal fees.

Once a summons/complaint is prepared and lodged with the Court for issue, the associated legal costs become chargeable to the ratepayer. Within twenty one days from the date of service of a summons/complaint the ratepayer 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 ratepayer has failed to carry out any of the above, an application will be made to the Court for an Order against the ratepayer for the amount of 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 ratepayer:

- Summons for Oral Examination (ratepayer 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 debtor has failed to respond to an order being obtained).
- Rent demand (on the tenant of a rented property).
- 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.
- Sale of property.

Financial Hardship

Council recognises that our ratepayers may experience times of financial hardship due to circumstances beyond their control and therefore do not have the capacity to pay their rates.

Our objective is to work with affected ratepayers to implement an acceptable resolution for both parties. All of our customers are to be treated with dignity and respect, and sensitivity is required and an absence of value judgements is necessary, when working with customers experiencing financial hardship. Council has a social obligation to ensure that its vulnerable customers are treated fairly and that our actions will not add to the customer's burden.

Types of financial hardship

- . There are two types of hardship which means that our ratepayers may have different needs:
 - Temporary hardship – due to a sudden change in circumstance (e.g. illness, unemployment, separation, a death in the family, loss arising from an accident etc.). These customers generally require flexible and temporary payment arrangements, such as an extension of time to pay.
 - Long-term hardship – generally those on low or fixed incomes. These customers may require ongoing assistance.

Identification of financial hardship

The identification of financial hardship can be determined by:

- Assessment by Mount Alexander Shire Council staff.
- Self-assessment by the customer.
- External assessment by, for example, an independent accredited financial counsellor.

Where an assessment takes place to determine a customer's eligibility to relief under this policy, Mount Alexander Shire Council has adopted an internal process that will determine a customer's eligibility using objective criteria as indicators of hardship.

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 or call 1800 007 007 for more information.

MoneyHelp is a not-for-profit Victorian Government service providing free, confidential phone counselling for Victorians experiencing financial difficulty. Visit www.moneyhelp.org.au for further information.

Indicators of financial hardship

Consideration will be given to the below indicators:

- A sudden change in circumstance (e.g. illness, unemployment, separation, a death in the family, loss arising from an accident etc.).
- Low or fixed incomes.
- Eligibility for a government funded concession such as a health care card or social security benefit.
- Customers whose payment history indicates that they have had difficulty meeting payment terms in the past.

Application for financial hardship

Customers may apply for the following, pursuant to s170 and s171A of the Act (please see Appendix A for more information):

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

Customers are required to submit an “Application for Assessment Due to Financial Hardship” in order for their eligibility to be assessed. This form is available by download from Council’s website or in person at the Civic Centre.

Assessment of financial hardship

Assessment of financial hardship will be an objective assessment based on the information provided by the customer on the form “Application for Assessment Due to Financial Hardship”.

Determination on applications to defer rates and charges will be subject to Manager Financial Services or Director Corporate Support approval.

Determination on applications for waiver or write off of interest, legal charges, and the waiver of rates and charges will be subject to approval by:

- Manager Financial Services of amounts less than \$1,500.
- Director Corporate Support of amounts of \$1,500 or greater.

Rights of customers who are experiencing financial hardship

Council has a responsibility to ensure that every customer who is experiencing financial hardship has the right to:

- Be treated fairly, in a sensitive and confidential environment.
- Nominate a payment arrangement that is affordable, regardless of whether this amount will be sufficient to repay both current rates and rates in arrears.
- Re-negotiate the amount of their payment arrangement if there is a change in their personal circumstances. Customers will receive written confirmation of the agreed alternative payment arrangement within ten working days of the agreement being reached.
- Any customer who has an approved financial hardship application and who adheres to the agreed payment arrangement terms will not incur interest.
- Be exempt from legal action and any additional debt recovery costs whilst the customer continues to make payments according to the agreed payment arrangement.
- Apply to Council for a partial or total waiver of an outstanding amount under s171A of the Act.
- Be provided information as to the circumstances in which they would move back to the mainstream rates payment process.

Minimum service standards

Council commits to the following service standard as a minimum when working with customers who are experiencing financial hardship. We will:

- Engage in a discussion with customers to determine the best option.
- Offer a range of payment options based on the type of hardship being experienced by the customer, understanding that short term hardship may be resolved in the near future whilst long term hardship may require different and ongoing assistance.
- Provide training for staff to ensure that customers are treated with sensitivity and respect, in an environment free from value judgements.
- Suspend the debt recovery process while a payment arrangement is being negotiated.
- Exempt customers in financial hardship from legal action and additional debt recovery costs while payments are being made by the customer, according to the agreed repayment plan.
- Ensure appropriate escalation procedures are in place for any customer complaints regarding Mount Alexander Shire Council's Rates and Charges Collection and Hardship Policy.

Responsibilities:

Council	Policy approval
Director Corporate Support	Deferral of rates and charges Waiver of rates and charges of greater than \$1,500 Waiver or write off of interest or legal charges of \$1,500 or greater
Manager Financial Services	Deferral of rates and charges Waiver of rates and charges of less than \$1,500 Waiver or write off of interest or legal charges of less than \$1,500 Policy review
Revenue Co-ordinator	Policy implementation Manage the repayment process Initial assessment of "Application for assessment due to financial hardship" form
Ratepayer	Communicate with Council regarding any change in circumstances affecting their ability to pay their rates

Related Policies:

Nil

Relevant Legislation

Local Government Act 1989
Penalty Interest Rate

APPENDIX A - POLICY ON THE DEFERRAL OR WAIVER OF RATES OR CHARGES

Deferral of rates and charges

If approved:

- Property is flagged for agreed period
- No debt recovery action will be taken
- At the expiration of the agreed period, another application for financial hardship will need to be submitted

The deferral will be withdrawn if:

- The ratepayer advises that hardship conditions no longer exist
- Periodic confirmation of ongoing hardship is not received within 30 days of a date of request
- The ratepayer no longer owns or occupies the property

Rates and charges are a first charge on a property and are always recoverable before any other charges on the property are paid. An indefinite deferral may result in the rates not being recovered until the sale of the property, or when the property is sold upon the ratepayer's death.

Waiver of rates and charges

If approved, the property record is updated to reflect the write-off and no further interest will accrue

Future rates will continue to be charged to the property and a new application for waiver on hardship grounds will be required each year

Waiver of interest and legal charges charged to date

If approved, the property record is updated to reflect the write-off. Further interest will continue to accrue unless a hardship application is made

Waiver of future interest charges

If approved:

- the property will be flagged as an interest waiver property
- no debt recovery action will be taken as long as the repayment arrangements are adhered to by the ratepayer
- at the expiration of the agreed period, another application for financial hardship will need to be submitted

The waiver will cease to apply if:

- The ratepayer advises that hardship conditions no longer exist
- Periodic confirmation of ongoing hardship is not received within 30 days of the date of request
- The ratepayer no longer owns or occupies the property