

## POLICY- COUNCIL

# Financial Hardship Policy (Rates)

Excludes water related charges

### CONTENTS

1. Document control .....	2
2. Preamble.....	2
3. Policy purpose.....	2
4. Scope.....	3
5. Definitions .....	3
6. Rights and obligations.....	5
7. Strategic context.....	5
8. Relief options available to the Ratepayer .....	9
9. Authority to remit interest and/or fines .....	9
10. Application.....	10
11. Relevant legislation and references.....	10
12. Further Information .....	10
13. Other resources.....	10

## 1. Document control

<b>Author – name and position</b> (to whom changes are recommended)	Justin Rice, Team Leader Revenue
<b>Stakeholders</b> (audience and engagement groups)	Corporate Governance, Community, Elected Members, Directors, Managers and Staff
<b>Reviewed by – name and position</b>	Anthony Spartalis, chief Financial Officer Directors Group
<b>Approved by</b> (document owner)	Council
<b>Approval date</b>	30 June 2020
<b>Approval ECM number</b>	5180248
<b>Current version number</b>	V.1
<b>Review cycle (number of years)</b>	Review every 4 years Next review date: 30 June 2024
<b>History</b> (previous review dates)	24 June 2020: V1.0 – New Policy
<b>Related policies/procedures</b>	Hardship Policy 3580973
<b>Document location</b>	Original: 5180248 Published: Website

Electronic version on the intranet or website is the controlled version.

## 2. Preamble

This policy is to assist ratepayers of the City of Onkaparinga who are experiencing payment difficulties due to temporary or ongoing financial challenges, by providing them with an understanding of the options available to manage payment of rates that are outstanding or will become overdue in the near future. The options available to council are payment arrangements, referral to a government funded Financial Counsellor, remission of fines and interest, holding of debt collection, postponement of rates and remission of rates.

## 3. Policy purpose

This is a high-level philosophical statement including the reason for the policy/code.

The City of Onkaparinga is committed to assisting ratepayers who are experiencing temporary or ongoing financial pressures to manage their payments and provide those ratepayers with options to manage their financial liabilities to Council on an ongoing basis.

Council will ensure financial support provisions are made available in this policy by providing ratepayers the various options as mentioned in the preamble that meets legislative and community expectations.

This policy aligns with the principles set out in the State Government Charter of Affordability (The Charter), which aim to assist community with balancing their household budgets and managing the cost of living pressures. Various organisations such as local government, banking, energy and water are signatories to this Charter, including the City of Onkaparinga.

This policy also sets the principles that support council's Debt Treatment Plan, which is council's procedural document for the management of unpaid rate arrears.

It is acknowledged that any legislative requirement which affects council will take precedence over council's policies and procedures.

## 4. Scope

To define what is included and excluded from the scope of this procedure.

This policy applies to all ratepayers who are experiencing temporary or ongoing financial challenges and is provided to assist in managing rate payments for owner/occupied property ratepayers.

This policy is restricted to discussing options to support payment of rates and other associated relief measures as it applies to general and other rates and charges only for owner/occupiers.

### Alignment to Water Resources Act Hardship Provisions

This policy does not apply to debts incurred by residential ratepayers of the City of Onkaparinga's Community Wastewater Management Schemes (CWMS) who are experiencing financial hardship. These are considered in council's Hardship Policy (CWMS) that has been established with the Essential Services Commission of South Australia (ESCOSA) and is based on information provided by the Minister for Human Services.

### Property Valuations and the Regional Landscape Levy

This policy does not address ratepayers who may feel that their property valuation is incorrect. This should be addressed via the objection process with the State Valuation Office.

In addition, this policy aligns with the *Landscape South Australia Act 2019* provisions and treats the levy as if it were rates under this policy.

## 5. Definitions

---

Accredited Financial Counsellor	A person who holds a Diploma of Community Services (Financial Counselling) and who has worked at least 12 months as a financial counsellor under the supervision of the South Australian Financial Counsellors Association.
Arrangement	An agreement between council and a ratepayer to repay an amount of money within a time frame according to an agreed schedule. Dependent on the individual situation of our ratepayer's arrangement could be considered under a short term or longterm arrangement.

---

Council	The City of Onkaparinga.
Ratepayer	A person or legal entity that is liable to pay rates.
Rate arrears (debt)	Rates are levied as a tax on a property in accordance with the provisions of the <i>Local Government Act 1999</i> ('the Act'). Rates are not a service or user charge and are classified as a rate arrears if not paid by the due date, and are secured as a charge against the land pursuant to Section 177 of the <i>Local Government Act 1999</i> .
Financial hardship	Circumstances of experiencing financial difficulties for a period of less than 12 months but does not include circumstances where a person chooses not to meet a liability for an unpaid debt. Hardship may result from a sudden change in circumstances such as serious illness, disability, death in the family, loss or change in income, separation, divorce, or other family crisis and/or loss resulting from an accident; this circumstance being the underlying cause for the rate arrears. Hardship is considered temporary when impacts of the hardship are expected to be resolved in less than one year. Where the property needs to be sold to remedy the ratepayer's situation within 12 months, Council will consider applying the appropriate hardship provisions contained within this policy and the ratepayer's situation will be considered as serious hardship. Longer periods are generally considered as financial stress and the account will be more closely managed as the situation is ongoing.
Financial stress	A circumstance of experiencing a reduced financial ability to pay an account in full, which can be short or long term. Where an account is being paid although not up to date, the ratepayer is demonstrating a willingness to pay. Where a willingness is demonstrated and payment is being received, these accounts are to be treated as financial stress
Fines and/or interest	Rates arrears are subject to fines and/or interest when an assessment falls into arrears, as per the Act. An assessment is deemed to be in arrears if an instalment of rates is not paid on or before the date on which it falls due. A fine of 2 percent is thereby payable and in addition to this, on the expiration of each full month from that date, interest will accrue.
Local Government Act	The <i>Local Government Act 1999</i> ('The Act') sets out legislative requirements for councils to follow.
Policy	Financial Hardship Policy (Rates)
Procedure	Debt Treatment Procedure
The Charter	The Charter of Affordability has been developed by the Government of South Australia. The City of Onkaparinga is one of a number of councils who are signatories to this.
Waiver/ Remission	A waiver and/or remission exempts payment of the rates, legal costs, fines or interest

## 6. Rights and obligations

Every ratepayer experiencing financial hardship has the right to:

- Be treated respectfully, and have their circumstances kept confidential
- Receive information about alternative payment arrangements, this policy, and government assistance programs
- Negotiate an amount they can afford to pay on a payment plan or other payment arrangement
- Renegotiate their payment arrangement if there is a change in their circumstances
- Be shielded from further legal action (where possible) and additional debt recovery costs, whilst they continue to make payments according to an agreed payment arrangement

Every ratepayer experiencing hardship is expected to actively participate in meeting their obligations.

## 7. Strategic context

Consider the culture, values, principles and Community Plan with reference to relevant sections, for example: council of excellence, vibrant and resilient communities.

Councils raise rates and charges against properties in accordance with the *Local Government Act 1999* ('the Act') and in accordance with the principles of taxation, including fairness and equity to ensure all ratepayers are provided with same provisions to address rate account arrears. The majority of council's income is provided by rates and funds councils' operational costs. Payment of rates by residents is therefore considered crucial to the effective operation of local government and the delivery of services, infrastructure and facilities for the local community.

Council recognises that supporting ratepayers in financial stress and hardship is a shared responsibility between the ratepayer and council. Council contributes by offering flexible payment arrangements and by ensuring respectful and dignified treatment that is sustainable and within Council's affordability is provided.

Council's powers to raise rates are contained in Chapter 10 of the *Act* (Rates and charges). The Act also provides several options through which payments can be made and/or rate relief granted. Rates is the sole tax provided to Councils to fund Council operations, and therefore the impact of reduced revenue on the delivery of services, infrastructure and facilities should be considered when determining appropriate relief measures. On this basis it is important to consider when comparing councils to State and Federal tiers of government the scale of each tier and the options to each tier to deliver relief.

As Council is limited to the amount of financial support it can provide without interruption to service delivery, other options become important. Council recognises and understands that cost of living pressures can place a lot of strain on household budgets and economic conditions can have detrimental impacts on business. Therefore, Council has developed a range of payment options to ease this pressure, including the linking of services that support ratepayers to remedy their situation in place of providing direct financial relief.

Council is committed to treating all ratepayers in financial stress with respect and compassion and will provide support and practical solutions to those who may be experiencing temporary or ongoing financial challenges and we encourage the ratepayer to engage with council at any stage to discuss their options.

Council is committed to assisting ratepayers with outstanding rates debts, in a manner that best suits the ratepayer to clear their outstanding debt/s in a planned and constructive manner.

This policy sets out:

- The approach to identify ratepayers experiencing difficulties meeting payments due to financial challenges, and
- An outline of the processes that council will use or apply to assist ratepayers who have been identified as experiencing payment difficulties.

### **What is financial hardship?**

Financial hardship is when a person is willing but unable to meet their debt obligations because of unexpected events or unforeseen changes that impacts cash flow, for example:

- a) Changes in income or expenditure;
- b) Changes in employment status (such as losing a job or having hours reduced);
- c) Significant life events such as a relationship breakdown or death in the family;
- d) Injury or illness; and
- e) Emergency events or natural disasters
- f) Other circumstances the council administration may consider appropriate.

It is important to acknowledge that a person in financial hardship can reasonably be expected to recover their financial position if appropriate assistance or arrangements are provided. Financial hardship assistance is intended to bridge the time between when a person's circumstances change and the time when they can start attending to their debt – either because the original financial situation is restored (e.g. a person is re-employed after a period of unemployment) or because a new repayment arrangement is agreed which the person can manage while under financial stress.

Financial hardship does not include circumstance where a person chooses not to meet an unpaid financial obligation for which they are liable. A willingness to pay will be assessed on a case by case basis. In circumstances where there is no payment within an extended period and/or attendance with an accredited financial counsellor has not occurred, or the ratepayer is refusing to contact council, these circumstances will be considered as an unwillingness to meet their obligations for payment of rates, causing the account to be escalated into the debt collection cycle.

There are two types of financial hardship:

- temporary
- and ongoing

Depending on the type of financial hardship being experienced, there will be different needs requiring different options that are considered sustainable for the ratepayer, Council and the community.

Ratepayers who are experiencing temporary or ongoing financial hardship will require an assessment by an accredited financial counsellor. These ratepayers may require ongoing assistance through the form of sustainable payment plan management, so as not to be escalated into the debt recovery process and legal system.

Rate remission will be reserved for serious hardship situations where the ratepayer elects to sell their property to resolve their situation. A remission will not be provided where council is enacting sale of the property pursuant to Section 184 of the Act. Council will consider selling a property pursuant to Section 184 of the Act where the ratepayer demonstrates an unwillingness to pay the rate arrears.

### **Identifying ratepayers experiencing financial hardship**

The extent of the ratepayer's financial difficulties will be determined by an accredited financial counsellor or welfare agency. Council staff will assist by connecting ratepayers experiencing financial hardship and/or stress with the appropriate professional services that offer the best support for the ratepayers situation.

Where it is assessed that a ratepayer may be eligible for hardship assistance, consideration will be given but not limited to the following options:

- Longer term payment arrangement
- Account held from further escalation into the debt collection process
- Fines and interest remission
- Ongoing support from an accredited financial counsellor and other services referrals
- Rate remission for a ratepayer in hardship where the property is being sold to remedy a ratepayer's financial situation.

### **Financial difficulties**

Ratepayers who have been identified as experiencing temporary limited ability to attend to their account, are those who have experienced a short-term change in circumstances. These ratepayers generally require flexibility and temporary assistance, such as extension of time to pay or an alternative payment arrangement that does not exceed 3 months and holds the account from being further escalated into the debt collection process. A further extension, if required, is likely to be provided upon request where a ratepayer is demonstrating an ongoing willingness to pay.

In addition, for those ratepayers who meet the obligations of a payment arrangement and an accredited financial counsellor has confirmed the ratepayer was/is experiencing financial hardship or stress, council will consider a request for remission of fines and interest on a case by case basis. A limit of \$100 per year is set under this policy to ensure equity to the community and to support council's sustainability.

### **Ongoing limited financial capacity**

Ratepayers who have been identified as experiencing ongoing financial challenges are those who have experienced a change in circumstances and one in which they do not expect to recover from in a reasonable timeframe (more than 12 months). These ratepayers may require ongoing assistance from Council and this is intended to bridge the time between when a person's change in circumstance and when they can start paying their debt in full, either because their original financial situation is restored or the

ratepayer can increase the amount being contributed in the arrangement that will eventually address the outstanding arrears.

In these circumstances Council will continue to offer the ratepayer flexible frequent payment options and will hold the account from being further escalated into the debt collection process. Council will consider a remission for fines and interest request on a case by case basis.

Where a ratepayer advises us at any time that the property is being sold as a result of their financial situation, a hardship remission will be considered under this policy to remedy and finalise the situation. A limit under this policy will be in accordance with the delegations of the officer who assesses the application at that time.

### **Guiding Principles**

This policy operates under the following guiding principles to ensure ratepayers who are experiencing financial pressures are supported, while ensuring an equitable approach is provided which meets community expectations.

In most cases, a payment arrangement will be negotiated with the ratepayer and personalised to meet their needs to avoid additional financial pressure being placed on the ratepayer. Minimum payment amounts for ratepayers is not generally set by Council. The ratepayer will be provided with details of their debt and will be allowed to pay an amount that meets their budget requirements whilst still making progress on payment of arrears. Where an arrangement is ongoing for more than 12 months, Council will encourage the ratepayer to seek additional support from a Financial Counsellor if they haven't already. In all circumstances Council will provide details that will guide the ratepayer in understanding their obligations, and providing a ratepayer is meeting the arrangement, Council will not pursue legal action.

Council commits to working with the ratepayer's accredited financial counsellor to determine a payment arrangement and instalment amount that best suits the ratepayer and their individual circumstances.

Where a ratepayer experiencing hardship circumstances change, council will work with the ratepayer and their accredited financial counsellor to re-negotiate the payment arrangement.

Where the amount of the debt outstanding is significant (greater than 2 years in rate arrears). Council will offer:

- Where appropriate, information about the right to have a debt redirected to a third party, providing the third party consents to that redirection
- Information about, and referral to, Commonwealth and South Australian Government assistance
- Information about, and referral to an accredited financial counsellor and other relevant support services, particularly where a ratepayer is experiencing ongoing financial challenges and the previous assistance provided to the ratepayer has not remedied the financial situation
- Where there is a registered mortgage on the property, council will advise the Mortgagee on behalf of the ratepayer that there is an outstanding arrears and council will seek payment that addresses the arrears in full to prevent the property being considered for sale under section 184 of the Act.



All hardship arrangements will be agreed and confirmed in writing with the ratepayer and a copy of the terms will be forwarded to the accredited financial counsellor to support the ratepayer.

Council will not commence legal action for the recovery of the debt relating to rates where a ratepayer has agreed to a payment arrangement and continues to adhere to the terms of the payment arrangement, irrespective of whether the ratepayer has been assessed for financial hardship or is waiting on an appointment with a financial counsellor. If legal proceedings commenced prior to the ratepayer applying for or presenting in hardship, those proceedings where possible will be held.

For rating purposes, the Act under Section 184 allows council to sell a property where the rates have been in arrears for a period of three years or more. Council will notify the owner(s) of the land and other interested parties of its ability to sell the land if payment of the outstanding amount is not received within the terms of letter issued at that time for that ratepayer. Once the sale of land is pursued and the appropriate notices are served, financial hardship provisions in accordance with this policy will no longer apply. Council will not commence this recovery action where a ratepayer is maintaining a payment arrangement under this policy.

## **8. Relief options available to the Ratepayer**

Application for remission of rates and charges, fines and interest will be considered under the discretionary provisions of Section 182 of the Act and this policy.

Council will accept requests for remission of fines and interest in certain extenuating circumstances as stated above. A request for waiver of fines and/or interest needs to provide detailed reasons why a remission has been requested.

Council will accept requests for postponement of rates from ratepayers suffering ongoing or extreme financial hardship through an accredited financial counsellor and will consider recommendation such as this on a case by case basis. Council will consider a request for remission of rates when the property is being sold due to a ratepayer experiencing financial hardship. Financial hardship must be confirmed in writing by an accredited financial counsellor at the time of application for remission of rates or longer term payment arrangement (postponement) for hardship.

## **9. Authority to remit interest and/or fines**

The authority to remit interest and/or fines and/or rates for hardship is provided through Sections 181 and 182 of the Act, with officer delegations made by Council to the Chief Executive Officer (who may sub-delegate).

Council may allow the remission of part or all the outstanding arrears. This will be a once-off remission and will be assessed in accordance with this policy, the debt treatment plan and precedents.

A limit of \$100 per year is set under this policy to ensure equity to the community and to support Council's sustainability and providing the ratepayer is demonstrating an ongoing willingness to pay.

## **Hardship postponement of rates payment**

This is an arrangement where a large component of rates debt on the principal place of residence can be postponed until the property is sold or the ownership is transferred to another party and is available for a maximum period of 12 months (interest in accordance with the Act is applicable).

## **10. Application**

In all circumstances council will require the ratepayer to apply via an accredited financial counsellor when making an application pursuant to this policy. Initial discussion will be held with Customer Service, being an approach that supports first point resolution. At any stage the Revenue team will be available to discuss options and the process with the ratepayer should they require additional information.

## **11. Relevant legislation and references**

*Local Government Act 1999*

## **12. Further Information**

It is also available for inspection, downloading or printing from our website [www.onkaparingacity.com.au](http://www.onkaparingacity.com.au).

## **13. Other resources**

### **The South Australian Financial Counsellors Association**

Financial counsellors provide information, support and advocacy to help people in financial difficulty. Their services are independent, confidential and generally free. <http://safca.org.au/get-help/find-a-financial-counsellor/>

### **Financial Information Service (confidential financial advice from Centrelink)**

[Financial Information Service - Services Australia](#)

### **National Debt Helpline**

The National Debt Helpline (NDH) is an online and phone financial counselling service available across each state and territory in Australia. The financial counsellors at NDH talk to people with debts and explain what options are available. This may include referral to their local financial counselling service. The NDH helpline is 1800 007 007 or via <http://www.ndh.org.au/>

### **The Australian Bankers' Association**

The Australian Bankers' Association has published an industry guideline titled 'Promoting understanding about banks' financial hardship programs' which may be of interest: [https://www.ausbanking.org.au/wpcontent/uploads/2019/04/Updated\\_financial\\_hardship\\_guideline\\_Nov\\_2016.pdf](https://www.ausbanking.org.au/wpcontent/uploads/2019/04/Updated_financial_hardship_guideline_Nov_2016.pdf)