
Cessnock City Council Hardship Policy

Date Adopted 21 July 2020 Revision: 3

1. POLICY OBJECTIVES

- 1.1. Council recognises there are cases of genuine financial hardship requiring respect and compassion in special circumstances. This policy establishes guidelines for assessment of payment assistance applications applying the principles of social justice, fairness, integrity, appropriate confidentiality, and compliance with relevant statutory requirements. It applies to all applications for waiving, deferment and alternative payment arrangements, or writing off of rates, fees, annual charges and interest accrued on such debts.
- 1.2. This policy provides a framework for responding to applications from owners/ratepayers and customers experiencing genuine hardship with the payment of their rates, annual charges and fees in accordance with the Local Government Act 1993 (NSW) (Act) and the Local Government (General) Regulation 2005 (NSW) (Regulation).

2. POLICY SCOPE

- 2.1. This policy applies to all ratepayers and debtors of Council, and Council staff that implement this policy.

3. HARSHIP ASSISTANCE TO RATEPAYERS AND CUSTOMERS

- 3.1. A ratepayer may be eligible for consideration for hardship assistance in the payment of overdue rates, annual charges, interest and fees, where:
 - 3.1.1. the person is unable to pay due rates, annual charges, interest and fees when due and payable for reasons beyond the person's control; or
 - 3.1.2. payment when due would cause the person hardship.
- 3.2. The Act provides for the following assistance to ratepayers and customers who may experience hardship in some circumstances in paying rates, annual charges and fees:
 - 3.2.1. Periodical payment arrangements for overdue rates and charges.
 - 3.2.2. Writing off or reducing interest accrued on rates or charges.
 - 3.2.3. Waiving, reducing or deferring the payment of the increase in the amount of rate payable because of hardship resulting from general revaluation of land in the Cessnock Local Government Area (**LGA**).
 - 3.2.4. Waiving, or reducing rates, charges and interest of eligible pensioners.
 - 3.2.5. Waiving or reducing Council fees when the inability to pay is due to hardship.

- 3.3. Council will consider applications for assistance in accordance with the following principles:
 - 3.3.1. Council will individually assess cases of financial hardship.
 - 3.3.2. Council may reduce rates or annual charges, but will consider alternative available approaches to dealing with cases of financial hardship.
 - 3.3.3. Council may consider a scheme of periodical payment outside the due dates in cases of hardship or extenuating circumstances.
- 3.4. Applications for hardship must be made in writing, addressed to the General Manager:
 - 3.4.1. The applicant must be the person who is liable for the rates on the property.
 - 3.4.2. The property to which the hardship application applies must be categorised as residential or farmland for rating purposes.
 - 3.4.3. The property to which the hardship application applies must be the principal place of residence of the applicant/s.
- 3.5. The application for hardship must be accompanied with supporting documentation which may include but is not limited to:
 - 3.5.1. Reasons why the person was unable to pay the rates and charges when they became due and payable.
 - 3.5.2. Copy of recent bank statements for all accounts.
 - 3.5.3. Details of income and expenditure.
 - 3.5.4. Letter from a recognised financial counsellor or financial planner confirming financial hardship.
 - 3.5.5. Letter from a medical professional confirming medical conditions causing hardship.
- 3.6. Council may request the applicant to attend an interview to assist Council in the understanding of the issues causing hardship.

4. HARDSHIP ASSISTANCE BY PERIODICAL PAYMENT ARRANGEMENTS

- 4.1. Council may enter into a formal agreement with a ratepayer eligible for alternative periodical payment arrangements for due and payable rates and charges.
- 4.2. Council or the ratepayer may initiate a proposal for a periodical payment agreement. In accordance with section 568 of the Act, payments will be applied towards the payment of rates and charges in the order in which they become due.
- 4.3. The following guidelines should be met in determining eligibility:
 - 4.3.1. Payments must be made on a weekly, fortnightly or monthly basis.
 - 4.3.2. Arranged payments must be of an amount so that all amounts owing are paid in full by a mutually satisfactory timeframe as agreed by Council and the ratepayer, with the aim being that all amounts are paid in full by 30 June.
 - 4.3.3. Extenuating circumstances may be considered if either of the above two conditions cannot be met, however such applications must be referred to the Operations Accountant or Debt Management Officer for approval.
 - 4.3.4. Financial details of the ratepayer including income/outgoings may be required.

5. HARDSHIP ASSISTANCE BY WRITING OFF ACCRUED INTEREST AND COSTS

- 5.1. Council applies interest to overdue rates in accordance with section 566 of the Act. However, Council may write off accrued interest and costs on rates or charges payable by a person under section 567 of the Act and the Regulation where:
- 5.1.1. Payment of the accrued interest would cause the person hardship.
 - 5.1.2. The person was unable to pay rates or charges when they become due for reasons beyond the person's control. For example, where a medical condition that would cause hardship.
- 5.2. Council may write off interest and costs in accordance with section 567(3) of the Act under the following circumstances:
- 5.2.1. The ratepayer is experiencing genuine hardship. In such cases, Council may request the completion of a hardship application.
 - 5.2.2. The ratepayer is a "first-time" defaulter. Has previously had a good payment record and there are mitigating circumstances.
 - 5.2.3. Prolonged or serious illness has prevented the ratepayer meeting their financial obligations to Council.
 - 5.2.4. The ratepayer has complied with all criteria with respect to a section 564 periodic payment agreement.
 - 5.2.5. Council is satisfied that the circumstances giving rise to the default are temporary.

6. HARDSHIP ASSISTANCE DUE TO CERTAIN VALUATIONS CHANGES

- 6.1. Under section 601 of the Act, any ratepayer who incurs a rate increase following a new valuation of land values may apply to Council for rate relief in the first year the valuation is used for rating purposes, if the new rate payable causes the ratepayer to suffer substantial hardship.
- 6.2. Notwithstanding this, Council will not consider applications under this provision as valuations are independently determined by the Valuer General. Council will encourage aggrieved ratepayers to make an appropriate application under the appeal provisions of the *Valuation of Land Act 1916* (NSW).
- 6.3. In addition, it is considered that Council has maximised its scope under the Act to adopt a rating structure that cushions the impact of any change in valuations on rates.

7. HARDSHIP ASSISTANCE IN RELATION TO COUNCIL FEES

- 7.1. The General Manager will have the delegated authority to make decisions in relation to the waiving or reducing of fees up to the amount of \$3,000. For amounts over \$3,000 the decision must be a resolution made by the elected Council.
- 7.2. Any application for hardship assistance in relation to Council fees or charges other than annual charges by waiving or reducing fees under section 610(E) of the Act will be assessed in accordance with the same eligibility criteria used to assess hardship assistance in respect to rates and annual charges.

8. GENERAL

- 8.1. Financial hardship cases will remain strictly confidential.
- 8.2. All hardship applications shall be determined in accordance with Council delegations.
- 8.3. All hardship applicants shall be advised in writing of Council’s decision within thirty (30) days of receipt of the application.

9. RIGHT OF APPEAL

- 9.1. Where a ratepayer is not satisfied with the outcome of their application for hardship, they can request a review of that outcome by writing to the General Manager.
- 9.2. A panel comprising the Operations Accountant, a representative from the Customer Service Team and a Community Planner (as determined by their respective Managers) will then review the hardship application and the original outcome, and make recommendations.

10. COMPLIANCE, MONITORING AND REVIEW

- 10.1. The Finance and Administration Manager is responsible for compliance with this policy and its review.
- 10.2. **Privacy**
 - 10.2.1. Privacy will be maintained in accordance with the *Privacy and Personal Information Protection Act 1998* (NSW) and other relevant legislation.
- 10.3. **Records management**
 - 10.3.1. Staff must maintain all records relevant to administering this policy in accordance with Council’s Records Management Policy.
- 10.4. **Complaint Handling**
 - 10.4.1. Any complaints under this policy will be managed in accordance with Council’s Complaint Handling Policy.

11. POLICY DEFINITIONS

Act	means the <i>Local Government Act 1993</i> (NSW)
Council	means Cessnock City Council

12. POLICY ADMINISTRATION

Business Group	Corporate and Community Services
Responsible Officer	Finance and Administration Manager
Associated Procedure (if any)	
Policy Review Date	Three years from date of adoption unless legislated otherwise
File Number / Document Number	AD2017/022085
Relevant Legislation (reference specific sections)	<ul style="list-style-type: none"> ▪ <i>Local Government Act 1993</i> (NSW), sections 564, 567, 575, 582, 601, 610E ▪ <i>Local Government (General) Regulation 2005</i> (NSW) ▪ <i>Valuation of Land Act 1916</i> (NSW)
Relevant desired outcome or objectives	<p>Making Process efficient and transparent</p> <p>Objective 5.3 Making Council more responsive to the community</p>
Related Policies / Protocols / Procedures / Documents	<ul style="list-style-type: none"> ▪ Financial Hardship Policy (DOC2020/023336) ▪ Granting of Council's Rebate Contribution on Pensioner Rates Policy (DOC2020/023334) ▪ Complaint Handling Policy (DOC2019/123194) ▪ Records Management Policy (DOC2019/038769)

13. POLICY AUTHORISATIONS

No.	Authorised Function	Authorised Business Unit / Role(s)
	Day to day management of Council's hardship claims.	Debt Management Officer Operations Accountant
	Approval of hardship applications	Operations Accountant or delegate
	Make recommendations regarding requests for review of outcome for hardship applications	Payment Assistance Panel
	Consider the Payment Assistance Panel's recommendations for review of hardship applications, and making a determination accordingly	Finance and Administration Manager

14. POLICY HISTORY

Revision	Date Approved / Authority	Description Of Changes
1	21/06/2017	Creation of policy and adoption at Council Meeting 21 June 2017
2	16/04/2020	Review and update to the new template
3	15 July 2020 (CC59/2020)	Review and adopted by Council