



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

COUNCIL POLICY	
RATE RECOVERY AND FINANCIAL HARDSHIP POLICY	Policy No:
	Adopted by Council: 19 July 2017
	Next review date:
Senior Manager:	Director Corporate and Community Services
Responsible Officer:	Rates Coordinator
Functional Area:	Corporate Services
Introduction & Background	<p>The West Wimmera Shire Council raises rates and charges against properties in accordance with the Local Government Act 1989 (“the Act”) and provides a number of options through which payments can be made.</p> <p>Council is committed to the timely recovery of rates and charges in order to ensure adequate funding of the ongoing services and capital work projects it provides for community benefit, and to fulfil its broader business management and corporate governance responsibilities.</p> <p>In the case of the recovery of overdue amounts, Council may avail itself of the options under Sections 180 and 181 of the Act. These recovery methods include legal action and ultimately the sale of the property in question should the amount owing satisfy criteria contained in this policy.</p>
Purpose & Objectives	<p>The key objectives of the Rate Recovery and Financial Hardship Policy are:</p> <ul style="list-style-type: none"> • to provide clear parameters to Council, Council Staff and the Debt Recovery Contractor to allow the effective and consistent recovery of overdue rates and charges; and • to provide assistance to ratepayers experiencing financial hardship who are unable to make payments through the standard options provided. • 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.



Policy Details	
1.	<p>POLICY STATEMENT</p> <p>The following key strategies may be used to achieve the policy objectives:</p> <ul style="list-style-type: none">• Issue rate notices detailing amounts owing, due dates and payment methods available, issue courtesy reminder notices prior to the lump sum payment date and issue final notices following payment due dates;• Instigate legal action if the amount owing satisfies criteria contained in this policy;• Consider the sale of the property for significant debts where other recovery action has failed if the amount owing satisfies criteria contained in this policy;• Consider applications from ratepayers to deviate from the standard payment options by entering into Special Payment Arrangements, and where the ratepayer is experiencing financial hardship consider applications under Section 170 and 171A of the Act. <p>1.1 Standard Payment Options</p> <p>Ratepayers can avail themselves of one of the following standard payment options:</p> <ol style="list-style-type: none">1. Lump sum payable on or before February 15 in accordance with Section 167(2B) of the Act;2. Four instalments payable on or before the last day of September, November, February and May in accordance with Section 167(2) of the Act; <p>1.2 Late Payment Penalty Interest</p> <p>Interest will be charged on all amounts that are overdue in accordance with Section 172 of the Act at the rate set under the Penalty Interest Rates Act 1983.</p> <p>1.3 Recovery of Overdue Rates</p> <p>Where ratepayers do not make their payments in line with one of the standard options available and there is no approved special payment arrangement or approved financial hardship application action will be taken to recover the money owing to Council as follows:</p>



1.3.1 Lump Sum Payments

Following the date set for payment under section 167 (2B) of the Act, a final notice requesting payment within 14 days will be issued for all properties where the amount owing is equal to or greater than the amount shown under item 1 of the schedule to this policy.

Failure to respond to the final notice (by making payment in full or requesting a suitable Special Payment Arrangement) will result in the matter being referred to Council's Debt Recovery Contractor who will send a Solicitor's letter demanding payment within 14 days. This demand letter will only be sent where the amount owing is equal to or greater than the amount shown under item 2 of the schedule to this policy.

Those ratepayers who fail to respond to the Solicitor's 14 Days demand letter (by making payment in full or requesting a suitable Special Payment Arrangement in accordance) will be referred to Council's Debt Recovery Contractor for legal proceedings to be commenced. This action will only be commenced for those ratepayers where the amount owing is equal to or greater than the amount shown under item 3 of the schedule to this policy as the cost of legal action is significant and is charged to the ratepayer. Once a debt has been placed in the hands of Council's Debt Recovery Contractor all negotiations with the ratepayer will be handled by them.

A Complaint is then prepared and lodged with the Magistrates Court for issue. Once the Complaint is lodged with the Court the associated legal costs become chargeable. Once the Complaint is issued by the Court it is then served on the ratepayer who must within 21 days from the date of service:

1. Pay the claim in full plus costs; or
2. Enter into a Special Payment Arrangement; or
3. 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 21 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:

1. Summons for Oral Examination (ratepayer is interviewed by the Clerk of Courts regarding their financial situation and intentions in relation to repaying the debt);
2. 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);
3. Rent Demand (on the tenant of a rented property);
4. Sale of property



1.3.2 Four Instalments

Where rates remain unpaid 14 days after the final date for payment of the fourth instalment, recovery of the overdue rates may be instigated.

1.4 Special Payment Arrangements

Where a ratepayer is unable to make their payments by any of the standard options available under section 3 of this policy, a Special Payment Arrangement may be entered into. These arrangements can be made at any time during the recovery process but are subject to the following conditions:

1. All requests for Special Payment Arrangements are to be made in writing by the ratepayer;
2. Penalty Interest in accordance with section 1.3 of this policy will continue to accrue on all overdue amounts;
3. Any default in the terms of the Special Payment Arrangement may, without further notice, result in legal action being instigated.
4. Council will be flexible regarding the type of arrangement entered in order to best suit the ratepayer's circumstance, but as a minimum payments, over a 12-month period must cover the annual rate charge and any penalty interest charged. Ratepayers who are unable to make this minimum repayment should be assessed in accordance with the financial hardship provisions contained in this policy.

2. **Financial Hardship (1.5)**

Under section 170 of the Act, a person may apply to have the whole or part of any payment of a rate or charge deferred for a specified period. Council can grant that application, absolutely or subject to conditions, if it considers that payment would cause hardship to the applicant.

Under section 171A of the Act, a person suffering financial hardship may make application to Council for a waiver of the whole or part of any rate, charge or interest. Council may grant that application.

Where Ratepayers are unable to make their rate payments on time or at all, they can make application for deferral or waiver. If Council is satisfied that any applicant will suffer financial hardship, consideration will be given to deferral or waiver (or a combination of both).

The intent of this section of the policy is that any benefit granted is not meant to be an ongoing benefit, but is to give the applicant time to reassess their financial situation.



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Generally, it is Council's policy position that some form of assistance will only be considered:

1. For a property used primarily for residential purposes or land classified as farm land, in circumstances where the applicant lives on the property and it is his or her sole or principal place of residence;
2. If the applicant establishes that he or she derives a low income (for example, is receiving a pension or unemployment benefits) by completing an application for hardship and deferment showing relevant financial details (including Income, Expenditure, Assets and Liabilities);
3. The current Capital Improved Value ("CIV") of the property in respect of which assistance is sought is less than or equal to the current average residential rating valuation. If the property is classified as farm land the CIV will be assessed as part of the overall financial position of the applicant in line with the next point; and
4. If considered necessary by Council, the applicant has attended an interview with a Financial Counsellor, where an application for hardship has been completed showing relevant financial details (including income, expenditure, assets and liabilities).

If an application is successful, generally the outcome will be that no interest will be charged or legal action taken in respect of any outstanding rates and charges for the duration of the period for which the application is made (generally 12 months).

1.5.1 Special Circumstances

Council acknowledges that special circumstances may exist where the applicant does not meet one or more of the above conditions. For example, where a large amount has been levied for a Special Charge Scheme or where the applicant is suffering from ill health or injury.

Where special circumstances exist and not all the above conditions are met, the application is still able to be approved at the discretion of the Manager Finance and Rates Coordinator.

1.5.2 Assistance Provided

Generally, if an application for deferral or waiver is made, and it is decided to provide a form of assistance, the assistance will take the following form:

1. No further interest will be charged on the outstanding rates for a period of 12 months from the date of application;
2. No legal action for the recovery of the outstanding rates will take place during the 12 month period;



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	<ol style="list-style-type: none">3. Rate repayments are to be made over the 12 months to reduce the outstanding rates and therefore take advantage of the interest free period;4. At the end of the 12 months the applicant will need to reapply if further assistance is required. <p>Again, special circumstances may justify a different form of assistance being made available.</p>
3.	<p>Sale of Property (1.6)</p> <p>In addition to the debt recovery procedures available through the legal system, under Section 181 of the Act, Council has the power to sell property where:</p> <ol style="list-style-type: none">1. There are rates and charges which are more than three years overdue; and2. There is no current arrangement for the payment of the overdue rates and charges; and3. There is a Court order requiring the payment or part-payment of the overdue rates and charges. <p>This action may be taken if the following criteria is satisfied, after giving regard to the ratepayer's debt repayment record and ability to repay the debt, their age, state of health and family situation:</p> <p><u>1.6.1 Vacant Land</u></p> <p>If land is vacant and the total amount owing is greater than the amount shown under item 4 of the schedule to this policy.</p> <p><u>1.6.2 Improved Commercial and Industrial Land</u></p> <p>If a property is rated as Commercial or Industrial land and the total amount owing is greater than the amount shown under item 5 of the schedule to this policy</p> <p><u>1.6.3 Residential Land</u></p> <p>If a property is a residential dwelling occupied by the owner and the total amount owing is greater than the amount shown under item 6 of the schedule to this policy.</p> <p>If a property is a residential dwelling, not occupied by the owner (for instance a rental or investment property), and the total amount owing is greater than the amount shown under item 7 of the schedule to this policy.</p>



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	<p><u>1.6.4 Farm Land</u></p> <p>If a property is rated as Farm Land with a residential dwelling occupied by the owner and the total amount owing is greater than the amount shown under item 8 of the schedule to this policy.</p> <p><u>1.6.5 Other Land</u></p> <p>For all other land if the total amount owing is greater than the amount shown under item 9 of the schedule to this policy.</p>																																
4.	<p>Review</p> <p>The Policy will be reviewed every three years with the exception of the dollar thresholds contained in the schedule to the policy. These dollar thresholds must be reviewed, and may be amended, annually by Council's Director Corporate Services. Any amendment must be the subject of notice to Councillors.</p>																																
5.	<p>RATE RECOVERY AND HARDSHIP POLICY – SCHEDULE</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Item</th> <th style="width: 70%;">Rate Recovery and Hardship Policy Section</th> <th style="width: 20%;">Amount</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td>Amount owing before issue of final notice</td> <td style="text-align: right;">\$250</td> </tr> <tr> <td style="text-align: center;">2</td> <td>Amount owing before issue of solicitor letter</td> <td style="text-align: right;">\$500</td> </tr> <tr> <td style="text-align: center;">3</td> <td>Amount owing before issue of Magistrates Court Complaint</td> <td style="text-align: right;">\$1,700</td> </tr> <tr> <td style="text-align: center;">4</td> <td>Amount owing before land can be sold</td> <td style="text-align: right;">\$5,000</td> </tr> <tr> <td style="text-align: center;">5</td> <td>Amount owing before land can be sold</td> <td style="text-align: right;">\$5,000</td> </tr> <tr> <td style="text-align: center;">6</td> <td>Amount owing before land can be sold</td> <td style="text-align: right;">\$5,000</td> </tr> <tr> <td style="text-align: center;">7</td> <td>Amount owing before land can be sold</td> <td style="text-align: right;">\$5,000</td> </tr> <tr> <td style="text-align: center;">8</td> <td>Amount owing before land can be sold</td> <td style="text-align: right;">\$5,000</td> </tr> <tr> <td style="text-align: center;">9</td> <td>Amount owing before land can be sold</td> <td style="text-align: right;">\$5,000</td> </tr> </tbody> </table>			Item	Rate Recovery and Hardship Policy Section	Amount	1	Amount owing before issue of final notice	\$250	2	Amount owing before issue of solicitor letter	\$500	3	Amount owing before issue of Magistrates Court Complaint	\$1,700	4	Amount owing before land can be sold	\$5,000	5	Amount owing before land can be sold	\$5,000	6	Amount owing before land can be sold	\$5,000	7	Amount owing before land can be sold	\$5,000	8	Amount owing before land can be sold	\$5,000	9	Amount owing before land can be sold	\$5,000
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