



Council Policy Manual

WEST WIMMERA SHIRE COUNCIL

COUNCIL POLICY		
RATE RECOVERY AND FINANCIAL HARDSHIP POLICY	Policy No:	
	Adopted by Council:	15 July 2020
	Next review date:	July 2022
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, advertise courtesy reminders prior to payment dates 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.
2.	<p>PAYMENT OPTIONS</p> <p>2.1 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; 3. If any of the above dates fall on a non-business day, the payment date is moved to the next business day. <p>2.2 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>For instalment accounts, within fourteen days after the due date for each of the second, third and fourth instalment, a penalty interest update will occur.</p> <p>For annual accounts, fourteen days after the legislated full payment date, reminder letters will be issued to ratepayers who have not paid the full payment amount. The reminder letter will not have any penalty interest calculated and will allow ratepayers a further opportunity to pay the account penalty free. Within five working days after the reminder letter due date, a penalty interest update will occur.</p>



Subsequent penalty interest postings will take place between the initial interest posting and the next rates notice for both Annual and Instalment Accounts.

2.3 Recovery of Overdue Rates

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:

2.3.1 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



	<p>2.3.2 <u>Four Instalments</u></p> <p>Where rates remain unpaid 14 days after the final date for payment of the fourth instalment, recovery of the overdue rates may be instigated.</p> <p>2.4 Special Payment Arrangements</p> <p>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:</p> <ol style="list-style-type: none">1. All requests for Special Payment Arrangements are to be made in writing by the ratepayer;2. Penalty Interest in accordance with section 2.2 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.
3.	<p>FINANCIAL HARDSHIP</p> <p>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. Financial hardship is a circumstance of experiencing a lack of financial means, which may be either ongoing or temporary. If you are facing financial difficulty on a personal level, you may wish to obtain advice from a community financial counsellor.</p> <p>You can talk to a financial counsellor from anywhere in Australia by calling 1800 007 007 (Monday to Friday, 9.30 am – 4.30 pm). This number will automatically switch through to the service in the State or Territory closest to you, or you can visit the National Debt Helpline at www.ndh.org.au.</p> <p>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.</p> <p>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.</p> <p>Where Ratepayers are unable to make their rate payments on time or at all, they can make application for deferral or waiver. Applications must be made in writing on the "Hardship Application Form". If Council is satisfied that any applicant will suffer financial hardship, consideration will be given to deferral or waiver (or a combination of both).</p>



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.

3.1 Eligibility

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. 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).

3.1.1 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 Rates Coordinator and/or Finance Coordinator.

3.1.2 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;
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.

Again, special circumstances may justify a different form of assistance being made available.



	<p style="text-align: center;">3.2 Assessment of Financial Hardship</p> <p>Where an assessment takes place to determine a customer's eligibility to relief under this policy, West Wimmera Shire Council has adopted an internal process that will determine eligibility using objective criteria as indicators of hardship based on the information provided by the customer on the form "Hardship Application Form".</p> <p>Determination on applications to defer rates and charges will be subject to Rates Coordinator and/or Finance Coordinator approval.</p>
4.	<p>SALE OF PROPERTY</p> <p>4.1 Power to Sell Property</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; and 2. There is no current arrangement for the payment of the overdue rates and charges; and 3. 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 style="padding-left: 40px;">4.2.1 <u>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 style="padding-left: 40px;">4.2.2 <u>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 style="padding-left: 40px;">4.2.3 <u>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> <p style="padding-left: 40px;">4.2.4 <u>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>



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WEST WIMMERA SHIRE COUNCIL

	<p>4.2.5 Other Land</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>																														
5.	<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>																														
	<p>RATE RECOVERY AND HARDSHIP POLICY – SCHEDULE</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">Item</th> <th style="width: 75%;">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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Policy Adopted:	Ordinary Meeting 19/07/17	Minute Book Page 35803	RecFind 17/002786
Policy Reviewed:	Council Meeting 15/07/20	Minute Book Page.....	RecFind E20/000237



Hardship Application Form WEST WIMMERA SHIRE COUNCIL

APPLICANT DETAILS

Name:

Phone:

Mobile:

Email:

PROPERTY DETAILS

Property Number:

Property Address:

I wish to apply for:

Deferral of rates & charges

Waiver of future interest charges

Write-off of interest charges

Waiver of rates & charges

Do you consider your hardship to be:

Temporary

Long-term

Circumstance / reason for hardship:

FINANCIAL ASSESSMENT

Net income:

Value of assets owned:

Total Expenses:

Value of loans & other debts:

Difference:

Difference:

Please attach a financial statement outlining your income, expenses, assets and liabilities.

It is recommended that a financial counselling service be consulted during this application process. The National Debt Helpline is a not-for-profit service that helps people in Australia tackle their debt problems. This is a Government service providing free, confidential counselling for people experiencing financial difficulty. Visit www.ndh.org.au or call 1800 007 007 for more information.

Council may require a Financial Counselling to progress your application, as detailed in section 3.1 of the Rate Recovery and Financial Hardship Policy.



Hardship Application Form

WEST WIMMERA SHIRE COUNCIL

CRITERIA ASSESSMENT

		Yes / No	Comment	
1.	Have you received financial counselling?			
2.	Is this house where you live?			
3.	Are you planning on selling the property?			
3.1	Do you run a business from home?			
4.	Do you owe rates money for more than one year?			
5.	Are rates payments hard to make?			
6.	Can you make regular payments?			
6.1	If YES, how much can you pay?	\$	per	Week / Fortnight / Month
7.	How many financial dependents do you have?			
7.1	Are you the sole income earner for your dependents?			
8.	Do you receive a Government payment?			
9.	Are you a concession card holder?			
10.	Can you provide a financial statement that outlines your income and expenses?			

NB. As per S171A of the Local Government Act, any person who gives false or misleading information, or who fails to notify Council of any change in circumstances relevant to this application, is guilty of an offence and liable 10 penalty units.

Signature of Applicant

Date

PRIVACY: Personal information collected by Council is used for municipal purposes as specified in the Local Government Act 1989. The personal information will be used solely for municipal purposes. Council may disclose this information to other organisations if required by legislation. I understand that the personal information provided is for the above purpose and that I may apply to Council for access to and/or amendment of the information. Any requests for access and/or correction should be made to Council's Privacy Officer.

LODGEMENT OF FORM



Mail:
Rates Coordinator
West Wimmera Shire Council
25 Baker Street
KANIVA VIC 3419



In Person:
M-F 8:30am-5:00pm
EDENHOPE
49 Elizabeth Street
KANIVA
25 Baker Street



Email:
council@westwimmera.vic.gov.au



Hardship Application Form WEST WIMMERA SHIRE COUNCIL

OFFICE USE ONLY

REPAYMENT CAPACITY

Based upon the information provided, does the applicant have the financial capacity to make repayments?

Yes	No

If YES, how much?

\$		per	Week / Fortnight / Month
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ASSESSMENT SUMMARY

Rates outstanding	\$	\$	\$
	Arrears	Current	Total

This applicant complies with how many policy criteria? of 10

Criteria Met

This applicant identified they have capacity to make repayments?

Yes	No

FINANCIAL ASSISTANCE RECOMMENDATION

Based upon:

- Compliance with Council's policy
- Any identified capacity by the applicant to make regular repayments of outstanding rates
- Any offer to make such repayments

It is recommended that financial assistance be granted:

- | | | | |
|-------------------------------------|-----|--------------|----|
| a) Write-off of interest to date | Yes | \$
Amount | No |
| b) Not raising any further interest | Yes | Until Date | No |
| c) Deferral of rates and charges | Yes | \$
Amount | No |
| d) Waiving of rates and charges* | Yes | \$
Amount | No |
- *waiver of rates and charges subject to Council approval

This arrangement it to be reviewed on:

Signed Date

Rates Coordinator

Signed Date

Finance Coordinator