



Hardship Policy

Table of Contents

1. Purpose.....	3
2. Scope	3
3. Context.....	3
4. Statement.....	3
4.1 What is hardship?	4
4.2 What is financial hardship?	4
4.3 Who can apply?.....	5
4.4 What options are available to help?.....	5
4.5 How to apply?.....	5
4.6 Assessment Process	6
4.7 Payment Plan.....	7
4.8 Reduced Interest	8
4.9 Deferred Payment.....	8
4.10 Waiver	9
4.11 Reporting	10
5. Roles and Responsibilities	10
6. Definitions.....	10
7. Human Rights	11
8. Gender Equality	11
9. Risk Reference	12
10. References and Supporting Documents.....	12
10.1 Applicable Legislation:	12
10.2 Applicable Policy and Procedure:.....	12
10.3 Supporting Documents:.....	12
11. Review and Revision History.....	13
11.1 Administrative Updates	13
11.2 Document Control Disclaimer	13

1. Purpose

To assist ratepayers who are having problems paying their rates by providing a clear understanding of the options and assistance available to those who are experiencing hardship.

The Policy ensures ratepayers are treated fairly and without discrimination by providing a framework to ensure a consistent approach to supporting ratepayers who are experiencing hardship.

This Policy sets out the process for Council staff and external agencies to make decisions about providing appropriate financial relief to all ratepayers requiring assistance in the payment of rates and charges on the grounds of hardship.

This Policy is supported by the internal Debt Management Procedures – Rates.

2. Scope

This Policy applies to all ratepayers in the municipality who are having trouble paying their rates and charges.

This Policy applies to all council rates and charges included on the valuation and rates notice (such as general rates, waste charges, municipal charge, waste levy, legal costs and interest) as well as any Fire Services Property Levy charges and associated costs in accordance with the provisions of the *Fire Services Property Levy Act 2012*.

This Policy also applies to any costs associated with the property through a Special Charge Scheme.

3. Context

Rates and charges represent the major income source for councils and fund over 100 services across our communities. Therefore, the payment of rates and charges is crucial to the effective operation of local government.

Council recognises that managing hardship is a shared responsibility and they should implement best practice arrangements for the collection of rates and charges, including offering flexible payment arrangements for ratepayers experiencing financial difficulty in accordance with Section 171B of the *Local Government Act 1989* (the Act).

Sections 170 and 171A of the Act allows councils to defer or waive in whole or in part any rate, charge, or interest on the grounds of financial hardship.

4. Statement

Council is committed to determining the type of assistance that is best suited to each ratepayer's individual circumstance and the need to observe compassion, respect, and transparency in the assessment of hardship applications.

4.1 What is hardship?

Hardship refers to a situation where a ratepayer is reasonably unable to meet their financial obligations and to do so may be detrimental to their quality of life.

Reasons for hardship may be due to compassionate grounds or circumstances such as illness, unemployment, impacts of natural disaster, or other reasonable causes. These can include, but are not limited to:

- Loss of employment or reduction in income;
- Domestic or Family violence;
- Economic Abuse;
- Bereavement;
- Prolonged illness, including hospitalisation, physical incapacity or mental illness;
- Family tragedy; or
- Impacts of natural disasters.

People in hardship may find themselves at some point in financial hardship.

4.2 What is financial hardship?

Financial hardship refers to a situation where a ratepayer cannot afford the necessities of life for themselves and/or their dependants. It generally means a ratepayer who has the intention to pay their rates but does not have the financial means to do so and by doing so would:

- Prevent the ratepayer (or dependant) from seeking essential medical treatments or supplies;
- Prevent the ratepayer from payment of essential utility services (including water and energy);
- Prevent the ratepayer (or dependant) from access to basic living needs, such as:
 - Food;
 - Accommodation;
 - Clothing;
 - Education for dependant children; or
- Place the ratepayer (or dependant) in any form of harm or danger.

Financial hardship is not considered present where a ratepayer is able to afford goods and services such as (but not limited to):

- Restaurant and takeaway meals;
- Services such as hairstyling, beauty treatments, sport and recreational activities, and holidays;
- Entertainment such as streaming services, movies, concerts and theatres
- Alcohol and tobacco; and
- Private schooling fees (including for dependants) or fee paying education services.

4.3 Who can apply?

All ratepayers can apply for assistance under this Policy and applications will be assessed on individual merit.

4.4 What options are available to help?

There are a number of options that can help people who are in hardship or financial hardship. These are listed below with more detail later in the Policy.

Options for support include:

- Enter into a payment plan (s171B);
- Reduce interest imposed for late payment of rates or charges (s172);
- Reduce interest imposed on a Special Charge Scheme (s172);
- Defer payment of rates or charges (s170);
- Reduce or waive interest on deferred rates or charges (s172);
- Waive interest imposed for non / late payment (s171A);
- Waive rates or charges (s171A);
- Any combination of the above.

4.5 How to apply?

Hardship applications must be applied for by the ratepayer. Ratepayers experiencing financial difficulties who want to pay their rates and charges through an approved payment plan can apply by phone or in writing.

Ratepayers experiencing hardship who require additional support are required to submit a completed hardship application form for their eligibility to be assessed.

Application forms are available by calling or emailing Council officers so that we can find out whether assistance can be provided without the need for an application. Applications are accepted year-round, where an account is outstanding regardless of the amount of the arrears.

Council has been working closely with local financial counsellors to ensure the process of applying for assistance is as easy as possible for ratepayers. This will mean where an assessment of hardship has been made through other organisations, for example in the application of grants or Centrelink support, ratepayers will not have to provide this information again. Where a ratepayer has authorised a financial counsellor to act on their behalf, we will be able to work directly with them to facilitate the best outcomes.

4.6 Assessment Process

All hardship applications will be held in strict confidence and only made accessible to council officers involved in the processing of the application.

All applications will firstly be assessed by Council to ensure that all questions on the application have been completed and that all supporting documentation has been provided. The information collected in this form is used only for the purposes of assessing an application and is not passed on to third parties. Council will take every reasonable step to ensure privacy is protected in accordance with the *Privacy and Data Protection Act 2014*.

A ratepayer's financial circumstances must be considered together with those of other property co-owners when assessing hardship. Where there are joint owners of a property and one of the owners is not experiencing hardship, the owner not experiencing hardship is still liable to pay the full amount of the rates and charges.

Where a ratepayer has identified circumstances of economic abuse or family violence (including in relation to other co-owners) Council will ensure the other owner/s will not delay or prevent the application from being considered. All applications are classified as confidential and will not be passed on to other owners or third parties.

All applications made to Council will be assessed by the Hardship Review Committee (Committee) and will be considered on a case-by-case basis. The Committee meets regularly, and ratepayers will be advised in writing of the outcome. Any applications received after the last meeting of the financial year will be assessed to commence from the next financial year.

Assessment of whether hardship is genuine will be objectively based on the information provided by the ratepayer in their application. A person who gives false or misleading information is guilty of an offence and penalties can apply in accordance with Section 171A(4) of the Act.

Any penalties for deliberately giving false or misleading information or failing to notify Council of changes in their circumstances will be added to the rates and charges account and due for payment immediately.

Ratepayers will generally not meet the definition of financial hardship for the payment of the rates or special charge scheme costs on properties that are not their primary place of residence, unless the property provides the principal source of income or the application is due to a natural disaster/emergency event.

Ratepayers who own secondary properties, residential investment, commercial or industrial properties where the income generated from the property is not the ratepayer's principal source of income will generally not meet the definition of financial hardship.

Applications are valid for the timeframe determined by the Committee and will be subject to a review to ensure ongoing compliance each financial year. If required, ratepayers may re-apply for continued financial hardship assistance after the timeframe has ended by completing a new application.

The Committee will consider the type of assistance that is best suited to each ratepayer's individual circumstance(s) with consideration of the following options pursuant to the *Local Government Act 1989*:

The Committee may also recommend support services from a Financial Counselling provider. These service providers offer a free, confidential counselling service for people experiencing financial difficulty.

4.7 Payment Plan

Under Section 171B of the *Local Government Act 1989* (the Act) Council may enter into a plan with the person responsible for the payment of the rates and charges. Council is committed to making payment plans as flexible as possible.

Payment options are detailed on Council's website and are included in information issued with the annual notice, final notice and notification of cancellation of a payment plan. Payment options will also be detailed on any demand letters issued prior to proceeding to the Magistrates Court for recovery of the debt.

All ratepayers can apply to pay their overdue rates and charges through a payment plan. Applications can be made verbally or in writing. Council will determine the duration of the plan, the amount to be paid and the frequency of the payments, in consultation with the ratepayer.

The frequency of payments can be either weekly or fortnightly and the amount will be calculated to include any arrears and make an estimate for future rates and charges that occur for the duration of the agreement. Payment plans will attempt to ensure the debt, including ongoing annual rates, is cleared within a maximum period of three (3) years.

Payments can either be managed by the ratepayer or will be offered under a direct debit arrangement and managed by Council. Regular Centrelink payments (through Centrepay deduction) are encouraged for those ratepayers in receipt of a Centrelink benefit.

Payment plans that extend for no more than three (3) years will be assessed within 10 business days and details of the terms of the agreement will be issued to the ratepayer in writing confirming the start date, end date, payment amount and frequency.

Ratepayers that need more than three (3) years to pay their rate arrears can apply for an extended payment plan by completing an application for hardship assistance form. These applications will be assessed by the Committee and ratepayers will be advised in writing of the outcome.

All payment plans will be monitored in accordance with Council's internal Debt Management Procedures – Rates. Any default may result in the cancellation of the agreement.

Payment plans ensure that interest will not be applied for the duration of the payment agreement and that no legal action will be taken to recover the debt. Interest already applied can be waived based on an individual's circumstances.

Ratepayers who can afford to make regular payments but will be inconvenienced if they do so, will generally not be considered to have met the criteria for any additional support under this Policy and will be encouraged to enter into a payment plan.

4.8 Reduced Interest

Council recognises that applying interest at the rate set by the Minister for Local Government or at the rate set at the implementation of the Special Rates and Charges scheme could have a negative effect on the finances of ratepayers which prolongs their hardship. As such, where hardship is established, Council may reduce the interest rate in accordance with Section 172 of the *Local Government Act 1989* (the Act).

An interest reduction may be granted in both short and long-term cases of hardship where an approved repayment arrangement is not in place.

4.9 Deferred Payment

Section 170 of the *Local Government Act 1989* allows councils to defer in whole or in part the payment by a person of any rate or charge which is due and payable for a specified period.

A deferral of the payment of rates and charges, or part thereof will be considered where a ratepayer is experiencing hardship in accordance with the definition of hardship stated at 4.1 of this Policy.

Rates deferral is where the due date for the payment of the rates and charges is postponed until a future date. The difference between a waiver and deferral of rates is that a deferral suspends the need for payment for a period, whereas a waiver permanently exempts the payment of the rates and charges for a specified period of time.

Rates and charges are generally deferred until the ratepayer's financial circumstances improve or the property is sold or transferred to another owner. The total amount of deferred rates and charges which can accrue will be limited to 50 per cent of the Capital Improved Value of the property, at which point a review will be undertaken.

When rates are deferred, they are not considered due and interest will not be applied. When the deferral period ends the ratepayer will be sent a notice and payment will be required. Interest can be applied at that time.

If the Committee approves a request for rates to be deferred, Council will write to the ratepayer advising the date that the payment extension will end. This advice will also include any conditions that apply to the deferral including if interest will be applied at the end of the period.

Interest will generally not be applied at the end of the deferral period unless the application is seeking a deferral of rates until the property sells, or an estate is settled. In these instances, interest will be applied at the end of the deferral period as if the deferral had not occurred and will be due for payment as part of the property settlement.

If a deferred payment is approved under a payment plan arrangement; interest will not be applied.

As any unpaid rates will ultimately be a charge on the property, no rate deferral agreement will be entered into with a ratepayer without the consent of the property owner.

4.10 Waiver

Section 171A of the *Local Government Act 1989* allows councils to waive the whole or part of any rate or charge or any interest imposed for late payment in cases of financial hardship.

Waiver of Interest

The preference is for the ratepayer to enter into a payment plan for the payment of the rates and charges. Once the payment plan commences interest will not be applied for the duration of the payment agreement. Interest already applied in the current financial year may also be waived as part of the hardship assistance granted and will be based on an individual's circumstances.

Waiver of Rates and Charges

Council will consider applications for the waiver of rates and charges under extreme extenuating circumstances. This is to ensure that financial hardship assistance offered to one ratepayer does not have a redistribution effect on the rate base to other ratepayers.

When assessing an application for a waiver the following will be considered:

- Does the ratepayer meet the definition of financial hardship stated at 4.2 of this Policy;
- Can the unpaid rates and charges be paid by rearranging finances and/or selling or drawing on assets;
- Does the ratepayer have access to savings, monetary investments or other income;
- Has financial hardship been caused by a ratepayer's own actions or expenditure (e.g. spending on non-essential items or through a recent gift or loan to family or friends?);
- What has the ratepayer done to alleviate their financial hardship;
- Will the ratepayer sell saleable or liquid assets capable of paying the debt within the next 12 months, including the property with outstanding rates and charges;
- Is the ratepayer able to make payments on other debts (such as mortgage or credit cards) greater than the minimum required;
- Is the ratepayer a company or trust;
- Has the ratepayer shown that they cannot afford to make any payments towards their rates and charges and to do so would impact on their health and wellbeing;
- Can the ratepayer make decisions or act in their best interest (no power of attorney);
- Is the outstanding rates and charges more than 50 per cent of the Capital Improved Value of the property.

4.11 Reporting

A report will be presented annually, as at the end of the previous financial year, to Council which will include the following information:

- The total balance of unpaid rates, charges and interest;
- The number of properties with unpaid rates, charges and interest;
- The number of properties on payment plans;
- The number of properties with a current deferral in place;
- The number of properties where a waiver was granted in the year;
- All properties not on a payment plan with unpaid rates and charges of three years or more and the reasons why the land has not been sold or transferred under Section 181 of the *Local Government Act 1989*.

5. Roles and Responsibilities

The following teams or positions have direct and/or supporting responsibilities associated with this Policy:

Position	Roles and Responsibilities
General Manager Business Excellence	Overall Policy responsibility.
Manager Finance (Document Owner)	Responsible for the review, regular updating and implementation of the Policy and compliance with the Policy.
Rates and Valuations Coordinator	Direct responsibility for: Rates and Charges, including the Fire Services Property Levy.
Financial Hardship Review Committee	A Committee authorised to evaluate each completed Hardship Application consisting of a minimum of three council staff: - <ul style="list-style-type: none">- Manager Finance- Rates and Valuations Coordinator- Manager Governance

6. Definitions

Term	Meaning
Council	East Gippsland Shire Council.
Council Officer	A current member of East Gippsland Shire Council staff with the authority to engage in activities on behalf of Council.
Economic Abuse	Behaviour that excludes a person from decisions about finances that affect them. It may also include controlling the person's access to finances and income.

Term	Meaning
Family Violence	Any threatening, coercive, dominating, or abusive behaviour that occurs between people in a family, domestic or intimate relationship, or former intimate relationship, that causes the person experiencing the behaviour to feel fear.
General Hardship	Where a ratepayer is reasonably unable to meet their financial obligations without impacting on their quality of life.
Financial Hardship	Where a ratepayer cannot afford the necessities of life for themselves and/or dependants. Where the payment of rates would place the ratepayer (or dependant) in any form of danger (e.g.: family violence or economic abuse).
Natural Disaster	A catastrophic event caused by severe weather. Natural disasters do not include events caused by the actions of humans but do include the following: tsunamis, earthquakes, hurricanes, volcanic eruptions, floods, blizzards/hailstorms, wildfires, and tornadoes.
Necessities of Life	Essential medical treatments or supplies; essential utility services (water, gas, electricity); basic living needs (food, accommodation, clothing education).
Owner	Is the person who holds the legal interest as registered on the title of the property.
Primary Place of Residence	The property which includes a dwelling that is occupied as the sole or main home. The place you live at and is the address that you are registered at on the electoral roll, for mail delivery etc.
Principal Source of Income	The property from which you derive the greatest proportion of income from.
Ratepayer	Is the occupier of the property who is liable to pay the rates and charges as either the owner or a tenant who under a lease agreement is liable for payment.
Rates and Charges	All charges made under the <i>Local Government Act 1989</i> , including but not limited to General Rates, Waste Service Charges, Municipal Charge, Waste Levy and the Fire Services Property Levy made under the <i>Fire Services Property Levy Act 2012</i> .

7. Human Rights

Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006* (the Charter). This Policy has been assessed as compliant with the obligations and objectives of the Charter.

8. Gender Equality

This Policy has considered the *Gender Equality Act 2020* in its preparation and has been assessed as not requiring a Gender Impact Assessment (GIA).

9. Risk Reference

This Policy is implemented as a control to mitigate risks in the following categories:

Risk Category	✓	Risk Category	✓
Environmental		Technology and Information Management	
Health and Safety		Assets, Facilities and Security	
Project, Product and Service Delivery		Human Resources	
Financial and Economic	✓	Procurement	
Leadership and Political Awareness		Corporate Governance and Compliance	
Reputation and Corporate Image		Legal	✓

10. References and Supporting Documents

10.1 Applicable Legislation:

- *Local Government Act 1989*
- *Local Government Act 2020*
- *Fire Services Property Levy Act 2012*
- *Privacy and Data Protection Act 2014*

10.2 Applicable Policy and Procedure:

- Debt Management Procedure – Rates

10.3 Supporting Documents:

- East Gippsland Shire Council Instrument of Delegation and Instrument of Sub-Delegation by the Chief Executive Officer
- Financial Hardship Application Forms

11. Review and Revision History

Version Number	Date Approved	Approved By	Review Summary
1	27 August 2024	Council	New Policy Minor administrative amendments for alignment t to new template

11.1 Administrative Updates

Minor amendments to this document may be required from time to time. Where amendments do not materially alter the intent of a document, they will be made administratively and approved by the Document Owner.

11.2 Document Control Disclaimer

Printed copies of this document are considered uncontrolled. Please refer to the Corporate Document Register on Council's intranet to access the most current version of this document.