



Hawkesbury City Council

attachment 1
to
item 0 73

Hardship and Debt Recovery Policy

date of meeting: 28 April 2020
location: by audio-visual link
time: 6:30 p.m.



Hawkesbury City Council
Policy

DRAFT
Hardship and Debt
Recovery Policy

Hawkesbury City Council

Division:	Support Services	Policy Number:	PAK0037J
Branch:	Financial Services	Adopted Date:	
Responsible Officer:	Chief Financial Officer	Next Review Date:	May 2022
Director:	Director of Support Services	Version:	Enter No



Table of Contents

1.0	TITLE	5
2.0	PURPOSE	5
3.0	SCOPE	5
4.0	OBJECTIVE	5
5.0	ROLES AND RESPONSIBILITY	5
7.0	POLICY	6
7.1	HARDSHIP	6
7.1.1	Assistance by Periodical Payment Arrangements.....	6
7.1.2	Assistance by Writing off accrued interest and costs	6
7.1.3	Assistance to extend pensioner concession to avoid hardship	6
7.1.4	Assistance due to General Revaluation of the Local Government Area	6
7.1.5	Assessment Process	7
7.2	PENSIONER CONCESSIONS	7
7.2.1	Eligibility	7
7.2.2	Principal Place of Residence	8
7.2.3	Life Tenancy	8
7.2.4	Ordinary Rates and Charge for Domestic Waste Management Service	8
7.2.5	Sullage Services	8
7.2.6	Sewerage Services	8
7.2.7	Calculating the Rebate	8
7.2.8	Pension Rebate Application.....	8
7.2.9	Pensioner Rebate Eligibility Confirmation	9
7.2.10	Claim for Prior Year's Pension Rebates	9
7.2.11	Pension Rebate Cancellation	9
7.2.12	Pension Rebate Amount.....	9
7.3	DEBT RECOVERY	9
7.3.1	Rates and Annual Charges.....	9
7.3.2	General Debtors	9
7.3.3	Unpaid Amounts	10
7.3.4	Payment Arrangements	10
7.3.5	Legal Action	11
7.3.6	Sale of Land.....	11
7.3.7	Costs and Interest.....	12
7.3.8	Pensioners	12
7.3.9	Interest on Overdue Amounts.....	12
7.3.10	Application of Payments	12



HAWKESBURY CITY COUNCIL POLICY

Hardship and Debt Recovery Policy

7.4	WAVING AND WRITING OFF DATES AND CHARGES	12
7.4.1	Annual Rates and Charges.....	12
7.4.2	General Debtors	13
8.0	RELATED DOCUMENTS.....	13
	Legislation	13
	Safe Work Method Statements (SWMS)	13
	Policies.....	13
	Procedures.....	13
	Forms	13
	Guidelines	13
	Fact Sheet.....	13

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HAWKESBURY CITY COUNCIL POLICY

Hardship and Debt Recovery Policy

1.0 TITLE

Hardship and Debt Recovery Policy

2.0 PURPOSE

The purpose of this policy is to:

- provide a process for the assessment and determination of financial hardship applications.
- ensure effective controls, policies and procedures are in place with respect to the collection of overdue rates and charges to Council
- provide eligible pensioners with the statutory and non-statutory pensioner concession rebates relating to rates and charges

3.0 SCOPE

The Policy applies to Council's ratepayers and debtors. The Policy applies to Rates and Annual Charges, and Fees for services provided by Council. Notwithstanding the provisions contained within this Policy, Council may from time to time produce Guidelines, consistent with the objectives of this Policy, to respond to specific circumstances facing the community at that time.

4.0 OBJECTIVE

The objectives of this policy are:

- a) assist ratepayers and debtors suffering financial hardship
- b) provide eligible pensioners with pensioner concession rebates
- c) ensure effective control over debts owed to Council
- d) to recover monies owing to Council in a timely, efficient and effective manner in order to ensure effective cash flow management
- e) have a clear and concise debt recovery process and procedure to follow
- f) apply the provisions of the Act relating to sale of land when required
- g) fulfil the statutory requirements of the *Local Government Act 1993* and the associated *Local Government (General) Regulations 2005* with respect to the recovery of rates and charges, user pays charges and other debts. The provision of pensioner concessions and ratepayers suffering genuine financial hardship.

5.0 ROLES AND RESPONSIBILITY

Authorised Officer	Roles & Responsibilities
General Manager, Director Corporate Services, Chief Financial Officer	<ul style="list-style-type: none">• Determines Hardship Approvals and Pensioner Concession Applications
Debt Recovery Officer, Rates and Revenue Coordinator, Senior Rates Officer, Finance Officer – Rates, Council's Debt Recovery Agent	<ul style="list-style-type: none">• Enter into a Payment Arrangement in accordance with any Hardship Approval, on behalf of Council
General Manager, Director Corporate Services,, Chief Financial Officer Council's Debt Recovery Agent	<ul style="list-style-type: none">• Initiate and undertake legal action on Council's behalf
Rates and Revenue Coordinator, Senior Rates Officer, Finance Officer – Rates	<ul style="list-style-type: none">• Assess Pensioner Concession Applications
Council by Resolution	<ul style="list-style-type: none">• Determine discretionary Pensioner Rebate each year as part of the Operational Plan
Council by Resolution	<ul style="list-style-type: none">• Determine Interest Rate
Council by Resolution	<ul style="list-style-type: none">• Approve sale of Land for unpaid Rates



6.0 DEFINITIONS

Not Applicable

7.0 POLICY

7.1 HARSHIP

Council recognises there are cases of genuine financial hardship requiring respect and compassion in certain circumstances. This policy establishes guidelines for the assessment of hardship applications applying the principles of fairness, integrity, confidentiality and compliance with statutory requirements.

7.1.1 Assistance by Periodical Payment Arrangements

Section 564 of the *Local Government Act* provides that Council may enter into a formal agreement with a ratepayer eligible for alternative periodical payments for due and payable rates and charges. A periodical payment agreement will be offered in accordance with this Policy.

In accordance with Section 568 of the *Local Government Act 1993*, payments will be applied towards the payment of rates and charges in the order in which they became due.

7.1.2 Assistance by Writing off accrued interest and costs

Accrued interest on rates or charges payable by a person may be written off under Section 567 of the *Local Government Act 1993*, if:

- 1) The person was unable to pay the rates or charges when they became due for reasons beyond the person's control, or
- 2) The person is unable to pay accrued interest for reasons beyond the person's control, or
- 3) Payment of the accrued interest would cause the person hardship.

7.1.3 Assistance to extend pensioner concession to avoid hardship

Section 577 of the *Local Government Act 1993* enables Council to make an order deeming certain persons who are jointly liable with an eligible pensioner(s) or solely liable, but who are not themselves eligible, to be eligible pensioners for the purpose of a mandatory reduction in rates and charges to avoid hardship.

7.1.4 Assistance due to General Revaluation of the Local Government Area

Section 601 of the *Local Government Act 1993* provides that where any ratepayer who suffers substantial hardship as the consequence of the making and levying of a rate following a new valuation, may apply to Council for rate relief. Assistance is only available in the first year new valuations are used to calculate rates.

Section 601 (2) of the *Local Government Act 1993* provides that the council has a discretion to waive, reduce or defer the payment of the whole or any part of the increase in the amount of the rate payable by the ratepayer in such circumstances, for such period and subject to such conditions as it thinks fit.

As valuations are independently determined by the NSW Valuer General. Council will encourage aggrieved ratepayers to make an appropriate application under the appeal provisions of the NSW Valuation of Land Act 1916. However, Council will consider hardship applications under this provision.



7.1.5 Assessment Process

In cases of genuine hardship, each case is to be referred to Council for consideration in accordance with Council's adopted Policy.

Application for Hardship must be received in writing on the approved Hardship Rate Relief Application Form. Council may also request the ratepayer to attend an interview to assist Council in the understanding of the issues causing hardship.

In determining eligibility Council will use the criteria used by Centrelink 'Pensions - Income and Assets Test' as reviewed annually in September, including:

1. the applicant must be the owner or part owner of the property and be liable for the payment of rates on the property
2. the property for which the hardship application applies must be the principal place of residency of the applicant/s
3. the property for which the hardship application applies must be categorised as 'Residential' or 'Farmland' for rating purposes
4. the application for hardship must be accompanied with supporting documentation which may include but is not limited to:
 - reasons why the person was unable to pay the rates and charges when they became due and payable
 - copy of recent bank statements for all accounts
 - details of income and expenditure
 - letter from a recognised financial counsellor or financial planner confirming financial hardship.
5. the Rates and Revenue Coordinator will assess applications due to hardship and payment arrangement plans from any customer after receiving a written request and in cases of genuine hardship each case is to be referred to the General Manager, Director Corporate Services or Chief Financial Officer, for final determination.

7.2 PENSIONER CONCESSIONS

A number of concessions are available to eligible pensioners on the rates and charges levied by Council.

The concessions available depend on the applicable charge.

7.2.1 Eligibility

In accordance with *Local Government (General) Regulation 2005* – Clause 134, an eligible pensioner under this policy is a person who receives:

- a pension, benefit or allowance under Chapter 2 of the *Social Securities Act 1991* of the Commonwealth and hold a pension concession card issued by or on behalf of the Commonwealth Government
- a service pension under Part 111 of the *Veterans' Entitlements Act 1986* of the Commonwealth and hold a pension concession card issued by or on behalf of the Commonwealth Government
- a pension from the Commonwealth Department of Veterans' Affairs as the widow or widower of a member of the Australian Defence force or Peacekeeping forces or the unmarried or widowed mother of a deceased unmarried member of those forces (people in both of these categories are eligible only if they would also be eligible for a pension concession card from Centrelink)



- a general rate of pension adjusted for extreme disablement under section 22(4) of the *Veterans' Entitlements Act 1986* of the Commonwealth, or a special rate of pension under section 24 of that Act.

7.2.2 Principal Place of Residence

To be considered for concessions under this policy the property must be within the Hawkesbury Local Government Area and is your sole or principal place of residence.

7.2.3 Life Tenancy

As provided by Section 577 of the *Local Government Act 1993*, Council will grant a Pension Rebate where an eligible pensioner, not the owner of the property, has a life interest in the property and is responsible for the payment of rates and charges. Council requires confirmation in writing preferably from a legal representative with a copy of the will of a deceased estate, copy of the Certificate of Title if the life tenancy is registered or relevant documentation to validate a life tenancy agreement.

7.2.4 Ordinary Rates and Charge for Domestic Waste Management Service

The *Local Government Act* provides for pension rebates of 50% of the aggregated ordinary rates and charges for domestic waste management services, up to a maximum of \$250.00.

Under the State's mandatory Pensioner Concession Scheme, the State Government reimburses Council 55% of the rates and charges written off under the provisions of the Act. Council funds the remaining 45% up to a maximum of \$112.50 per assessment.

7.2.5 Sullage Services

Council provides eligible pensioners receiving a sullage pumpout service with a pensioner subsidy additional to that received for rates and garbage. This subsidy is not available to pensioners who have non-eligible adult residents living at their property.

This rebate is fully funded by Council. The State Government provides no assistance towards pensioners on the sullage service.

The rebate provided to eligible pensioners receiving the sullage pumpout service is established each year as part of Council's Operational Plan for that year.

7.2.6 Sewerage Services

A concession is available to eligible pensioners who are subject to the residential connected charge under the Windsor Sewerage Scheme.

The rebate provided to eligible pensioners receiving the sewerage service is established each year in line with statutory requirements and as part of Council's Operational Plan for that year.

7.2.7 Calculating the Rebate

The amount by which the Rates and Charges are reduced is calculated by the ownership of the property. If the person making the application is an eligible pensioner who is solely liable or jointly liable with one or more jointly eligible occupiers but with no other person (jointly eligible occupier is the spouse or de facto partner of that eligible pensioner) then a full rebate is granted. Otherwise a percentage of the rebate is calculated in relation to percentage of ownership.

7.2.8 Pension Rebate Application

Pensioners requesting a rebate are required to submit an application on the prescribed form and hold a current Pension Concession Card issued by Centrelink or Department of Veterans Affairs to qualify for any reduction in Rates and Charges.



7.2.9 Pensioner Rebate Eligibility Confirmation

Council confirms eligibility once a year with Centrelink, usually in late May or early June. At this time some pensioners' eligibility is not confirmed and Council is therefore not able to grant a rebate on their Rates and Charges issued in July. A pensioner who's eligibility has not been confirmed may reapply to Council at any time, a check using Centrelink's online confirmation service will be made to confirm the eligibility status.

If a ratepayer is in receipt of a Pension Concession Card, currently receiving a pension rebate on a property considered to be their sole and principal place of residence and is then required to enter an aged care facility for health or care reasons, the pension rebate will continue to apply as long as the property is not being rented or occupied.

7.2.10 Claim for Prior Year's Pension Rebates

Pension rebates will be granted to pensioners who meet the eligibility criteria and will be limited to the current rating year and the previous rating year prior to the application (provided the pensioner would also have been eligible in the previous year).

7.2.11 Pension Rebate Cancellation

Where an owner ceases to qualify as an eligible pensioner, or sells the property to which the rebate applies, the rebate will cease at the end of the current instalment.

7.2.12 Pension Rebate Amount

To receive the full year's rebate on rates the pensioner must be eligible at date of service of the Rate Notice. If the pensioner becomes eligible after service of the Rate Notice they are entitled to a pro-rata amount of the rebate, which is determined as follows:-

Date of Eligibility	Amount of Rebate
Eligible after issue of Rates Notice but before - 30 September	$\frac{3}{4}$ (75%)
1st October – 31 December	$\frac{1}{2}$ (50%)
1st January – 31st March	$\frac{1}{4}$ (25%)
1st April – 30th June	NIL

7.3 DEBT RECOVERY

7.3.1 Rates and Annual Charges

Rate instalments are due on the same date every year, with the instalment notices (along with the initial rates and charges notice) to be issued at least six weeks before the following due dates:

- 31 August
- 30 November
- 28 February
- 31 May.

7.3.2 General Debtors

This encompasses all amounts owing to Council excluding Rates and Annual Charges. Debtor accounts are issued for numerous services.

Accounts are generally issued on a daily, weekly, fortnightly or monthly basis. Trading terms may be in advance, seven days, with the majority being 30 days from date of invoice.

A follow up statement is issued on unpaid accounts on a monthly basis.



7.3.3 Unpaid Amounts

Rates and Annual Charges

Final notices for rates and annual charges are to be issued to those ratepayers who have not paid their instalment within 14 days of the instalment due date. Final notices are to be issued for all overdue amounts of \$50 and over and are due immediately. Final notices will not be sent to ratepayers who:

1. are pensioners
2. have made a satisfactory arrangement for payment with Council
3. have legal action in progress.

If within 14 days of the issue of the Final Notice, payment in full is not made, or a satisfactory arrangement not entered into, a list of remaining ratepayers, along with outstanding balances, are forwarded to Council's Debt Recovery Agent for further action.

General Debtors

General debtor accounts are considered overdue immediately following the due date.

For any general debtor accounts that have not had a payment arrangement made and remain outstanding beyond 60 days, a final notice letter will be sent advising that legal action may be commenced to recover the outstanding balance if payment is not received in full within 14 days or a suitable arrangement entered into.

If within 14 days of the issue of the Final Notice, payment in full is not made, or a satisfactory arrangement not entered into, a list of remaining debtors, along with outstanding balances, will be forwarded to Council's Debt Recovery Agent for further action.

7.3.4 Payment Arrangements

Rates and Annual Charges

For rates and annual charges Section 564 of the Local Government Act 1993 makes a provision for payment arrangements. A ratepayer may at any stage make an arrangement to pay off their overdue account by regular instalments/payments. The request can be made by completing Council's Application for Payment Arrangement form (refer to Attachment 1) or directly with authorised rates/revenue staff.

Payments are to be made on a regular basis, weekly, fortnightly or monthly.

Where applicable, the agreement will be confirmed in writing to the ratepayer.

Arrangements are to be made to have all overdue rates and charges cleared within 12 months and provision is to be made to include all instalments as they fall due within the arrangement period.

Extenuating circumstances can be taken into consideration if, the above conditions cannot be met, but must be referred to the Rates and Revenue Coordinator for approval.

Interest will continue to accrue on any arrears during the period of arrangement.

Any arrangement that is defaulted will automatically cancel the agreement and be immediately referred to the Council's Debt Recovery Agent for appropriate action. Should two arrangements within any rating year be defaulted by any ratepayer no further agreements will be entered into for that rating year and payment will be required in full.



General Debtors

For general debtors an arrangement may be made at any time to pay off overdue accounts by regular instalments. The request must be made by completing Council's Application for Payment Arrangement form (refer Attachment 1) or directly with authorised rates/revenue staff. A suitable arrangement is one by which the total debt is cleared within 90 days from the original due date of the invoice in question. Extenuating circumstances can be taken into consideration if, the above conditions cannot be met, but must be referred to the Rates and Revenue Coordinator for approval.

Any arrangement that is defaulted will automatically cancel the agreement and be immediately referred to the Council's Debt Recovery Agent for appropriate action.

7.3.5 Legal Action

Annual Rates and Charges

For overdue rates and charges amounts, Council's Debt Recovery Agent is to send a Seven Day Demand letter to those ratepayers who have multiple instalments totalling \$1,000 or more overdue. The letter will request the outstanding balance be paid within seven days or legal action will be commenced. Those ratepayers who do not fall into this category will be sent a Final Reminder Letter by the Agent.

Ratepayers who do not pay after receiving a Seven Day Demand Letter, or make satisfactory arrangements either Council or Council's Debt Recovery Agent, will be subject to legal action as recommended by the Debt Recovery Agent. This action is to be approved by Council officers before commencement.

Any legal or other expenses incurred by Council from the recovery of overdue rates and charges will be charged against the ratepayer in accordance with sections 550 and 605 of the *Local Government Act 1993* and form part of the ratepayer's debt.

General Debtors

For overdue amounts, Council's Debt Recovery Agent is to send a Seven Day Demand letter to those debtors who have a minimum of \$50 overdue requesting the outstanding balance be paid within seven days or legal action will be commenced. Those debtors who do not fall into this category will be sent a Final Reminder Letter by the Agent.

Debtors who do not pay after receiving a Seven Day Demand Letter, or make satisfactory arrangements to either Council or Council's Debt Recovery Agent, will be subject to legal action as recommended by the Debt Recovery Agent. This action is to be approved by Council officers before commencement.

Legal action includes, but is not limited to the following:

1. Statement of Liquidated Claim (Summons)
2. Judgment
3. Writ
4. Rent for Rates
5. Examination Summons and subsequent processes
6. Garnishee
7. Company Wind-up action
8. Bankruptcy.

7.3.6 Sale of Land

Should the Legal Action process not result in recovery of outstanding rates, and five years or more have elapsed since the receipt of any payment, then Council may apply the Sale of Land provisions (Section 713) stipulated in the Act.



7.3.7 Costs and Interest

Unless the imposition of costs and/or interest are deemed to be in error, the waiving of costs and/or interest will not be considered until all overdue Rates and Charges are paid in full. When assessing the writing off of costs, in accordance with Section 567 of the Act, the following circumstances are considered:

1. the ratepayer is experiencing genuine hardship. In such cases, Council may request the completion of a Financial Statement detailing their Income, Assets and Expenses
2. the ratepayer is a "first-time" offender, has previously had a good payment record and there are mitigating circumstances
3. they are a new owner in the Hawkesbury, and their solicitor has notified Council of an incorrect address for service of notices
4. prolonged or serious illness has prevented the Ratepayer meeting their expenses
5. each application for writing off of rates and charges would be checked to ensure compliance with the provisions of the Act. Each application would be considered on its merits.

7.3.8 Pensioners

Eligible Pensioners will be subject to all provisions of this Debt Recovery Policy with the exception of legal action pursued by Council's Debt Recovery Agent. Final Notices are to be issued to any pensioner accounts that remain outstanding past the respective due dates.

Recovery of any outstanding debt will be via other avenues and wherever possible, payment arrangements should be negotiated for the outstanding balance. Flexibility should be extended to pensioners when negotiating payment arrangements.

Any outstanding balance of rates and charges owed by a pensioner is recoverable upon the property changing ownership.

7.3.9 Interest on Overdue Amounts

Interest is to be charged on all overdue amounts in accordance with Section 566 of the *Local Government Act 1993* and Council's Revenue Pricing Policy.

7.3.10 Application of Payments

Money paid in respect of debts levied against a property is to be applied towards payment of those amounts in the order in which they became due.

Money paid in respect of general debtor amounts is to be applied towards payment of those amounts in the order in which they became due or as otherwise advised.

7.4 WAVING AND WRITING OFF DATES AND CHARGES

7.4.1 Annual Rates and Charges

The *Local Government (General) Regulation 2005* contain provisions for rates and charges and interest accrued on unpaid rates and charges to be written off in circumstances covered by the relevant sections of the Act (Clause 131). Furthermore, the Regulations require that:

1. the Council must, from time to time, by resolution, fix the amount of rates and charges above which rates and charges may be written off by resolution of the Council
2. an amount above or below that amount can be written off either by resolution of the Council or by order in writing of the Council's General Manager.



HAWKESBURY CITY COUNCIL POLICY

Hardship and Debt Recovery Policy

In accordance with the above provisions, five hundred dollars (\$500) has been adopted as the amount above which rates and charges may be written off only by resolution of the Council. Any rates and charges under this amount may be written off by order in writing from the General Manager or the Responsible Accounting Officer. The Responsible Accounting Officer is delegated this authority by the General Manager under the provisions of Section 378 of the Act.

7.4.2 General Debtors

The *Local Government (General) Regulation 2005* contains provisions in respect to writing off debts to the Council and the fixing of limits above which require a resolution of the Council (Clause 213).

An amount of five hundred dollars (\$500) has been adopted as the amount above which debts may be written off by resolution of the council. Any debts under this amount may be written off by order in writing from the General Manager or the Responsible Accounting Officer.

8.0 RELATED DOCUMENTS

Legislation

- Local Government Act 1993
- Local Government (General) Regulation 2005

Safe Work Method Statements (SWMS)

Not Applicable

Policies

Not Applicable

Procedures

Not Applicable

Forms

<http://www.hawkesbury.nsw.gov.au/council/access-to-information/publications-and-forms>

Council may from time to time produce Guidelines, consistent with the objectives of this Policy, to respond to specific circumstances facing the community at that time. These Guidelines may include reference to specific forms which will be available on Council's website at that time.

Guidelines

Council may from time to time produce Guidelines, consistent with the objectives of this Policy, to respond to specific circumstances facing the community at that time.

Fact Sheet

Not Applicable