



# RATES AND CHARGES HARDSHIP POLICY

Policy Number	C53	Directorate	Corporate & Community Services
Council Item No.	E3	Department	Finance
Council Adoption Date	25 May 2016	Primary Author	Manager Finance, Risk & Procurement
Revision Date	25 May 2019	Secondary Author	Rate Collector

## POLICY OBJECTIVE

To provide rate relief to individual rate and special charge scheme payers who are suffering from financial hardship and need assistance.

## LEGISLATIVE PROVISIONS

Sections 170, 171 and 171A of the Local Government Act 1989.

## DEFINITIONS

A “**deferral**” of payment can be provided in whole or in part and be for a specified period and subject to any conditions determined by Council. When rates are deferred, payment is not required until the Council sends the person a request requiring payment.

A “**waiver**” removes the liability to pay and may be offered to include the whole or part of any interest.

The “**penalty interest rate**” is the interest that is fixed under Section 2 of the Penalties Interest Rates Act 1983 and applied on unpaid rates and charges.

## POLICY STATEMENT

Whilst Council must consider its overall revenue requirements from a strategic perspective taking into account the needs of the community as a whole, it is important that Council has a further mechanism to consider the needs of individuals and businesses who are suffering financial hardship. The purpose of this Rates and Charges Hardship Policy is to provide Council with a policy framework to provide rate relief to individuals who need assistance.

Under the Local Government Act 1989, Council may defer a whole or part of any rate or charge or interest if a person is suffering financial hardship.

The Act goes on to say Council may waive, in whole or part, any payment due on the grounds of hardship.

The difference between a deferral and a waiver is that a deferral suspends payment for a period of time whereas a waiver permanently exempts payment of the fee or charge under discussion. South Gippsland Shire Council will not waive rates, municipal charges or service charges, but will consider applications to waive interest and legal charges

Applications for deferral and waiver of interest and legal costs and will be individually assessed against the criteria stated in this policy.



This policy defines the process for considering applications for deferment of rates and charges including special rates and charges.

## **RISK ASSESSMENT**

What are the risks to Council if this policy does not exist?

- Inconsistent and non transparent decisions made outside of a determined framework.
- Non compliance with legislation and poor governance practices.

## **BACKGROUND**

Council currently uses a Debt Recovery on Unpaid Rates and Charges Policy which also provides options for financial hardship. This Rates and Charges Hardship Policy provides specific guidelines for rates and charges deferment and waiver requests made pursuant to Sections 170, 171 and 171A of the Local Government Act 1989. Its purpose is to provide financial relief to ratepayers who can demonstrate that they are suffering severe financial hardship.

## **IMPLEMENTATION STATEMENT**

### **1 Deferring Rates and Charges - Residential Properties**

Ratepayers may have rates and charges, or part thereof, deferred although rates and charges will continue to be levied subject to compliance with the following conditions:

1. The ratepayer is able to evidence severe financial hardship as certified by an assessment carried out by a qualified financial counsellor; and
2. An application is submitted to the Council by the ratepayer's representative providing evidence of such circumstances referred to in 1 above.

The application must address the following matters:-

1. Confirm the applicant is eligible to make application to defer rates and charges
2. Validate whether the applicant is suffering short term hardship, that is, hardship likely to be for a period of less than 12 months; or
3. Whether the applicant is suffering chronic hardship, that is, financial hardship for an indefinite period; and
4. Recommend a repayment schedule and / or interest waiver

In all applications for rate deferrals, the applicant will be encouraged to continue to pay the portion of rates that is affordable given their individual circumstances. This will be mutually agreed on a case by case basis.

Interest on deferred rates will be levied at the penalty interest rate unless an interest waiver is granted.

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## 2 Deferring Rates and Charges– Industrial, Commercial and Farm Properties

The Shire of South Gippsland acknowledges that a significant proportion of its rate revenue is derived from rateable properties categorised as ‘Commercial’, ‘Industrial’ and ‘Farm’.

As a consequence, this Policy makes provision for Commercial, Industrial and Farm ratepayers to make application for a rate deferral agreement. Each application will be considered on an individual basis with Council taking the following criteria into account in considering whether to accept the application:

1. The ratepayer is able to evidence severe financial hardship as certified by an assessment carried out by a qualified public accountant (either ACA or CPA) or qualified financial planner; and
2. Evidence that a deferral of rates will assist in keeping employment at South Gippsland; and
3. A commitment from the applicant to an agreed timeframe in which the deferred rates will be paid.
4. An application is submitted to the Council by the ratepayer’s representative providing evidence of such circumstances referred to in 1, 2 and 3 above.

The application must address the following matters:-

1. Confirm the applicant is eligible to make application to defer rates and charges
2. Provide evidence that a deferral of rates will assist in keeping employment at South Gippsland
3. Validate whether the applicant is suffering short term hardship, that is, hardship likely to be for a period of less than 12 months; or
4. Whether the applicant is suffering chronic hardship, that is, financial hardship for an indefinite period; and
5. Recommend a repayment schedule and / or interest waiver

Rate deferral agreements will be for a maximum of two financial years, with applicants having a maximum of three further financial years in which to fully repay all rates deferred. Rates that accrue during this interim period must also be paid by the extended payment date.

It is acknowledged that industrial/commercial businesses may have tenants who are not directly paying Council rates. Council will consider applications from landlords on behalf of tenants.

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

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## 3 Waiving Rates and Charges

Council will not waive rates, municipal charges or service charges as the value of each property provides the owner with a potential source of funds if liquidated. It is considered inequitable for the majority of ratepayers to subsidise the property assets of hardship applicants. A more equitable solution for the community is to defer payment of rates and charges.



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## 4 Waiving Interest and Legal Costs

Interest and legal cost waivers fall under two categories which are:

- Administrative waivers
  - Waiver on compassionate grounds
1. Waiver for Administrative Reason/Error - Ratepayers may have interest and / or legal costs waived in the event of an administrative issue, error or omissions which caused or significantly contributed to the failure to pay rates in a timely manner.
  2. Waiver on Compassionate Grounds - Ratepayers may have interest and / or legal costs waived where they have demonstrated compassionate grounds for a payment being late.

The Rate Collector, Finance Manager, Director Corporate and Community Services and the Chief Executive Officer shall have discretionary power to waive interest and / or legal costs for Administrative Reason / Error. The financial limits being:-

	Interest	Legal Costs
Rate Collector	\$250	\$1,000
Finance Manager	\$500	\$5,000
Corporate and Community Services Director	\$1,000	\$10,000
Chief Executive Officer	>\$1,000	>\$10,000

Requests for interest rate waivers on compassionate grounds will be considered under the parameters of Sections 1 and 2 above 'Deferring Rates and Charges'.

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## 5 Consideration of applications for deferrals and or waiver of interest and legal costs

The Rate Collector will prepare a report for the Finance Manager on each application for deferring rates and / or waiving Interest and / or waiving legal costs (administrative waivers excepted).

The report will take into consideration and make recommendations to the Finance Manager as follows:-

- a) Whether the applicant is eligible
- b) Whether the applicant is suffering short term hardship, that is, hardship is likely to be a period of less than 12 months; or
- c) Whether the applicant is suffering chronic hardship, that is, financial hardship for an indefinite period; and
- d) A recommended repayment schedule and / or interest waiver

The Finance Manager will advise the applicant of the decision.

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## 6 Rate Deferral Agreements (Change of Ownership)

Where a property ownership changes on any assessment with a rate deferral agreement in place, all rates and charges must be fully paid at the point of this change. Rate deferral agreements are not transferable.



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## 7 Rate Payment Arrangements

Any ratepayer who does not qualify for either a rate deferral and / or interest waiver arrangement may still apply to pay outstanding rates by way of a payment arrangement. This is detailed in Council's Debt Recovery on Unpaid Rates and Charges Policy. Payment arrangements will attract penalty interest rates on outstanding balances but allow ratepayers the required time to make payments without any legal action being taken by Council to recover rates and charges.

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## 8 Confidentiality

Any information provided in accordance with this Policy will be treated as strictly confidential.

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