



RATES AND CHARGES HARDSHIP MANAGEMENT POLICY

Corporate Document

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Purpose

To fulfil the statutory requirements of the *Local Government Act, 1993* (the Act) with respect to the provision of assistance to those ratepayers who are experiencing genuine financial hardship with the payment of their Rates and Charges.

To establish a framework for staff when dealing with ratepayers suffering genuine financial hardship with the payment of their Rates and Charges.

Objectives

The objectives of this policy are to:

- ensure a consistent approach to Mosman Council's management of requests for financial assistance to ratepayers relating to payment of rates and charges.
- be empathetic to ratepayers that can demonstrate genuine financial hardship
- to provide eligible ratepayers with the option to aggregate property values used for rating purposes to address financial hardship in accordance with specified criteria to reduce their total liability for rates

Scope

This Policy applies to:

1. Mosman eligible ratepayers who:
 - Are designated pensioners
 - Are persons experiencing genuine financial hardship
 - Own property which meets specified criteria enabling the aggregation of values
2. Council staff that have delegated authority to action applications for concessions and to recover outstanding debts

Definitions

- **Rates and charges** – all balances listed on a rates and charges notice or legal notice
- **Financial Hardship** – demonstrable personal circumstances that indicate an inability to pay as a result of circumstances beyond an individual's control
- **Interest** – a charge raised in relation to unpaid rates and charges in accordance with s566 of the *Local Government Act 1993*
- **Pensioner** – person solely liable, or a person jointly liable with one or more other persons, for a rate or charge levied on land (that is their principal or sole place of residence) who is in receipt of a pension, benefit or allowance under the *Social Security Act 1991* or the *Veterans' Entitlement Act 1986* who hold a pensioner concession card
- **Deferment** – the deferral of payment of the rates and charges for no more than 15 years from the original year of levy

Background

Council acknowledges that ratepayers will, for various reasons from time to time, fail to pay their debts when they become due and payable to Council. It is not the intention to cause undue hardship to any external stakeholder through Council's recovery procedures and consideration will be given to acceptable arrangements to clear the debt prior to the end of the current financial year, where possible.

The General Manager has the delegated authority to:

- approve or reject payment arrangement plans from any customer after receiving a written request
- proceed with legal action to recover outstanding rates and charges where an arrangement plan has defaulted or if the ratepayer has failed and/or neglected to pay one or more instalments or a suitable attempt has not been made to clear the outstanding balance within a time specified as reasonable by Council
- assess applications due to hardship and payment arrangement plans from any customer after receiving a formal application for hardship assistance

The State Government and Council recognises that eligible pensioners have a reduced capacity to pay their rates and that there are cases of genuine financial hardship requiring respect and compassion in special circumstances. This policy establishes guidelines for the assessment of a Pensioner Rate rebates and hardship applications applying the principles of fairness, integrity, confidentiality and compliance within statutory requirements. It applies to all applications for alternative payment arrangements relating to outstanding rates and charges.

Hardship Assistance - Pensioner Rate Rebates

Pensioners who meet the eligibility criteria are entitled each year to a rebate on their General Rate to a maximum amount as determined by the NSW Minister for Local Government.

There are two types of pensioners who are eligible for a rate rebate which are as follows:

- a) Eligible Pensioners for the purpose of determining pensioner concessions in accordance with Section 575 of the *Local Government Act 1993* and Section 134 of the *Local Government (General) Regulation 2005* are:
 - i) Persons who receive a pension, benefit or allowance under Chapter 2 of the *Social Security Act, 1991* or a Service Pension under Part III of the *Veterans' Entitlement Act, 1986* and who are holders of a pensioner concession card issued by or on behalf of the Commonwealth Government
 - ii) Persons who receive a pension from the Department of Veterans' Affairs as:
 - (a) the widow or widower of the Australian Defence or Peacekeeping Forces: or
 - (b) the unmarried mother of a deceased unmarried member of either of those Forces, and who do not have income and assets that would prevent them from being granted a pensioner concession card.
 - iii) Persons who receive a special rate of pension under Section 24 of the *Veterans' Entitlement Act 1986*, and who occupies that dwelling as his/her sole or principal place of living.

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- b) Veteran's Affairs pensioners may also be eligible and may apply if they are under 60 years of age (including war widows of any age) that do not have a pensioner concession card :
- i) for a rebate on the grounds of financial hardship
 - ii) for a special Mosman Council "Australia Remembers" Rebate of \$125.00 per annum

Backdating of Pensioner Rebate Claims

Council will grant retrospective pensioner rate rebates for up to two years prior to the current year of issue, subject to the presentation of substantiating documentation, being:

- i) A pensioner concession card showing the date of the granting of the concession, or a letter from Social Security or Veterans' Affairs stating the date of the pension grant
- ii) Proof of residential qualification during the applicable period at the residence for which the rate rebate is being claimed.

Pro Rata Pension Rate Rebate

A person who becomes an eligible pensioner after the day on which a rate or charge is made and levied, is entitled to a reduction under Section 575 of the Act, of the rate or charge proportionate to the number of full quarters remaining after the day on which the person becomes an eligible pensioner in the year for which the rate or charge is made.

The same, or the reverse may apply where an eligible pensioner sells or purchases a property within the Council area.

Hardship Assistance - Deferment of Rate Payments

Section 564 of the Act provides that Council may accept payment of rates and charges due and payable by a person in accordance with an agreement made with the person and may write off or reduce interest accrued on rates or charges if the person complies with the agreement.

Section 712 of the Act provides that proceedings for recovery of a rate or charge may be commenced at any time within 20 years from the date when the rate or charge became due and payable. Council however does have discretion to accrue rates, charges and applicable interest against a pensioner's estate subject to an agreement with the pensioner ratepayer.

Where an eligible pensioner requests a delay in recovery action to allow outstanding rates, charges, and interest to accrue against their estate, and is willing to enter into an agreement, Council will:

- Provide the eligible applicant pensioner ratepayer with a copy of the Hardship Rate Relief Application Form (refer Appendix 1) that will require the disclosure of relevant financial information. The ratepayer must complete the application and it be approved by Council in order to prevent the commencement of recovery proceedings. In addition to the completion of the form by the ratepayers, Council may require a letter from a recognised financial counsellor or financial planner confirming financial hardship
- Subject to the approval of the application provide a letter of confirmation each financial year to ensure the ongoing agreement between the ratepayer(s) and the Council as well as the provision of the annual rates notice detailing all outstanding rates, charges, and interest. Rate instalment reminders will also be sent in accordance with legislative requirements.
- Not commence recovery action until there is a change in ownership of the property, either or both ratepayers leave the property (except where the pensioner is in a care facility on a

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temporary basis being less than 12 months) or either or both become ineligible for a pensioner rates concession. Should any of these events occur, rates and charges will immediately become due and payable

However, given the constraints as set out in section 712 of the Act, Council will require from the commencement of this Policy all new approved applicants to commence the payment of overdue rates and charges, at such time that their total debt to Council does not exceed 15 years

Should the pensioner be unable to adhere to the above, Council may commence recovery proceedings for any debt more than 15 years

The following conditions will apply to any approval by Mosman Council to defer payment of rates and charges by a eligible pensioner ratepayer:

- Interest on overdue rates continues to accrue and the interest rate may vary from year to year in accordance with the Minister for Local Government's determination
- A new Hardship Rate Relief Application Form to be completed by the pensioner ratepayer and assessed every three years to ascertain worthiness to retain the concession
- An eligible pensioner ratepayer must notify Council if the pensioner no longer uses it as his/her principal place of living or rents it out. Notification must be provided by the pensioner within 30 days of vacating the premises
- All new approvals for deferment of rates and charges under this policy will be conditioned so that no more than 15 years will be deferred. Prior to the commencement of the 15th year of accumulated rates, periodic instalments are to be made to ensure that no more than 15 years remain outstanding at any one time. Council Officers will contact the ratepayer to arrange a satisfactory payment arrangement
- Approved applicant(s) agree that all rates and interest charges will accrue against the estate and are to be paid in full upon finalisation of the estate
- If the owner ceases to be an eligible pensioner at any time the rates and charges are required to be paid in full
- The current domestic waste service charge and the Emergency Services Levy applicable from 1 July 2017 are not permitted to accumulate and must be paid annually by the due date for the first installment.
- In special circumstances as determined by the General Manager the application can be referred to Council for direction and upon the accumulated rates reaching 15 years overdue.

Hardship Assistance - Aggregation of Land Values for the issuing of Rates: - Section 548A of the Local Government Act 1993

Council will apply the provisions of Section 548A of the *Local Government Act 1993* to approve the aggregation of land values of parcels of rateable land if it is of the opinion that the levying of a minimum rate or a rate containing a base amount would apply unfairly, and could cause hardship to a ratepayer who owns two or more separate parcels of land which are rateable. In these circumstances it may aggregate the land values of such parcels as it determines and levy the rate on the aggregated land values.

The aggregation can only apply if the separate parcels of land have the same category or subcategory of the same ordinary rate, or the same special rate and there is not a separate residential dwelling on each parcel. An example is where separate values exist for a residential strata unit and a car space/garage lot or a storage lot which have separate titles and are owned by the same person.

Debt Recovery Standards

Council has a responsibility to recover monies owing to it in a timely, efficient and effective manner to finance its operations and ensure effective financial management.

Council aims to ensure effective control over debts owed to Council, including overdue rates, charges and interest and to establish debt management procedures for the efficient collection of receivables and the recovery of outstanding debts including deferment and alternative payment arrangements.

The other key principles that will apply to the collection of overdue rates and charges are as follows:

- a) Council's aim is to collect all rates and charges by the end of each financial year
- b) A fair and reasonable approach to recovery will apply
- c) Council will individually assess cases of financial hardship
- d) Council will not reduce rates or charges, but will consider alternative approaches to dealing with cases of financial hardship
- e) Council will consider periodical payment arrangements in cases of hardship or extenuating circumstances

Council will manage any debt recovery in accordance with its Debt Recovery Management Policy.

Related Information/Glossary

- *NSW Local Government Act 1993*
- Local Government (General) Regulation 2005
- *Social Security Act 1991*
- *Veterans' Entitlement Act 1986*
- *Privacy and Personal Information Protection Act 1998*
- *Government Information (Public Access) Act 2009*
- *Health Records and Information Privacy Act 2002*
- Mosman Council's Privacy Management Plan 2011
- *Civil Procedures Act 2005*
- *Corporations Act 2001*
- Office of Local Government – Council Rating and Revenue Raising Manual
- Debt Recovery Management Policy

Review

This policy will be reviewed every four years unless otherwise directed by the Executive Team.

Contact

Enquiries should be directed to the Chief Financial Officer on 9978 4011.

Amendments

Date	Amendment	Reference