

# Council Policy

## Financial Hardship Policy for Ratepayers



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D20/27488[v2]

### 1. Title

Financial Hardship Policy for Ratepayers

### 2. Purpose

Council recognises that certain ratepayers in the community may have difficulty in meeting their commitments regarding the payment of rates and/or charges.

This Financial Hardship Policy for Ratepayers outlines how the City will assist ratepayers experiencing financial hardship.

The purpose of this policy is to:

- 2.1 enable a ratepayer liable for rates and service charges, who is experiencing financial hardship or in situations of vulnerability, to make application for assistance relating to any unpaid rates or service charges levied on their property under the *Local Government Act 1995*;
- 2.2 ensure all ratepayers are treated fairly and consistently with respect and compassion when the City is considering their circumstances in recognising financial hardship and vulnerability;
- 2.3 provide financial relief to Council debtors who claim genuine hardship in meeting their obligation to pay their Rates and/or Charges and prescribes the procedures to be followed in providing financial assistance to these ratepayers.
- 2.4 provide a decision making framework for the appropriate assessment of hardship applications.

### 3. Scope

This policy is applicable to all ratepayers within the City of Kwinana.

- 3.1 used as a reference by all employees of the City of Kwinana who interact with ratepayers with outstanding rates and service charges experiencing financial hardship or in situations of vulnerability as prescribed in the definition contained.
- 3.2 a guide used for external stakeholders when assisting customers in financial hardship e.g. financial counsellors.

### 4. Definitions

#### Rates Debtor

A rates debtor is defined as a ratepayer of the City of Kwinana. Must be owner or part owner of the property and be liable for payment of rates.

#### Small Business

A small business has the same meaning as under the *Small Business Development*

*Corporation Act 1983*: a business undertaking which is wholly owned and operated by an individual person or by individual persons in partnership or by a proprietary company within the meaning of the *Corporations Act 2001* of the Commonwealth and which:

- a. has a relatively small share of the market in which it competes;
- b. is managed personally by the owner or owners or directors, as the case requires; and
- c. is not a subsidiary of, or does not form part of, a larger business or enterprise and

### **Financial Hardship**

A ratepayer will be considered to be in financial hardship if paying their rates account will affect their ability to meet their basic living needs, for themselves, family or other dependents. The ratepayer has the intention but not the financial capacity to pay.

### **Financial Hardship Payment Arrangement**

An agreement made with a ratepayer who is willing and has the intention to pay, but is unable to meet their repayments or existing financial obligations due to serious and/or exceptional hardship or vulnerability.

### **Recognised Financial Counselling Service**

Agencies that provide free and independent financial counselling and advocacy services to people in financial difficulty. They are generally community-based non-government organisations funded by government or community sector organisations, such as welfare organisations (ASIC definition).

### **Financial Counsellors' Association of WA (FCAWA)**

FCAWA is a recognised service that can refer applicants to a financial counsellor in their area, or alternatively they can refer the applicant to their Financial Counselling Helpline.

## **5. Policy Statement**

The City recognises that ratepayers may, at times, suffer from financial stress, and experience difficulty in paying their debts owed to the City. The City is committed to working with ratepayers to find an appropriate payment solution, for rates and service charges, where they are in Financial Hardship.

## **6. Identifying Ratepayers in Financial Hardship**

A ratepayer is encouraged to contact the City as soon as possible if they think they are experiencing financial hardship whether it be temporary or ongoing. Alternatively, the ratepayer's financial counsellor may contact the City directly on their behalf with authorisation.

A ratepayer must provide convincing and tangible evidence of genuine financial hardship to satisfy the City. The ratepayer need not be in arrears to apply for financial hardship support.

The ratepayer can only apply for Financial Hardship in relation to rates and charges levied:

- on their principal place of residence (owner and occupier); or

- on their small business (owner and operator with full-time occupation of the premises within the City of Kwinana)

that the applicant is responsible for the payment of.

The City will exercise due diligence in assessing and identifying genuine hardship based on circumstances that vary in each ratepayer's situation.

## **7. Applying For Financial Hardship**

To progress a ratepayer's application for financial hardship, the ratepayer is required to submit a Financial Hardship Application. The CEO is to develop and maintain an application form based on clause 8.1 Ratepayers Consideration.

## **8. Review & Assessment Process**

A ratepayer's application will be reviewed within ten (10) business days and if it meets the policy's criteria will proceed to the assessment stage. An application may be referred back to the ratepayer or the ratepayer's financial counsellor for further information or discussion.

An application will be assessed by applying the principles of fairness, integrity and confidentiality, whilst complying with statutory requirements. The delegated officer will exercise due diligence in assessing and identifying genuine hardship based on circumstances that vary in each ratepayer's situation.

### **8.1 Ratepayers Consideration**

In addition to financial hardship, the following will be considered in assessing an application for a concession under this policy:

- size of debt and span of time over which the debt has accumulated;
- freehold ownership or mortgaged;
- sole residence;
- advertised for lease and/or sale;
- profile and history of the ratepayer such as; pensioner status, any previous communications, demonstration of historical genuine efforts to pay; and history of default and/or non-responsiveness.

## **9. Application Approval**

The ratepayer's application will be referred to the delegated officer for final approval and signoff. The delegated officer can waive or write off monies owed to a maximum amount of \$250 per calendar year, or to the limit of the delegation, whichever is the lower.

The following concessions may be applied on a case-by-case basis:

- a) acceptance of temporarily reduced repayments;
- b) a moratorium on interest charges for up to 6 months, after such

time as agreed, enter into a payment arrangement for a maximum of three (3) years, provided the current year's rates are paid each year within arrangement;

- c) waiving of administration fees;
- d) write off up to \$250 per calendar year of interest accrued during that financial year;
- e) suspension of any pending court actions in relation to debt recovery.

#### **10. Non Compliance to Payment Plan**

If a ratepayer does not comply with their payment arrangement and fails to contact the City to renegotiate the terms, the City will make all reasonable attempts to contact the ratepayer.

If the ratepayer misses three consecutive payments and fails to contact the City, the City reserves the right to cancel the payment arrangement for noncompliance. If an arrangement has been cancelled, penalty interest will recommence and the relevant cancellation fee will be applied (as per the Fees and Charges Schedule).

The City is not obligated to offer a Hardship Payment Arrangement if the ratepayer has had three (3) Payment Arrangements cancelled because of non-payment or declined payments.

#### **11. Debt Collection**

The City will suspend debt recovery processes whilst negotiating a suitable payment arrangement with a ratepayer.

The City will not commence any legal proceedings whilst the ratepayer's financial application is being reviewed and assessed. The City will not commence any legal proceedings to recover a debt where the ratepayer is complying with their payment plan.

#### **12. Legal Proceedings**

If legal proceedings have been commenced, and the ratepayer lodges a financial hardship application, these proceedings will be temporarily suspended whilst the ratepayer's application for hardship is reviewed and assessed. If the ratepayer is successful with their application, no further legal action will be taken whilst the ratepayer is complying with their payment arrangement.

The City reserves the right to recommence the legal proceedings if the ratepayer's payment arrangement is cancelled for noncompliance. The City will make all reasonable attempts to contact the ratepayer to advise them of the next course of action.

#### **13. Right to Appeal**

A ratepayer dissatisfied with the outcome of their application has the right to appeal to the Chief Executive Officer.

**14. Deferment of Rates and Charges**

Under the *Rates and Charges (Rebates and Deferments) Act 1992*, eligible and registered pensioners may be able to defer payment of the rates and Emergency Service Levy charges (note that the Emergency Services Levy is a State Government charge). An applicant should register an entitlement with the City as soon as they become eligible for a rebate or deferment.

**15. Legal Costs and Recovery Action**

All legal costs and expenses incurred in recovering outstanding rates and charges will be charged against the property in accordance with section 6.56(1) of *the Local Government Act 1995*.

When collecting a debt, the City will comply with Part 2 of the Australian Competition and Consumer Commission (ACCC) and Australian Securities and Investments Commission (ASIC) Debt collection guidelines for collectors and creditors.

**16. Complaints Handling**

The City is committed to solving issues as quickly as possible. If a ratepayer has a complaint, please contact the Rates Team on (08) 9439 0200 or email [rates@kwinana.wa.gov.au](mailto:rates@kwinana.wa.gov.au).

If the ratepayer is not satisfied with the way the City has handled their complaint, the ratepayer may refer their complaint to the Ombudsman. The Ombudsman will investigate their complaint and may mediate the dispute between the ratepayer and the City.

The Ombudsman's contact details are:  
PO Box Z5386 St Georges Terrace, Perth WA 6831  
Phone: (08) 9220 7555 Free Call: 1800 117 000  
TIS (Translating and Interpreting Service) 131 450  
TTY (National Relay Service) 133 677  
Email: [mail@ombudsman.wa.gov.au](mailto:mail@ombudsman.wa.gov.au)  
Website: [http://www.ombudsman.wa.gov.au/Complaints/Making\\_complaints.htm](http://www.ombudsman.wa.gov.au/Complaints/Making_complaints.htm)

**17. Financial Counselling**

The City will advise a ratepayer of any financial counselling services or other organisation that may be available to them.

**18. Additional Information**

Schedule of Fees and Charges  
Rates Debt Recovery Policy - [City of Kwinana Debt Collection Policy](#)

**19. Financial/Budget Implications**

Waiving of administration fees, suspension of interest and accrued interest charges up to \$250 per calendar year removed from ratepayer's accounts on a case by case basis. Loss of interest on monies owed. Unpaid rates impact the City's cashflow, reducing the funds available for the City to meet its financial obligations.

**20. Asset Management Implications**

There are no specific asset management implications associated with this Policy.

**21. Environmental Implications**

There are no specific environmental implications associated with this Policy.

**22. Strategic/Social Implications**

Implementation of this policy will assist ratepayers by addressing overdue rates through the early intervention approach, without resorting to court recovery processes, minimises legal and court costs to individual ratepayers.

**23. Occupational Safety and Health Implications**

There are no specific OSH implications associated with this Policy.

**24. Risk Assessment**

Potential risk of ratepayer noncompliance to financial hardship arrangement.

**25. References**

Name of Policy	Financial Hardship Policy for Ratepayers
Date of Adoption and resolution No	
Review dates and resolution No #	
New review date	
Legal Authority	<i>Local Government Act 1995</i>
Directorate	City Business
Department	Finance - Rates Department
Related documents	<i>Acts/Regulations</i> <i>Local Government Act 1995</i> – Sections 6.12, 6.13, 6.45, 6.51, 6.56, 6.60, and 6.64.  <i>Local Government (Financial Management) Regulations 1996.</i>  <i>Rates and Charges (Rebates and Deferments) Act 1992</i>  ACCC and ASIC guidelines for debt collection.  Delegation 2.8 Write off, grant a concession, or authorise a waiver for monies owing.

<i>Plans/Strategies</i>		
<b>Plan</b>	<b>Objective</b>	<b>Strategy</b>
Corporate Business Plan	Business Performance	5.4 Ensure the financial sustainability of the City of Kwinana into the future
<i>Policies</i>		
Debt Collection Policy (D17/36155[v2])		
<i>Work Instructions</i>		
Monitoring of Arrangement		
Debt Collection Procedures		
Financial Hardship Regulations		