

OFFICIAL

Strathbogie
Shire Council
Rates Payment and
Collection
Policy and Procedures

July 2024



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Rates Payment and Collection Policy and Procedure

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PART 1 POLICY

1. PURPOSE

The purpose of this policy is to enable Strathbogie Shire Council to advise and assist on:

1. The payment of rates and charges, including the State Revenue Office's Fire Services Property Levy;
2. Entering into payment plans;
3. Applications for financial hardship;
4. Applications to defer payment of rates and charges;
5. Applications to have rates and charges waived;
6. Understanding the levying of penalty interest on outstanding rates and charges; and
7. Recognising Council's debt recovery process.

2. APPLICATION OF THIS POLICY

This policy applies to all ratepayers in relation to the collection of rates and charges levied by Council including the Fire Services Property Levy.

The policy allows Council to ensure that monies owed are recovered in a manner acceptable to Council and that Council deals appropriately with any person/organisation experiencing financial hardship. Hardship can arise in numerous ways. Having the means available to temporarily assist community members to allow them time to overcome their hardship, in a sensible and sensitive way, is appropriate.

This policy does not apply to waivers which may be granted under Acts other than the Local Government Act 1989 (or Local Government Legislative Amendment (Rating and Other Matters Act 2022)). This includes the Cultural and Recreational Lands Act 1963.

3. ACCOUNTABILITY AND RESPONSIBILITIES

Council's Rates and Revenue Coordinator is to maintain the currency of this policy and its administration. Several processes are subject to oversight by either the Chief Financial Officer or Director of People and Governance.

| Role | Responsibilities |
|--------------------------------------|--|
| Rates and Revenue Coordinator (RRC) | <ul style="list-style-type: none"> • Ensuring the policy remains current and formally updated • Administration of the policy • Presentation of policy updates to CFO/DPG. |
| Chief Financial Officer (CFO) | <ul style="list-style-type: none"> • Review of policy and approval for any changes made by RRC |
| Director People and Governance (DPG) | <ul style="list-style-type: none"> • Presentation of policy change to Council for approval • Upon approval, advise RRC to proceed with changes required |

4. PRIVACY CONSIDERATIONS

Applications for consideration of financial hardship will be treated as strictly confidential in accordance with Council's Privacy Directive.

Strathbogie Shire Council and its officers will treat all information provided by ratepayers and others under this Policy with the utmost confidentiality, as per the *Privacy and Data Protection Act 2014 (Vic)*, which protects the personal information of individuals who provide their information to Victorian Government departments including local Councils.

5. DEFINITIONS

| Term | Meaning |
|--------------|--|
| Waiver | No rates to be levied |
| Deferral | Suspension of payment for a specified period |
| Council | Strathbogie Shire Council |
| Payment plan | Agreement to a payment of money at regular intervals outside the levied instalment due dates |
| DPG | Director People and Governance |
| CFO | Chief Financial Officer |
| RRC | Rates and Revenue Coordinator |
| FC | Finance Coordinator |

6. RELATED POLICIES AND LEGISLATION

The following Council, State, regional and national plans, and policies are relevant to this policy under each subtitle.

- *Local Government Act 1989*
- *Local Government Act 2020*
- *Local Government Legislative Amendment (Rating and Other Matters) Act 2022*
- *Penalty Interest Rate Act 1983*
- *Fire Services Property Levy Act 2012*
- *Civil Procedures Act 2010*
- *Privacy and Data Protection Act 2014 (Vic)*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Equal Opportunity Act 2010*
- Council's Authorisations and Financial Delegations

In particular *the Local Government Act 1989* (the Act) provides legislated payment options to facilitate the payment of rates and charges. The *Local Government Legislation Amendment (Rating and Other Matters) Act 2022* has inserted some additional provisions into the 1989 Act which are relevant to Council's Hardship Policy.

| Action | Relevant Section of Victorian Local Government Act 1989 |
|---|--|
| Deferring rates and/or charges | 170 Deferred payments |
| Waiving rates and/or charges | 171 Waiver |
| Financial Hardship | 171A Waiver by application—financial hardship |
| Payment plans for rates and/or charges | 171B Payment plans for unpaid rates or charges |
| Interest charged on rates and/or charges | 172 Council may charge interest on unpaid rates and charges |
| Interest charged on rates and/or charges | 172A Maximum rate of interest charged on unpaid rates and charges |
| Recovery of rates and/or charges | 180A Council must not commence proceeding for recovery of unpaid debt in certain circumstances |
| Meaning of 'Hardship' | 181AA Ministerial guidelines relating to payment of rates and charges |
| Selling and/or acquiring land to recover rates and/or charges | 181 Council may sell land to recover unpaid rates or charges |
| Lodgement of Caveat | 156 Liability to pay rates and charges |

7. POLICY REVIEW

Council may review this policy at any time. However, at minimum, will be reviewed every two years from the date of adoption.

Minor amendments to the policy may be authorised by the Chief Executive Officer at any time where such changes do not alter the substance of the policy (e.g., a change to the name of a related document, or a change in legislation).

Should there be a change due to State or Federal government requirements, then this should be authorised by the CEO or Council as required.

8. CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES ACT 2006 AND THE EQUAL OPPORTUNITY ACT 2010

The Council acknowledges the legal responsibility to comply with the *Charter of Human Rights and Responsibilities Act 2006* and the *Equal Opportunity Act 2010*. The *Charter of Human Rights and Responsibilities Act 2006* is designed to protect the fundamental rights and freedoms of citizens. The Charter gives legal protection to twenty fundamental human rights under four key values that include freedom, respect, equality, and dignity.

PART 2 PROCEDURES

9. PAYMENT OF RATES AND CHARGES INCLUDING FIRE SERVICES PROPERTY LEVY

Owners, or their nominated ratepayers, are responsible for the payment of property rates on properties owned within the Council area. Council, each year, issues a copy of the annual rate notice which shows the details of the property and the rates and charges applicable to that property as set in the Council budget, along with legislated costs associated with the Fire Services Property Levy. Rebates are also indicated where applicable covering Pension Concession, Trust for Nature, and Single Farm Enterprise application.

Sections 167(1) and (2) of the Act provides that a Council must allow a person to pay a rate or charge in four instalments. To avoid interest charges on rates and charges, instalments must be paid on or before the due dates in each financial year, set by the Minister and declared in the Government Gazette. They are as follows:

Payment Due Dates

| | |
|-------------------|----------------|
| First instalment | 30 September |
| Second instalment | 30 November |
| Third instalment | 28/29 February |
| Fourth instalment | 31 May |

If any of the above dates fall on a non-business day, the payment date is moved to the next business day.

A person who gives any information to Council which is false or misleading in any material, particularly in respect of a request for a payment plan, deferment or waiving of interest or other hardship application, or who fails to notify Council of any change in circumstances which is relevant to an application, is guilty of an offence. Failure to divulge change will deem all arrangements cancelled and may result in debt recovery action.

The Chief Financial Officer will report to Council, on an annual basis, statistics pertaining to debt outstanding, interest written off and any further actions around this policy.

10. PAYMENT PLANS

Should a ratepayer experience difficulty in meeting payments by the due dates of the four instalments, in any rateable year, they can request consideration for a payment plan outside of these four instalment due dates. Ratepayers may find it easier to pay per week, fortnight or month.

The ratepayer can request, in writing, consideration of the payment plan which will be assessed based on the total amount of rates, charges and interest outstanding at the time of application. The delegation of authority is below.

| Total Outstanding Value | Delegation |
|---------------------------|--------------------------------|
| Less than \$1,000 | Rates and Revenue Coordinator |
| \$1,001 - \$2,000 | Chief Finance Officer |
| \$2,001 - \$10,000 | Director People and Governance |
| \$10,001 and over | Chief Executive Officer |

Council will be flexible regarding the type of payment plan entered into, in order to best suit the ratepayer’s circumstances. As a minimum, plans of twelve months or more must cover the annual rates, charges and any interest applied to arrears. Interest on arrears will not accrue on or after the date a plan is entered into. Interest will accrue on arrears if any amounts of rates and charges have not been paid by the date/s specified in the payment plan.

Ratepayers who are unable to make the minimum repayments agreed in the payment plan should be assessed under the financial hardship provisions.

The initial review for a ratepayer to enter into a payment plan sits with the Rates and Revenue Coordinator. Ratepayers will be advised a schedule of payments due for all outstanding rates and charges to be paid by 30 June (end of financial year). If the proposed payment plan will not see amounts owing being cleared, the relevant delegate must approve an alternate payment amount.

These arrangements can be made at any time during the recovery process, but are subject to the following conditions:

- All payment plans must be agreed to in writing between Council and the ratepayer.
- Council may determine the duration of plan, the amount and frequency of instalments and any other terms relevant to the payment plan which will see the finalisation of the debt.
- Approval of a payment plan is effective for twelve months from the date of approval.
- Council may cancel a payment plan at any time if the ratepayer is not complying with the terms of the plan.
- If a payment plan is cancelled, the amount owing becomes due immediately and may result in debt recovery action.

Payments towards a plan can be made by the ratepayer using the payment methods on their rate notice. Centrelink recipients, who are granted approval for a plan, are requested to make their payments via CentrePay.

11. DEFERRAL OF RATES AND CHARGES

A deferral suspends the requirement to pay for a specified period and may be provided in whole or in part, subject to conditions set by Council. To receive a deferral, a person must demonstrate payment of rates and charges would cause further hardship.

Conditions For Deferral

Ratepayers may have rates and service charges, or part thereof, deferred subject to compliance with the following conditions:

- The ratepayer must be experiencing financial hardship.
- The ratepayer must request a review for eligibility of financial hardship.
- The ratepayer must meet with an independent financial consultant.

Assessment of financial hardship will be a subjective assessment, having regard to the applicant's income, expenses, and obligations.

If a deferral is approved, the property will be flagged as a rates deferment property and no debt recovery action will be taken for the agreed term of the application, or annually, whichever comes first. A letter will be sent to the ratepayer seeking confirmation the hardship still exists, in accordance with the timeframe recommended by the independent financial consultant.

An indefinite deferral may result in rates and charges not being recovered until the sale of the property, or when the property is transferred and/or sold upon the death of the ratepayer. An indefinite deferral must have approval from the Director People and Governance, or as per the Delegation of Authority (whichever is higher).

A deferral will be deemed withdrawn based on any of the following conditions:

- The ratepayer advises the hardship conditions no longer exists.
- Periodic confirmation of ongoing hardship is not received within 30 days of the date of request.
- The ratepayer no longer owns or occupies the property.
- The ratepayer has defaulted on any agreement with Council regarding the deferral.

Determination on applications for deferral of rates and charges will be in accordance with the table of delegations below:

| Total Outstanding Value | Delegation |
|---------------------------|--------------------------------|
| Less than \$1,000 | Rates and Revenue Coordinator |
| \$1,001 - \$2,000 | Chief Finance Officer |
| \$2,001 - \$10,000 | Director People and Governance |
| \$10,001 and over | Chief Executive Officer |

12. WAIVER OF RATES AND CHARGES

The ratepayer may request in writing to have interest waived. A waiver removes the liability to pay and may be offered to include all or part of any interest, subject to conditions set by Council.

Conditions for Waiver

For the purposes of this policy, a waiver will only be considered for interest.

Ratepayers may have interest waived subject to compliance with the conditions for deferral and the following additional conditions:

- The property for which the interest waiver is being considered must be used exclusively for residential purposes and must be the ratepayer's principal place of residence in accordance with Section 171(b) of the *Local Government Act 1989*.
- Subject to approval by the Chief Financial Officer or relevant delegation of authority.

Whilst Council may decide if a property can have rate levies and charges waived, Council still needs to recover from the ratepayer the Fire Services Property Levy applicable to the property and owed to the State Revenue Office by each ratepayer.

If a waiver of interest is approved, the property will be flagged as an interest waiver property and interest will be waived for the term of the agreement, or annually, whichever is the lesser. A letter will be sent to the ratepayer seeking confirmation that the hardship still exists, in accordance with the timeframe recommended by the independent financial consultant.

A waiver will cease to apply based on any of the following conditions:

- The ratepayer advises the hardship conditions no longer exist.
- Periodic confirmation of ongoing hardship is not received within thirty days of the date of request.
- The ratepayer no longer owns or occupies the property.

Delegations for approval of waivers are shown below:

| Total Outstanding Value | Delegation |
|---------------------------|--------------------------------|
| Less than \$1,000 | Rates and Revenue Coordinator |
| \$1,001 - \$2,000 | Chief Finance Officer |
| \$2,001 - \$10,000 | Director People and Governance |
| \$10,001 and over | Chief Executive Officer |

13. **HARDSHIP APPLICATION PROCESS**

There will be times when a ratepayer is unable to undertake a payment plan due to financial hardship. Those who are not able to consider a payment plan will be encouraged to apply for consideration of financial hardship which could result in the deferment of payment or the waiving of interest. Being a recipient of Government assistance is not enough grounds for claiming financial hardship.

An applicant is required to provide their personal information on the approved "Rates and Charges Financial Hardship Application" form and have met with a financial counsellor who confirms to Council the ratepayer's current financial situation, in relation to the hardship application. The application is valid for twelve months and should be re-applied for if the hardship extends beyond twelve months.

Guidelines

Applications for consideration of financial hardship will be treated as strictly confidential in accordance with Council's Privacy Policy.

A ratepayer will be required to provide their personal information to the independent financial consultant using the "Rates and Charges Financial Hardship Application" form. Information provided to the financial consultant will not necessarily be passed onto Council by that consultant.

A written recommendation as to the ratepayer's eligibility for consideration will be passed on to Council by that financial consultant.

The financial consultant must provide Council with a written report of their recommendations.

The report must include:

- Whether the applicant is eligible.
- Whether the applicant is suffering short-term hardship, i.e., hardship likely to be for a period of less than twelve months; or
- Whether the applicant is suffering chronic hardship, i.e., financial hardship for an indefinite period, or longer than twelve months.
- A recommended repayment schedule.
- A time frame for review.

Council's Revenue Coordinator will review the report and, for any short-term financial hardship applicant, implement deferral of payment.

All recommendations for a waiver of interest will be referred for approval to the relevant officer, in line with the delegations table above.

Payments received are allocated in the following sequence as legislated: legal costs, interest charges, arrears then current rates and charges.

Council has the authority to withdraw any agreement at its discretion.

14. PENALTY INTEREST

Interest will be charged on overdue rates and charges, with the maximum applicable rate of interest being set annually by the Minister for Local Government and published in the Government Gazette.

Interest will be applied on and from the due date if the payment due remains unpaid. Interest continues to be payable until the payment or recovery of the rates and/or charges.

This process also applies to approved payment plans as well as deferred payments.

Interest will be calculated for each calendar month, within five working days of the new month, for the month past. Recovery of interest due will be undertaken in the same way as Council may recover any other rates and charges.

A ratepayer may apply to Council to have all or part of any interest to be generally or specifically waived.

Applications must be in writing for consideration by delegation of authority as outlined in the table above.

If a waiver of interest is approved, it is the responsibility of the ratepayer to annually submit further applications to confirm the hardship still exists, in accordance with the timeframe determined at the time the interest waiver was granted.

Note: Council has the authority to withdraw any agreement at its discretion and within legislation.

15. COUNCIL'S DEBT RECOVERY PROCESS

Having been sent rate notices, instalment notices, payments reminders, via Australia Post or email, and should a debt of Council property rates exceed two years by a ratepayer, the file will be provided to Council's appointed debt recovery agency to proceed with legal collection.

Where a rate or charge has been deferred, Council must not commence proceedings unless a notice has been sent and the ratepayer has failed to make payment.

Council must not commence proceedings for any unpaid rate or charge subject to a payment plan, unless it has been at least twenty-four months since the payment plan was cancelled.

Where there is no formal annual payment plan or where there has been a default in a payment plan and where no approved financial hardship application exists, the following will occur:

Payment reminder notices will be issued to ratepayers who have more than \$50.00 rates outstanding, requesting payment within fourteen days. Ratepayers who fail to respond to the payment reminder (by making payment in full or requesting a suitable payment plan) could be referred to Council's debt collection agency for a letter demanding payment within twenty-one days, giving due regard to the age of their debt as above.

Once a debt has been placed in the hands of Council's debt collection agency, all negotiations with the ratepayer are to be handled by that agency. Copies of rate notices can be provided directly but should be recorded in the debt collector file for information. Any communication with a ratepayer listed with the debt collection agency must be noted in Council files and the debt collector's online portal for future information.

Solicitor's Letter of Demand

Ratepayers who fail to respond to the payment reminder (by making payment in full or requesting a suitable payment plan) will be referred to Council's debt collection agency for a letter demanding payment within twenty-one days. These letters will generally only be issued on those ratepayers who have an amount outstanding of \$3,000.00 or more and owing for a period beyond two years, with legal costs to be incurred by the ratepayer.

Summons / Complaint

Failure to respond to the solicitor's letter of demand will result in legal proceedings including a Summons (Complaint) to be issued to those ratepayers who have an amount outstanding of \$3,000.00 or more, as the costs of legal action are significant and are charged to the ratepayer. This amount will be reviewed annually considering applicable court and legal fees pursuant to the Magistrates Court civil procedure rules 2010 - scale of costs.

Once the debt collection agency and their solicitors have prepared and lodged a Summons/Complaint with the Court for issue, the associated legal costs become chargeable. The Summons/Complaint is then served on the ratepayer who must, within twenty-one days from the date of service:

- Pay the claim in full plus costs; or
- Request a suitable payment plan; or
- Lodge a completed Notice of Defence with the Court (thereby giving notice of their intention to dispute the claim).

If, at the expiration of the twenty-one days, the ratepayer has failed to carry out any of the above, an application will be made to the Court for an order against the ratepayer for the amount of the debt plus costs. Once an order has been made, the following execution of proceedings to recover the debt will be considered, depending on the history of the ratepayer:

- Summons for Oral Examination (ratepayer is interviewed by the Clerk of Courts regarding their financial situation and intentions in relation to repaying the debt).
- Letter to mortgagee (a Court order is not necessary, but this action would normally only be taken after a ratepayer has failed to respond to an order being obtained).
- Rent demand (on the tenant of a rented property).
- Warrant to seize goods (some goods are not able to be seized, like necessary household goods, tools of trade and low valued motor vehicles).
- Garnishee of wages.
- Centrepay/Centrelink payment.

16. CAVEAT

In addition to the debt recovery procedures above, under Section 156 of the Act, unpaid rates, charges and/or interest (along with any costs awarded to Council by a Court or in any proceedings), constitute a first charge on the land.

In certain circumstances and at the sole discretion of Council, Council may lodge a caveat over a ratepayer's property, to record its charge onto the title of the property.

If a caveat is lodged by Council, it will not be withdrawn until all rates, charges and interest (and Court awarded costs if applicable), are paid to Council, or as otherwise agreed between the parties.

Council will notify a ratepayer if a caveat has been lodged, in accordance with this section.

17. SALE OF PROPERTY

In addition to the debt recovery procedures above, under Section 181 of the Act, Council has the power to sell land or cause land to be transferred to Council to recover unpaid rates and charges.

The Director People and Governance must approve any process involving a property being considered for potential sale under Section 181. Before any land is sold or transferred, it must be approved by the Chief Executive Officer and brought to the attention of Council.

Section 181 recovery action may apply if there are rates and charges (including enforcement/legal costs and interest) which are more than three years overdue, and no current payment plan exists.

Council must have a Court Order requiring payment of the amount (or part of the amount).