

## 1. Policy statement

In accordance with the *Local Government Act 1989*, Council levies Rates and Charges on rateable land to provide for services to the community. Frankston City Council recognises there are cases of genuine financial hardship requiring respect and compassion in particular circumstances.

This policy also establishes the guidelines for assessment of hardship applications based on the principles of fairness, integrity, confidentiality and compliance with statutory requirements. It applies to all applications for waiving or suspending interest and/or other charges, but not to waiving the whole or part of any, rate or service charge imposed annually.

## 2. Reason for Policy

The purpose of this Policy is to provide Council with a policy framework to provide relief to individuals who need financial assistance.

When assessing any application, due consideration must be given to Council's overall revenue requirements and services provided. While all ratepayers receive the direct benefit provided through the payment of rates and charges, it is important that Council has a mechanism to consider the needs of ratepayers who are suffering financial hardship.

Sections 170 and 171 of the *Local Government Act 1989* set out the circumstances in which a Council may consider an application for deferment or waiver of rates, charges and penalty interest.

This Policy must be read in conjunction with these sections, and does not take precedence over them.

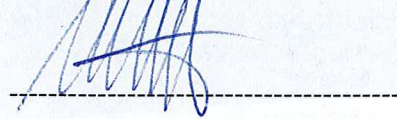
It is envisaged that the financial cost to Council will be minor.

## 3. Scope

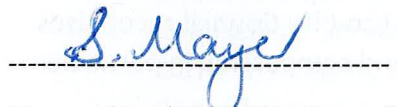
Upon adoption, this policy will apply to Council and Council staff.

## 4. Authorisation

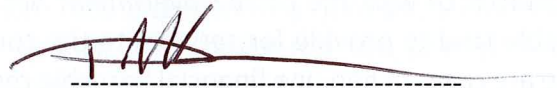
This Policy is managed by the **Finance and Corporate Planning** Department, and is approved by Frankston City's Mayor and Council's Chief Executive Officer (CEO):



Acting Manager Financial & Corporate Planning



Mayor, Frankston City Council



CEO, Frankston City Council

In accordance with Frankston City Council resolution at its Ordinary Council meeting of 29 June 2020.

## 5. Revision date

This Policy will be reviewed and presented to Council no later than June 2023 or earlier as deemed necessary by Council, and therefore once within each subsequent Council term.

## 6. Principles

Council is committed to ensuring that due consideration is given to persons who are in genuine need of financial assistance in addressing the payment of their rates and charges.

### 6.1 Definition of Financial Hardship

Financial hardship is a situation where a property owner due to unforeseen circumstances is unable, because of illness, unemployment or other reasonable cause, to discharge their financial obligations.

Financial hardship involves an inability of the property owner to meet their financial commitments and obligations, rather than an unwillingness to do so.

Financial hardship can arise from a variety of situations. Common causes of hardship may include, but not limited to:

- Loss of employment of the property owner or family member;
- Family breakdown;
- Illness, including physical incapacity, hospitalisation, or mental illness of the property owner or family member;
- A death in the family; or
- Other factors resulting in unforeseen change in the property owner's capacity to meet their payment obligations, whether through a reduction in income or through an increase in non-discretionary expenditure.

## **6.2 Identifying Financial Hardship**

Judgement is required by Council when deeming whether a property owner is experiencing genuine financial hardship rather than simply seeking to defer payment.

In support of an application for financial hardship assistance, Council requires:

- That all property owners as noted on the Property Title must consult with a recognised Financial Counsellor, who will provide to Council a letter of support confirming that a situation of hardship exists, together with an Income Statement and Statement of Position. The inclusion of a third party Financial Counselling Service ensures that Council has considered the principles of fairness, integrity and confidentiality and
- Council may also request other documentation such as a statutory declaration from a person familiar with the property owner's circumstances (family doctor, bank officer, etc.).

## **6.3 Financial Considerations – Waiving of rates or charges**

The waiver of rates or charges is governed by Section 171 of the *Local Government Act 1989*. (Applications for residential investment properties will not be considered.)

## **6.4 Waiver of Rates**

Frankston City Council does not waive any rate and or service charges. This ensures that payment assistance offered to one ratepayer does not have a redistribution effect on Council's rate base.

## **6.5 Waiver of Interest and Other Charges**

Interest waivers fall under two categories:

### **6.5.1 Waiver due to Administrative Error**

Ratepayers may have the penalty interest waived in the event of an administrative error which resulted in or significantly contributed to the ratepayer's failure to pay rates in a timely manner.

### **6.5.2 Waiver on Hardship/Compassionate Grounds**

Ratepayers may have penalty interest waived where they have demonstrated compassionate grounds for a payment being late. All interest waiver requests must be in writing.

## 7. Financial considerations – Interest free periods and deferrals:

The deferral of rates or charges is governed by Section 170 of the *Local Government Act 1989*. (Applications for residential investment properties will not be considered)

Council considers that there are three types of financial difficulty:

1. Late payment assistance;
2. Financial hardship; and
3. Prolonged and permanent state of financial difficulty.

### 7.1 Late Payment Assistance – Arrangement to Pay

#### **Missed or Delayed Payment (Short Term)**

A ratepayer who is unlikely to have their rates paid in full by the statutory due date may apply for a verbal extension to the payment due date, where the payment extension will exceed 30 days or two or more instalments then a formal payment arrangement is required.

Where a formal payment arrangement is required, Frankston Council has an Arrangement to Pay Application form in place. The property owner(s) are required to complete this form as part of their agreement with Council.

All payment arrangements will attract penalty interest on unpaid instalments but do allow property owners the required time to make payments with Council deferring any possible debt recovery action.

All payment arrangements expire at the end of each financial year and a new application is required.

#### **Scheduled Payment Arrangement (Long Term)**

A ratepayer who is unlikely to have their rates paid in full by the statutory due date due to short term financial difficulties and require an extension of time and smaller regular payment amounts.

Where a formal arrangement to pay is required, Frankston Council has an Arrangement to Pay Application form in place. The property owner(s) are required to complete this form as part of their agreement with Council.

The purpose of this offering is to allow property owners an alternative option to pay their rates and charges, if they are experiencing difficulties in meeting legislated timeframes.

Payment arrangements will attract penalty interest on unpaid instalments but do allow property owners the required time to make payments with Council deferring any possible debt recovery action.

All payment arrangements expire at the end of each financial year and a new application is required.

## **7.2 Financial Hardship (Residential Owner Occupied Properties)**

Financial Hardship is generally different to when a ratepayer has simply missed a payment as per 7.1 of this document and needs temporary relief.

A ratepayer in Financial Hardship can reasonably be expected to recover their financial position if appropriate assistance or arrangements are provided. Once evidence is received by Council of the ratepayer having consulted with a Financial Counsellor as per section 6.2 of this document, an interest free period may be extended in situations where the payment of rates and charges may prove difficult for the property owner. The interest free period will be assessed on a case by case basis to a maximum of twenty four months.

The property owner must enter into a formal arrangement to pay with Council and comply with such an agreement. The interest free period will only apply while the payment plan is adhered to. Penalty interest may be reapplied should the agreement not be honoured.

## **7.3 Deferring Rates, Charges and Interest (Residential Owner Occupied Properties)**

Prolonged and permanent state of financial difficulty (Residential Owner Occupied Properties)

Council recognise that some ratepayers do experience a permanent change in their financial situation and are unlikely to recover their financial position and be able to discharge their financial obligations. However, this only occurs in a small number of cases.

In such cases, after an initial period of Hardship Support as per section 7.2 of this document Council may consider deferring rates and charges and interest.

Deferred Rates, Charges and Interest is a postponement of payment in whole or in part, can be for a specified period and is subject to any conditions determined by Council. When rates are deferred, payment is not required until Council send the property owner a notice requiring payment, there is a change in the owner's ability to pay, the property is sold or there is a change of ownership. During the period of Deferred Rates Charges and Interest, ongoing rates, charges and interest will continue to be levied and will remain an outstanding charge against the property until paid in full.

Frankston Council has a Deferment of Rates, Charges and Interest form in place. Upon the submission of an application, property owners may have the payment of rates, charges and penalty interest, or parts thereof, deferred, subject to compliance with the following conditions:

- The ratepayer is a pensioner and is eligible to claim a pensioner rate rebate; or
- The ratepayer is able to evidence financial hardship as per section 6 of this document.

An application needs to be submitted to Council's Revenue Recovery Officer by the property owner or the property owner's representative providing evidence of such circumstances referred to in a) or b) above.



In all applications for Deferred Rates, Charges and Interest the property owner will be required to enter into a payment arrangement to make regular payments towards their rates in an amount that is equal to the annual rates or an amount that is affordable given the individual circumstances.

Once deferral is approved, penalty interest will continue to accrue, throughout the rates and charges deferral period. The penalty interest rate is currently levied at 50% of the prescribed Penalty Interest rate, is calculated as at 30 June each year and applied to the current year's rates.

### **7.3.1 Withdrawal of Deferred Rates, Charges and Interest**

Rate deferral agreements are not transferable.

Deferred rate, charges and interest will be withdrawn in situations where:

- The ratepayer's circumstances have changed and payment would no longer cause hardship;
- The applicant no longer owns or occupies the land. Where property ownership changes on any assessment with a rate deferral agreement in place, all rates, charges and interest must be fully paid;
- The applicant has defaulted in meeting any agreements with Council in regards to the deferment; or
- Confirmation every two years of ongoing hardship is not received within 30 days of Council's request for reassessment.

### **7.4 Rate Deferral Arrangement – Industrial and Commercial Properties**

This Policy also provides for an application to be considered from a person liable to pay the rates and charges from a commercial and industrial property.

Any application will be considered on an individual basis against the following criteria:

- Evidence from the applicant that financial hardship is being experienced as per section 6 of this Policy;
- A commitment from the applicant to an agreed timeframe in which the deferred rates will be paid; and
- Documented evidence that the applicant is liable for the payment of the rates and charges (e.g. lease agreement).

Rate deferral agreements will be for a maximum of one financial year, with applicants having a maximum of one further financial year in which to fully repay all rates deferred. Rates will continue to accrue and will remain a charge against the property.

In the case of an occupier being liable for the payment of the rates and charges, an application may be made by an owner on behalf of the occupier. Any unpaid rates and charges remain a charge against the property with the owner of the property liable to pay any arrears outstanding. No rate deferral agreement will be entered into without the express consent of the property owner.

## 8. State of Emergency/Pandemic/Extraordinary Circumstances

In the event of a declared State of Emergency/disaster/pandemic/extraordinary circumstances, the following section(s) may come into effect and replace the equivalent section(s) within the Rates and Charges Hardship Policy, for the period determined by Council:

### 8.1 Identifying Financial Hardship

In support of an application for financial hardship assistance, Council requires:

- That all property owners as noted on the Property Title must provide to Council a letter confirming that a situation of hardship exists for all property owners;
- The property owner(s) to provide a copy of a Centrelink issued concession card, or interim letter issued;
- All applications to be determined using the rate records as of the date of declaration, or where a Notice of Acquisition issued by a conveyancer or solicitor has been received by Council, since that date;
- An application for hardship to be submitted using the application form made available on Council's website along with the required documentary evidence;
- Ratepayers can access a free financial counselling service by calling 1800 007 007 or by visiting the National Debt Helpline website at [www.ndh.org.au](http://www.ndh.org.au); and
- An applicant may at Council's discretion be referred to a financial counsellor for a capacity to pay assessment. Interest provisions as outlined in section 8.3 will apply.

### 8.2 Rate Relief

Council may determine, by a resolution of Council, to:

- Place on hold the raising of penalty interest on overdue rates payments for a period of time;
- Provide a rate waiver for a class or classes of property or ratepayer;
- Provide flexible Arrangement to Pay options;
- Provide a deferral of rates for a period of time on a case by case basis where hardship can be substantiated, as per section 8.1; and
- Withhold all new legal action on outstanding accounts, where legal costs are/would be incurred by the ratepayer for a period of time, as per section 8.6.

### 8.3 Waiver of Interest and Other Charges

Council may determine, by a resolution of Council, to:

- Place on hold the raising of penalty interest on overdue rates payments for a period of time; and

- At the conclusion of this period, review the circumstances in existence and make a determination if there is to be further period of holding penalty interest.

#### **8.4 Late Payment Assistance – Arrangement to Pay**

A ratepayer who is unlikely to have their instalment amount paid in full by the statutory due date may be granted an extension of 30 days, and the interest provisions as detailed in section 8.3 will apply.

Where the payment extension will exceed 30 days or two or more instalments then a formal payment arrangement is required.

Ratepayers are encouraged to pay an amount that is more aligned to their household budget by making regular payment on a weekly, fortnightly or monthly basis. With the aim to minimise secondary financial stress once the emergency/pandemic/extraordinary circumstance has been resolved.

Interest provisions as detailed in section 8.3 will apply.

All payment arrangements expire on 30 June each financial year, and where required a new arrangement may be entered into.

It is expected that ratepayer's who cannot make payment in full will enter into a payment arrangement.

Council will continue to raise and issue annual rate notices, quarterly instalment reminder notices and accounts receivable invoices and statements as per statutory requirements.

#### **8.5 Deferring Rates, Charges and Interest**

Where a ratepayer can provide evidence that they do not have the capacity to make any contribution towards their outstanding rates and charges as per section 8.4, then a period of deferral may be considered on a case by case basis.

An application for deferral must be submitted using the application form available on Council's website along with the required documentary evidence. Interest provisions as detailed in section 8.3 will apply.

Ratepayers are encouraged to seek financial counselling by contacting the National Debt Helpline on 1800 007 007 or by visiting their website at [www.ndh.org.au](http://www.ndh.org.au).

An applicant may at Council's discretion be referred to a financial counsellor for a capacity to pay assessment. Interest provisions as outlined in section 8.3 will apply.

All deferrals expire on 30 June each financial year, and where required a new deferral may be entered into.

Council will continue to raise and issue annual rate notices, quarterly instalment reminder notices and accounts receivable invoices and statements as per statutory requirements.



## **8.6 Debt Collection**

Council will place all new and existing debt recovery action where legal costs would be/are incurred by the ratepayer on hold, for a period of time as determined by Council.

Legal action already commenced or in the court system prior to the state of emergency/pandemic/extraordinary circumstances being declared and all associated costs incurred will stand. Proceedings continue as per the court system timelines and processes.

Council will continue to raise and issue annual rate notices, quarterly instalment reminder notices and accounts receivable invoices and statements as per statutory requirements.

Council will attempt to make reasonable contact with ratepayers about their overdue accounts using various means of communication such as but not limited to, overdue reminder notices, email, text messages, account statements or telephone calls.

Council will issue reminder notices for those ratepayers who have not made any payments or entered into a payment arrangement as per section 8.4 or had their rate and charges deferred as per section 8.5 above.

Ratepayers will be encouraged to seek financial counselling and assistance through the National Debt Helpline on 1800 007 007 or through their website at [www.ndh.org.au](http://www.ndh.org.au), alternatively, through The Good Shepherd which is a local service provider.

Debt recovery for the payment of fines is excluded under this policy and will continue as per the normal process.

## **9. Delegated authority to defer rates and charges or waive interest and/or charges**

All applications for waiver of interest and/or other charges will be assessed by the Revenue Recovery Officer and approved by the Coordinator Revenue in accordance with Frankston City Council's internal policy and procedures.

Applications for rate deferral for residents will be assessed by the Revenue Recovery Officer and approved by the Coordinator Revenue.

Applications for rate deferral for Commercial and Industrial ratepayers will be assessed by Revenue Recovery Officer and approved by the Coordinator Revenue.

## 10. Roles and responsibilities

Responsibility for this Policy rests with the Chief Financial Officer.

Property Owners applying for relief from rates and charges and interest are required to provide evidence in support of their application.

All information provided in accordance with this Policy is to be treated as strictly confidential.

## 11. Policy non-compliance

Failure to comply with this Policy has the potential to expose Council to financial loss.

## 12. Related Documents

Related documents

Long Term Financial Plan

Local Government Act 1989 (Section 170 & 171)

## 13. Implementation of the Policy

This Policy (in conjunction with other Related Documents) will be implemented immediately upon its adoption by Council. An appropriate communication to staff on this Policy will be rolled out once adopted.

## 14. 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 notice requiring payment.

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

“**Compassionate Grounds**” – Is a severe or unforeseen situation/circumstance that caused the property owner to miss the statutory payment due date. Such as, but not limited to:

- the death of the property owner or immediate family member
- Loss of income
- Significant increase in medical costs