



Financial Hardship Policy

DRAFT

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1. PURPOSE

This is the Hardship Policy of Golden Plains Shire Council (Council), made in accordance with the *Local Government Act 1989*.

1.1 This policy aims to establish and implement a consistent approach to the collection of fees and charges acknowledging financial hardship and avenues to assist the community, with key objectives to:

- ensure all debts owed to Council are paid, where possible, by the due date and followed up within specified timeframes;
- ensure a fair, equitable and accountable approach to Council's debt management and collection decisions and practices;
- provide transparency to ratepayers, Councillors, and staff as to Council's debt collection protocols and framework;
- assist ratepayers to meet their obligations, rather than redistributing the impact of rate arrears to other ratepayers;
- ensure Council's debt collection is sensitive and responsive to financial hardship issues;
- provide assistance to ratepayers experiencing financial hardship; and
- provide guidelines for council staff and its contractors to manage ratepayer financial hardship effectively and consistently.

2. SCOPE

2.1 This Policy will provide a framework to Council, in accordance with the *Local Government Act 1989*, outlining possible granting of a relief to those suffering financial hardship.

2.2 This Policy will aim to:

- Establish principles to apply to the collection of property rate accounts when financial hardship has been identified;
- Identify the type of assistance that may be offered by Council; and
- Apply the principles to other debts owed to Council.

2.3 This Policy applies to all property owners of the Golden Plains Shire who have been identified as having the intention to pay, but who do not have the financial capacity to make the required payments.

3. POLICY STATEMENT

Background

3.1 Local councils provide a wide range of important services to their communities, often for a fee or charge.

3.2 The *Local Government Act 2020* and the *Local Government Act 1989* give councils the power to set these fees and charges to offset the cost of their services. A widely accepted public sector pricing principle is that fees and charges should be set at a level that recovers the full cost of providing the services, unless there is an overriding policy in favour of subsidisation.

- 3.3 Council must apply principles of sound financial management and consider a range of 'Best Value' principles including service cost and quality standards, value-for-money, community expectations and values, as well as balance the affordability and accessibility of services.
- 3.4 Council may declare the following rates and charges on rateable land in accordance with the *Local Government Act 1989*:
 S 158 – Declaring rates and charges
 S 159 – Municipal Charge
 S161 – Differential rates
 S 162 – Service rate and service charge
 S 163 – Special rate and special charge
 S 169(1) allows Council to grant rate rebates and concessions.
- 3.5 Council recognises that some ratepayers and individuals may from time-to-time experience either temporary or permanent financial difficulty and will follow best practice arrangements for the collection and recovery of rates and charges, including offering flexible payment arrangements when identified and when required.
- 3.6 **Identifying financial hardship**
 Council recognises that not all circumstances are alike, and that financial hardship may arise from a range of individual circumstances, including but not limited to, the following situations:
- Unemployment
 - Incapacity through sickness or injury
 - Family breakdown or domestic violence
 - Diminished, low or loss of income

Financial Hardship Assessment guidelines

Criteria used to determine an individual's eligibility is assessed on a case-by-case basis and is based on documented evidence and a meaningful two-way conversation. All evidence is considered when assessing the level of financial hardship and offering an appropriate level of financial assistance.

Not Financial Hardship

Council frequently enters short term payment arrangements with ratepayers, they are generally not considered as 'financial hardship assistance' but could indicate a precursor to financial hardship. In these circumstances, Council would monitor progress towards clearing the debt within the specified time. If the debt is not cleared, further assistance may be considered. Interest continues to accrue on arrears after due dates.

- 3.7 **Principles for the consideration of hardship**
 The following key principles underpin Council's consideration of hardship matters.

3.7.1 Customer Rights

Each property owner has the right to:

- be treated sensitively and have their circumstances kept confidential by Council;
- receive information about payment arrangements and the Financial Hardship Policy;

- either nominate themselves or have their financial counselling representative nominate a payment arrangement;
- redirect the account to another person for payment provided that person agrees in writing;
- renegotiate the amount of their arrangement if there is a change in their personal circumstances;
- choose from various payment methods in accordance with their circumstances and financial ability;
- receive written confirmation of the agreed alternative payment arrangement; and
- receive a language interpreter service if required.

3.7.2 Transparency and Accessibility

Council will work with the property owner and/or their advocate with clear communication and make available our Financial Hardship Policy. The policy is also available on request and via the Council website.

3.7.3 Respect and Engagement

The operating protocols that are established under the Financial Hardship Policy define how all Council officers interact with customers to provide assistance in a respectful manner.

It is recognised that property owners may have a range of pressures and at times this may limit their ability to engage in open dialogue regarding their personal circumstances. Council approach these discussions recognising it requiring sensitivity and compassion on our part.

3.7.4 Continual Improvement

The Financial Hardship Policy and associated procedures are reviewed regularly to ensure they remain appropriate and adequately meet our customer needs.

3.7.5 Confidentiality

Council treats applications for consideration of financial hardship as strictly confidential in accordance with Council's Privacy Policy, including the use of property numbers in reports to Council or Council Committees. The name of the ratepayer shall only be disclosed in reports with the consent of that ratepayer.

3.8 Support Available

The Financial & Consumer Rights Council of Victoria (FCRC) is the peak body and professional association for financial counsellors in Victoria. The FCRC can help affected persons find a financial counsellor – please visit www.fcrc.org.au for more information.

The National Debt Helpline is a not-for-profit service that helps people in Australia tackle their debt problems. This is a Government service providing free, confidential counselling for people experiencing financial difficulty. Visit www.ndh.org.au or call 1800 007 007 for more information.

3.9 Application for financial hardship

Customers may apply for the following, pursuant to sections 170 and 171A of the *Local Government Act 1989*:

- Deferral of rates and charges
- Waiver of interest and legal charges invoiced to date
- Waiver of rates and charges

Customers are required to submit a confidential “Financial Hardship Application Form” for their eligibility to be assessed – refer appendix 1.

3.10 **Deferral of Rates and Charges**

Council offers deferral of residential rates and special charges under section 170 of the *Local Government Act 1989*, where it can be shown that the ratepayer is experiencing undue and unavoidable hardship, subject to the following conditions:

- Must be the applicant’s sole or primary place of residence (i.e. owner/occupier).
- A confidential Financial Hardship Application form must be submitted by the property owner as evidence of financial hardship and supported by sufficient documentation. This may include details of assets owned, income received and living expenses, as well as any other information considered relevant by the applicant. Council or Council officers may request additional information from applicants to support requests.
- The acceptance by the ratepayer that interest will accrue on the deferred rates and charges at the prescribed penalty interest rate (section 2, *Penalty Interest Rates Act 1983*).

Removal of Deferral

Rate deferment will generally be withdrawn for one of the following reasons:

- The person’s circumstances have changed, and payment would no longer cause hardship;
- The person no longer owns or occupies the property; or
- The person has defaulted in any agreement associated.

3.11 **Waiving of Penalty Interest**

Unless otherwise specified in this policy, interest will be charged on overdue rates and charges in accordance with section 120 of the *Local Government Act 1989*, including that the interest is calculated at the rate fixed under section 2 of the *Penalty Interest Rates Act 1983*. In certain circumstances Council has discretion to waive penalty interest or other charges under section 171A of the *Local Government Act 1989*.

Interest waivers fall under one of the following categories:

Waiver for Administrative Reason/Error

Ratepayers may have interest only waived in the event of an administrative issue, error or omission which caused or significantly contributed to the failure to pay rates in a timely manner.

Waiver on Compassionate Grounds

Ratepayers may have interest only waived where they have demonstrated compassionate grounds for a payment being late. Compassionate grounds include:

- Serious illness
- Recent accident or injury
- Death of immediate family member
- Recent loss of employment
- Family break-down or domestic violence

Waiver of interest due to Financial Hardship

Ratepayers experiencing financial hardship may apply to have interest or part thereof waived subject to compliance with the following conditions:

- A ratepayer is experiencing undue or unavoidable financial hardship.
- A ratepayer is on a payment arrangement with no default over a period of 12 months.

Non-receipt of a rate notice, travelling overseas, forgetfulness, failure to contact Council prior to the due date to advise of financial difficulty, a failure to advise of a change of residential or mailing address, or previous payment arrangements not being maintained are not relevant circumstances for a waiver of penalty interest.

3.12 **Waiving Rates**

Consideration of a waiver under this section will only be considered after an initial deferment of rates has been granted. Section 171 of the *Local Government Act 1989* allows Council to waive the whole or part of any Rates or Interest in relation to an eligible recipient or any other class of persons as determined by Council.

Council does not offer the waiving of rates but instead offers the option to defer rates and charges and offers a number of payment options to assist the payment of rates and charges.

3.13 **Exceptional circumstances**

Council's preference is to not waive rates or charges on the basis it is considered inequitable for most ratepayers to subsidise the property assets of hardship applicants. A more equitable solution for the entire community is to defer rates and charges.

3.14 **Payment Plan**

Except for the most exceptional circumstances, Council will not waive any rates but rather will encourage the person to enter a payment plan.

Any ratepayer who is suffering financial difficulty but does not qualify for either a waiver or deferral may still be granted a mutually agreed payment plan to pay outstanding rates and charges, subject to the following conditions:

- The ratepayer must be able to demonstrate they are experiencing financial hardship;
- The acceptance by the ratepayer that interest will be levied at the rate set by the Penalty Interest Rates Act 1983, until the account is paid in full; and

Any default in the plan may end the plan and result in the commencement of legal proceedings which may incur costs associated with the collection of the debt.

3.15 **Appeal process**

An objection to a decision made by Council officers relating to financial hardship should be addressed to the Director Corporate Services for consideration.

3.16 **External avenues of complaint**

Victorian Ombudsman

If you are dissatisfied with a decision made by Council you may apply to the Victorian Ombudsman for a review at <https://www.ombudsman.vic.gov.au/complaints/>

4. **PROCEDURES**

- 4.1 Collection of Overdue Rates and Charges Procedure
- 4.2 Collection of Sundry Debtor Revenue Internal Procedure

5. RESPONSIBILITIES

Compliance, monitoring and review

- 5.1 The policy owner is responsible for ensuring the policy:
 - aligns with relevant legislation, government policy and Council's requirements/strategies/values;
 - is implemented and monitored (i.e. the policy is followed, reflects the changing policy environment, and emerging issues are identified); and
 - is reviewed to evaluate its continuing effectiveness.

Reporting

- 5.2 The policy owner is responsible for reporting where required by the policy.

Records Management

- 5.3 Council must maintain all records relevant to administering this policy in accordance with the Public Records Act 1973.

6. DEFINITIONS OF TERMS OR ABBREVIATIONS USED

Term	Definition
<i>Act</i>	<i>Local Government Act 1989 and Local Government Act 2020</i>
<i>Applicant</i>	A body or individual that commences an application with Council or is eligible to be considered under Council's Hardship Policy
<i>Exceptional Circumstances</i>	an individual or body suffering a significant disadvantage that is verifiable and unforeseen circumstances outside their control that has contributed to their financial circumstances or bankruptcy
<i>Financial Hardship</i>	can take the form of a person or body suffering financial loss which can be brought on and not limited to by unemployment, sickness, family breakdown, death of spouse, lower income, or other significant disadvantaging of life
<i>Deferral</i>	the suspension of a payment for a period specified and agreed upon
<i>Waiver</i>	a permanent exemption or removal of the obligation of part or all of the payment due
<i>Council</i>	Golden Plains Shire Council
<i>Councillors</i>	the individuals holding the office of a member of Golden Plains Shire Council
<i>Primary residence</i>	The property which is the applicants main living location.

7. RELATED LEGISLATION AND DOCUMENTS

7.1 Strategic Documents, Policies or Procedures

Complaints Handling Procedure
Collection of Overdue Rates and Charges Procedure
Collection of Sundry Debtor Revenue Internal Procedure
Privacy Policy
Revenue and Rating Plan

Legislation

Charter of Human Rights and Responsibilities Act 2006 (Vic)
Family Violence Protection Act 2008
Information Privacy Act 2004
Local Government Act 1989
Local Government Act 2020
Penalty Interest Act 1983
Public Records Act 1973

8. HUMAN RIGHTS STATEMENT OF COMPATABILITY

8.1 It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights and Responsibilities Act 2006 (Vic)

9. POLICY OWNER

9.1 The Manager Finance is the policy owner.

9.2 The policy owner is the individual who is given the responsibility to review, edit and maintain this policy and associated procedure. The policy owner is also the point of contact for any questions regarding this policy.

10. FEEDBACK

10.1 You may provide feedback about this document by emailing enquiries@gplains.vic.gov.au.

11. DOCUMENT INFORMATION

DOCUMENT TYPE:	Council Policy document
DOCUMENT STATUS:	Not Approved
DOCUMENT OWNER POSITION:	Manager Finance
APPROVED BY:	Council
DATE ADOPTED:	[Insert Date/Month/Year]
VERSION NUMBER:	[Insert version number]
REVIEW DATE:	[Insert review date – this should coincide with the policy review date. Best practice would be no longer than five years between reviews]
DATE RESCINDED:	[Include if relevant]
EVIDENCE OF APPROVAL:	<u>Signed by Chief Executive Officer</u>
FILE LOCATION:	[Include a file location (AltusECM Ref) so that it may be accessed in future and amended - Word and PDF – insert file path] INT[XX/XXXX]
NOTES:	<p>Policy documents are amended from time to time, therefore you should not rely on a printed copy being the current version. Please consult Council’s Policy page on the Golden Plains Shire Council website to ensure that the version you are using is up to date.</p> <p>Available at: [Select one URL below and delete the other]</p> <p>[for Council policy]</p> <p>https://www.goldenplains.vic.gov.au/residents/my-council/about-council/council-policies</p> <p>[for organisational policy]</p> <p>https://intranet.goldenplains.vic.gov.au/the-hub</p>