



Glamorgan Spring Bay Council

Financial Hardship Assistance Model Policy

Version 3

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1 Introduction

1.1 Purpose

The purpose of this policy is to enable Council to provide a consistent approach to assisting community members and commercial operators across the Glamorgan Spring Bay Council, who are suffering financial hardship by providing an appropriate level of relief from Local Government rates.

1.2 Scope

This policy applies to ratepayers experiencing genuine and serious financial hardship and needing assistance to meet both their basic needs and their rate payment obligations to Council. It is not intended to be used to maintain financial positions for those who do not need it and are not genuinely impacted by serious financial hardship.

It also applies to commercial/business ratepayers within the Commercial Land Use Category who are experiencing hardship due to the loss of operating revenue or reduced disposable income.

It is not intended to be used to maintain financial positions for those who do not need it and are not genuinely impacted by serious financial hardship.

This policy applies only to Council rates and charges levied in accordance with Part 9 – Rates and Charges of the *Local Government Act 1993*. This policy does not apply to rates or fees collected on behalf of other authorities in accordance with section 88 of the *Local Government Act 1993*., such as fire service contributions collected pursuant to section 79B of the *Fire Service Act 1973*.

1.3 Principles

This policy will be applied in accordance with the following principles:

- (1) Consistent, equitable and respectful treatment of all residents and ratepayers that is sensitive to their specific circumstances.
- (2) Maintaining Council's ability to provide essential services to our community through appropriately applied rating.
- (3) Assisting ratepayers who are suffering serious financial hardship, so that they may overcome these circumstances and return to financial stability and contributing equitably to local services.
- (4) Ensuring that those able to contribute to local services, continue to do so.
- (5) Minimising the opportunity for misuse, exploitation or fraud by ensuring decisions made to provide special relief or assistance are supported by sufficient evidence.
- (6) Maintaining confidentiality and privacy of applicants and ratepayers, their applications and any information provided.
- (7) One additional principle applies to Commercial Hardship. That is, the principle of proportionality – namely, that any agreed arrangements will take into account both individual and community wide circumstances (such as the COVID-19 pandemic) on commercial ratepayers, with specific regard to their revenue, expenses, and profitability.

1.4 Related Policies and Legislation

This policy relates to and depends on other Council policies, as well as Tasmanian Government legislation, including:

- *Local Government Act 1993*, Part 9 – Rates and Charges¹, particularly:
 - Section 86A – General principles in relation to making or varying rates
 - Sections 125-127 – Postponement of payment
 - Section 128 – Late payments
 - Section 129 – Remission of rates
- *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*²
- *COVID-19 Disease Emergency (Commercial Leases Code) Act 2020*
- Rates and Charges Policy (pursuant to section 86B of the *Local Government Act 1993*).

1.5 Policy Review and Update Cycle

This policy is to be reviewed every four years.

2 Policy

2.1 Genuine Financial Hardship

According to the Australian Taxation Office (ATO)³, individuals are considered to be in serious hardship when they are unable to provide the following for themselves, their family or other dependants:

- (1) Food;
- (2) Accommodation;
- (3) Clothing;
- (4) Medical treatment;
- (5) Education;
- (6) Other basic necessities.

A number of factors can contribute to or trigger serious financial hardship, including:

- (1) Loss of employment of the property owner, family member or household primary income earner;
- (2) Serious illness, including physical incapacity, hospitalization, or mental illness of the property owner or family member;
- (3) A natural disaster;
- (4) A public health emergency or declared state of emergency;
- (5) Family tragedy;
- (6) Family breakdown;
- (7) Financial misfortune;
- (8) Other serious or complicating circumstances.

Community wide issues and circumstances, such as the COVID-19 pandemic, may impact financial hardship, but hardship is always assessed at an individual level, and requires reviewing personal circumstances.

Serious financial hardship involves both low income/cash flow and a low asset base. Personal property portfolios beyond a primary residence [or a business's primary operating space] can be employed to

¹ See: <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1993-095#HP9@HD9@EN>

² See: <https://www.legislation.tas.gov.au/view/whole/html/inforce/current/act-2020-011>

³ See: <https://www.ato.gov.au/General/Financial-difficulties-and-serious-hardship/Individuals-with-serious-hardship/>

improve an applicant's cash flow and financial sustainability. Applications for assistance on residential investment properties will not be considered.

2.2 Evidence of Financial Hardship

Applicants will need to provide evidence of their circumstances of financial hardship to justify Council's special consideration of their case. The type of evidence required will depend on your circumstances and may include, for example, one or more of the following:

- Assessment by an independent accredited financial counsellor demonstrating an inability to both pay rates and to rearrange asset portfolios to facilitate payment;
- A statutory declaration from an appropriate and independent professional, familiar with the applicant's circumstances (e.g. a family doctor for health-related evidence, a bank official, insurance policy manager, etc.);
- Pending disconnection of essential services, like water, electricity, gas (does not include mobile phone or internet bills);
- Notice of impending legal action;
- Letter from charitable organisation regarding loss of employment or inability to provide for basic necessities;
- Bank notice for example, overdraft call or mortgaged property repossession;
- Employer notice of redundancy or termination of employment;
- Overdue medical bills;
- Letter from doctor verifying the inability to earn an income due to illness or caring for a sick family member;
- Final notice from school regarding payment of mandatory fees;
- Funeral expenses;
- Repossession notice of essential items, like a car or motorcycle.
- Details of closure
- Tenant correspondence requesting relief (if applicable);
- Accountant Statement;
- Other documentation demonstrating that your business is experiencing financial hardship.

2.3 Scale of Rates Relief for Community Operators

Council may apply the following to businesses experiencing loss of revenue (compared to the same period in the previous year):

- Between 75-100% - a rates waiver;
- Between 50-75% - a rates deferral, negotiated payment terms and/or waiver of penalty and interest charges;
- Between 30-50% - negotiated payment terms and/or waiver of penalty and interest charges;
- Between 0-30% - would prima facie receive no benefit unless they show individual cause⁴.

The value of any waiver will be capped at 50% of the rates or \$1000 whichever is the lesser amount.

2.4 How Council can Help

The *Local Government Act 1993* provides Council with three methods of rate relief:

- (1) Postponing rate payments (sections 125-127)
- (2) Remission of late payment penalties or interest (section 128)

⁴ Aligned with the JobKeeper Program

(3) Remission of rates (section 129)

Remission of any rates is reserved only for the most serious and exceptional of financial hardship cases. Even in these cases, deferral of rate payments must be applied for and granted first, before an application for rates remission can be considered – see the Hardship Policy for further information.

2.4.1 Postponing Rate Payments – Deferral Arrangements

In confirmed cases of financial hardship, Council may choose deferral of individual rates payments within a defined period, in whole or in part, to be paid back at a later date, subject to any conditions Council determines. The deferral arrangement applies to specified payments and other rate payments are not affected and continue to accrue as normal.

The terms of rate deferral arrangements will be proportionate to the applicant's demonstrated financial hardship circumstances, so supplying sufficient evidence of these circumstances is important for developing the appropriate terms.

Rate payment deferrals approved under this section are typically deferred by 3 months. However, rate deferral arrangements can only defer individual payments up to a maximum of two (2) years and only in the most serious circumstances.

All deferred payments must be repaid as specified in accordance with the deferral arrangement, otherwise regular late payment penalties and/or interest will apply.

Ratepayers who are subject to a deferral arrangement who overcome their financial hardship circumstances are encouraged to begin repaying their deferred rates payments as early as they are able.

Note that Council may revoke any postponement of rates payments at any time, in accordance with section 127 of the *Local Government Act 1993*, by giving 60 days' notice in writing to the ratepayer.

2.4.2 Remitting Late Payment Penalties and Interest

For typical circumstances that are not of financial hardship, rates must be paid by the due date, and Councils may charge a penalty or daily interest or both for each late payment. However, for confirmed cases of financial hardship, Council may waive either the applicable late payment penalties, or the interest accumulated, or both, for a specified period that relates to the period of financial hardship.

2.4.3 Remitting Rates

Remission of any rates, late payment penalties or interest, in part or in full, is reserved only for the most serious and exceptional of financial hardship cases. Even in these cases, deferral of rate payments must be applied for and granted first, before an application for rates remission can be considered.

After the applicant has entered into a deferral arrangement with Council, the applicant may apply for remission of rates. The application must demonstrate:

- (1) Financial hardship;
- (2) Exceptional and serious circumstances;
- (3) How the applicant's exceptional financial hardship circumstances make the maximum term deferral arrangement under section 2.4.1 unfeasible and unreasonable to fulfil; and
- (4) How enforcing fulfilment of the maximum term deferral arrangement would only deepen the seriousness of applicant's financial hardship and critically impact their ability to provide for the basic living necessities (food, accommodation, clothing, medical treatment) of the applicant and dependents.

In the interests of community fairness and equity, wherever possible and appropriate in determining rates remission applications:

- (1) Deferral arrangements are preferable to rates remission;
- (2) Amounts or proportions of rates to be remitted are to be minimised, for example, below \$1000 or 50%; the remainder subject to payment arrangements;
- (3) Instances of rates remission are to be minimised to no more than one rates remission per applicant.

3 Applications

3.1 Applying for Financial Hardship Assistance

To seek financial hardship assistance from Council, an application must be made in writing, addressed to the General Manager, and submitted as follows:

- Emailed to rates@freycinet.tas.gov.au or
- Mailed to PO Box 6, Triabunna TAS 7170.

Should you have any questions or require help to apply for financial assistance, please contact Council's Rates Officer on 6256 4782 or email rates@freycinet.tas.gov.au and the officer will contact you via phone or email as requested.

Applications must:

- Demonstrate and provide evidence for financial hardship and circumstances (see section 2.2 – Evidence of Financial Hardship);
- Describe the type of assistance sought, being:
 - Postponing rate payments (a deferral arrangement);
 - Postponing or waiving late payment penalties or interest;
 - Remitting rates, late payment penalties or interest, in part or in full;
- Address the requirements of the relevant subsections of section 2.4 – How Council can Help

3.2 Assessing Applications

Applications for deferral arrangements must be decided by:

- (1) For amounts less than \$2,500 – the Director of Corporate & Community; or
- (2) For amounts of \$2,500 or greater – the General Manager.

Applications for remission of any rates or late payment penalties or interest charges under \$50 may be approved by the General Manager. Any amounts greater than \$50 must be decided by Council in a closed confidential section of a meeting and requires an absolute majority to be approved (a minimum of 5 elected members must agree to be approved).