



CITY OF HOBART

SUPPORTING INFORMATION

COUNCIL MEETING

OPEN PORTION OF THE MEETING

MONDAY, 22 JUNE 2020

AT 5:00 PM

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City of **HOBART**

MEMORANDUM: COUNCIL

**Amended City of Hobart Financial Hardship Assistance
Policy**

This memorandum refers to item 15 on the open portion of the 22 June 2020 Council Meeting agenda, being the recommendation from Finance and Governance Committee, titled 'COVID-19 Community Support Package – Rates Relief'.

The recommendations from 16 June 2020 Finance and Governance Committee in relation to this item, proposed some amendments to the City of Hobart Financial Hardship Assistance Policy (the Policy), which was first approved by Council at its meeting on 27 April 2020.

Attached is a marked up version of the Policy incorporating the recommendations of the Finance and Governance Committee for reference and consideration by Council – refer **Attachment B**.

RECOMMENDATION

That:

- 1. That the information be received and noted.**

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.

Lara MacDonell
**MANAGER FINANCE AND CITY
PROCUREMENT**

Heather Salisbury
DEPUTY GENERAL MANAGER

Date: 19 June 2020
File Reference: F20/61697

Attachment B: Revised City of Hobart Financial Hardship Assistance Policy
(Supporting information)



City of Hobart

Financial Hardship Assistance Policy

Version ~~2.0~~

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Adopted: ~~XX June 2020~~

Deleted: 27 April 2020

Document Control

| Policy Name | Financial Hardship Assistance Policy |
|---|--|
| First issued/approved | 27 April 2020 |
| Source of approval/authority | Council |
| Last reviewed | 18 June 2020 |
| Next review date | December 2020 and thereafter every 2 years |
| Version number | 2.0 |
| Responsible Officer | Manager Finance and City Procurement |
| Department responsible for policy development | City Governance |
| Strategic Plan reference | Outcomes 2.4 and 8.4 |
| Related policies | <ul style="list-style-type: none"> Local Government Act 1993, Part 9 – Rates and Charges City of Hobart Rates and Charges Policy Council Policy - Collection of Rates Arrears Council Policy - Rate Postponements Council Policy - Rate Remissions – Service Rates and Charges Council Policy - Rates Exemption – Charitable Purposes Council Policy - Rates Remissions |
| Publication of policy | City of Hobart website at: https://www.hobartcity.com.au/Council/About-Council/Council-policies |

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1 Introduction

1.1 Purpose

The purpose of this policy is to enable Council to provide assistance to community members who are suffering financial hardship by providing an appropriate level of relief from Local Government rates.

While this policy can apply to a range of circumstances, it is specifically designed to support the ratepayers of the City of Hobart through the COVID-19 pandemic.

1.2 Scope

1.2.1 Application and Intent

This policy applies to all ratepayers in the Hobart municipal area experiencing genuine and serious financial hardship and needing assistance to meet both their basic needs and their rates 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.

In relation to COVID-19, the scope of this Policy specifically includes the impact on commercial ratepayers acknowledging that the ratepayer for commercial properties is the entity that holds the property. Applications by commercial ratepayers should be as a result of rental impacts from tenancies due to COVID-19 and the COVID-19 Disease Emergency (Commercial Leases) Act 2020 or as a result of the impact of government policy on profitability, such as closing the borders, imposing restrictions or business closures.

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A 'ratepayer' under this policy, is a person who is liable to pay rates on a property in the Hobart municipal area. This is usually the owner of the property but could also be a tenant leasing the property if the lease agreement requires that person to pay council rates.

Owner landlords can apply to the City for rates assistance on behalf of commercial tenants who are experiencing financial hardship on the condition that assistance provided is passed onto the tenants.

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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 1979*.

1.2.2 Background

This policy was developed and implemented during the 2020 COVID-19 coronavirus pandemic that is spreading across the world. To respond to the disease, governments around the world are shutting down social activities and interaction to prevent transmission, which is causing significant impacts on many economic activities and transactions. As a result, many people have lost jobs, their clients or their business, destroying incomes and spending. Council is determined to assist those most critically impacted by the economic slowdown caused by the pandemic with a robust and fair financial hardship policy.

Despite this, serious financial hardship can occur at any time, so this policy is designed to address a range of circumstances.

1.3 Principles

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

- (1) Consistent, equitable, flexible and respectful treatment of all 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) Compliance with relevant legislative requirements.

1.4 City of Hobart Capital City Strategic Plan 2019-2029

This Policy is consistent with the City of Hobart Capital City Strategic Plan 2019-2029, specifically:

Outcome 2.4 Hobart communities are safe and resilient, ensuring people can support one another and flourish in times of hardship.

- Strategy 2.4.2 Support and implement initiatives to build resilience to emergencies, with a focus on those most vulnerable.
- Strategy 2.4.6 Deliver and support initiatives, activities and programs that build community resilience, wellbeing and safety.

Outcome 8.5 Quality services are delivered efficiently, effectively and safely:

- Strategy 8.5.8 Maintain a rating system that supports fairness, capacity to pay and effectiveness.
- Strategy 8.5.9 Monitor and maintain the City's long-term financial sustainability.

1.5 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
- City of Hobart Rates and Charges Policy (pursuant to section 86B of the *Local Government Act 1993*).
- Council Policy - Collection of Rates Arrears
- Council Policy - Rate Postponements
- Council Policy - Rate Remissions – Service Rates and Charges
- Council Policy - Rates Exemption – Charitable Purposes
- Council Policy - Rates Remissions

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>

1.6 Policy Review and Update Cycle

This policy is to be reviewed initially in December 2020 and thereafter, every two years.

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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 or entity level, and requires review of personal circumstances.

In relation to COVID-19 impacts on commercial properties, financial hardship should be as a result of rental impacts from tenancies due to COVID-19 and the COVID-19 Disease Emergency (Commercial Leases) Act 2020 or as a result of the impact of government policy on profitability, such as closing the borders, imposing restrictions or business closures.

The applicant is required to provide clear evidence that the person/entity who owns the property and is the ratepayer has experienced financial hardship.

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▼ 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 may be employed to improve an applicant's cash flow and financial sustainability.

While applications for assistance on residential investment properties will generally not be considered, applications from residential ratepayers in financial hardship as a result of tenants not paying rent as a result of COVID-19 will be considered.▼

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

2.2 How Council can Help

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

- (1) Postponing rates payments (sections 125-127)
- (2) Remission of late payment penalties or interest (section 129)
- (3) Remission of rates (section 129)

It is a requirement that if an owner landlord applies for rates relief on behalf of tenants experiencing financial hardship that assistance granted is passed onto the tenants.

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2.2.1 Postponing Rates Payments – Deferral Arrangements

In confirmed cases of financial hardship, Council may offer deferral of individual rates payments within a defined period, in whole or in part, to be paid back at a later date, subject to the conditions in the Council Policy – Rates Postponements.

Before a rates remission is considered, rate postponements will be considered to assist ratepayers affected by COVID-19 where rent deferrals have been put in place with commercial tenants and not rent discounts.

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.

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 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.

2.2.2 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.

A payment arrangement where smaller amounts are paid over a period of time may be negotiated to assist those in financial hardship.

Council will not charge any late payment penalties or interest for late rate payments during the 2020 COVID-19 state of emergency until 30 June 2020.

2.2.3 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. In relation to COVID-19, remissions will be considered where reductions in revenue and profitability have occurred causing genuine financial hardship that cannot be recaptured by the ratepayer.

An 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 deferral arrangement under section 2.2.1 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.

2.3 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. Applications by commercial ratepayers should reflect rental impacts from tenancies due to COVID-19 and the COVID-19 Disease Emergency (Commercial Leases) Act 2020 or as a result of the impact of government policy on profitability, such as closing the borders, imposing restrictions or business closures. The type of evidence required will depend on individual circumstances and may include, for example, one or more of the following:

- An application in writing detailing the reasons why the ratepayer is unable to pay the rates and charges when they fall due and payable;
- 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 someone who is familiar with the applicant's circumstances (e.g. a family doctor for health-related evidence, a bank official, insurance policy manager, Government agency, etc.);
- Commercial lease agreements;
- Statement from company accountant;
- Details of business closure;
- 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;
- Official eviction notice;
- 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;
- Evidence of qualification for government assistance in response to the COVID-19 pandemic crisis;

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- Evidence of support being provided to tenants if applicable.

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2.4 Evidence Required to Support a Commercial Property Application

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The type of evidence required to support an application from a commercial property / organisation, includes the following. Items marked with an (*) are mandatory and must all be included when applying:

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- (*) An application in writing detailing the reasons why the ratepayer is unable to pay the rates and charges when they fall due and payable, including a statutory declaration that all the information provided is true and correct;

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- (*) Assessment by a suitably qualified financial advisor when the rates remission applied for is above \$4,000, demonstrating an inability to both pay rates and to rearrange asset portfolios to facilitate payment;

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- A statutory declaration from someone who is familiar with the applicant's circumstances (e.g. a family doctor for health-related evidence, a bank official, insurance policy manager, Government agency, etc.);

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- (*) Commercial lease agreements;

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- Statement from company accountant;

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- (*) Details of business closure if applicable;

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- Notice of impending legal action;

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- Bank notice for example, overdraft call or mortgaged property repossession;

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- (*) Evidence of qualification for government assistance in response to the COVID-19 pandemic crisis if applicable;

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- (*) Evidence of support being provided to tenants if applicable;

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- (*) Audited or unaudited financial statements (for the current and previous financial year), including the most recent monthly profit and loss and balance sheet information with comparatives;

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- Cash flow statements with comparatives.

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3 Applications

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3.1 Applying for Financial Hardship Assistance

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Any ratepayer who cannot pay their rates or charges due to genuine financial hardship may apply for assistance at any time; however, ratepayers are encouraged to contact Council to seek assistance as soon as financial hardship is identified.

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In order to seek financial hardship assistance, an application form must be completed. The form is available online at: www.hobartcity.com.au or by calling Council on (03) 6238 2787 or emailing: rates@hobartcity.com.au.

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

- Submitted via online form at: www.hobartcity.com.au;
- Emailed to rates@hobartcity.com.au; or
- Mailed to GPO Box 503, Hobart TAS 7001.

Applications must:

- Demonstrate and provide evidence for financial hardship and circumstances (see section 2.3 – Evidence of Financial Hardship);
- **Include all of the mandatory evidence required to support an application from a commercial property / organisation, if applicable.**
- 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 2.2 – How Council can Help.

3.2 Assessing Applications

Applications for rate postponements must be decided by:

- (1) The Manager Finance and City Procurement and the General Manager.

Applications for remission of penalty and interest charges pertaining to Council rates must be decided by:

- (1) For amounts up to \$500 per application – the Manager Finance and City Procurement.
- (2) For amounts above \$500 per application – the General Manager.

Applications for remission of rates and charges must be decided by:

- (1) For amounts \$4,000 or less per application – the General Manager.
- (2) For amounts above \$4,000 – the Council and requires absolute majority to be approved.

As part of the assessment by Council, it may be necessary for Council Officers to undertake an inspection of the property, particularly if there are multiple tenancies, and / or request further information from the ratepayer to support the application.

The application will be valid for a maximum period of 12 months from the date of approval. The ratepayer will be required to reapply prior to the end of the 12 months to establish whether circumstances have changed.

4 Information and Contacts

For more information on Council rates and charges please contact the City's Rates Unit on:

Tel: 03 – 6238 2787

Email: rates@hobartcity.com.au

Or visit the City's website at: www.hobartcity.com.au/Council/Rates