

Financial Hardship

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DEFINITIONS

“**Financial hardship**” is a situation where a ratepayer is willing but unable to pay the rates on their primary residence. Financial hardship may be due to a number of situations, including (but not limited to) loss of employment or illness of the property owner or family member, family breakdown, a death in the family or other factors resulting in unforeseen change in the property owner’s capacity to meet their payment obligations.

A “**deferment**” 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.

INTRODUCTION

Indigo Shire Council acknowledges that financial hardship can strike anybody at any time. It can occur as a result of an unforeseen event, or due to ongoing low or fixed income. We seek to provide flexible financial arrangements for rate payers experiencing temporary and genuine financial hardship.

REFERENCE TO CURRENT OR PREVIOUS LEGAL /COUNCIL PLAN / POLICY

Council is empowered to defer or waive rates, charges and interest based on the following legislative provisions of the *Local Government Act 1989*:

Section 170 (Deferred Payment)

Section 171 and 171A (Waiver)

The penalty interest rate is fixed by the Attorney-General under Section 2 of the *Penalty Interest Act 1983* and is reviewed annually.

SCOPE

Hardship assistance may be granted to individuals experiencing difficulties in meeting rate payments on their primary residence. Therefore applications for hardship assistance for residential investment, commercial or industrial properties will generally not be granted.

PURPOSE

The purpose of the Financial Hardship Policy is to provide Council with a policy framework to provide financial relief to individuals who need assistance and who are unable to make payments through the standard options provided. The policy also aims to provide ratepayers with a clear and transparent understanding of the options and assistance available if currently experiencing or at the risk of experiencing financial hardship.

POLICY DETAILS

Principles

The following policy principles form the basis of this hardship policy:

- Information about this hardship program will be made accessible to the community and Council will be proactive in communicating its program.
- Hardship assistance will only be granted to individuals experiencing financial hardship with regard to the rates on their primary residence.
- A range of forms of assistance will be made available.
- The form of hardship assistance provided should match the level of financial difficulty.
- The process must be simple for the ratepayer to use.
- Ratepayers are encouraged to utilise financial counselling, legal and other supports.
- Legal action to recover debt should be the last resort.

What can Indigo Shire Council do?

1. Payment plans

A 'payment plan' is a schedule of payments agreed to by both the council and ratepayer which provides for flexible payment of debts after their due date has lapsed. The payment plan option would generally apply to medium term cases of financial hardship e.g. three or four months, but less than one year. Payment plans are subject to compliance with the following conditions:

- The ratepayer must be able to demonstrate they are experiencing financial hardship.
- A payment plan request must be in writing specifying the proposed payment dates and amounts.
- The acceptance by the ratepayer that interest will be levied at the rate set by the Attorney General (*Penalty Interest Rates Act 1983*) until the account is paid in full.
- The arrangement will have a limited life of not greater than twelve (12) months following the end of the financial year the arrangement was entered into.
- Any default in the arrangement may end the arrangement and result in the commencement of legal proceedings which may incur costs associated with the collection of the debt.
- Administration of applications to commence a payment plan shall be the responsibility of Council's Finance Manager.

2. Rates and charges deferrals

Rates / charges deferral is the placing on hold of rates and charges payments for an indefinite period. Rates may not be recovered until the sale of the property or the property is sold upon the death of the ratepayer. Rates and charges are a first charge on a property and are always recoverable before any other charges on a property are paid. Applications for rates and charges deferral will be considered from pensioners (eligible under the *State Concessions Act 2004*), self-funded retirees and other financial hardship applications (extreme and long term cases), subject to the following conditions:

- Must be the applicant's sole or principal place of residence (owner / occupier)
- A confidential statement must be submitted by the property owner as evidence of financial hardship (application form).

- In considering applications for deferment, excessive items of expenditure shown on the application may be excluded, provided such action can be justified.
- Successful applicants are not obliged to, but may make payments at any time to reduce the deferred debt.
- The acceptance by the ratepayer that interest will accrue on the deferred rates and charges at 50% of the prescribed *penalty interest rate* (*Section 2, Penalty Interest Rates Act 1983*) to all approved applicants.
- Council may reject a deferral application or cease a deferral arrangement if the total outstanding balance of rates and charges exceeds 50% of the property value or 30% of the equity in the property (whichever is lower).
- Council has the authority to withdraw any agreement at its discretion.

Deferment will only be recommended where the financial hardship is expected to exceed one year.

Rates & Charges Deferment re-application Requirement	
Pensioner / Self-Funded Retiree (Age)/ (Seniors Card)	Deferred Indefinitely - until property is sold/ Estate settled (yearly application not required)
Pensioner/Other (Sickness, Sole Parent, Carer, Disability)	Limited period (must re-apply yearly)
Unemployed / Other (Long Term – Health Care Card)	Limited period (must re-apply yearly)

3. Interest reduction

A rates and charges deferral may be accompanied by a reduction in the penalty interest rates for the ratepayer. However, interest will continue to accrue on the deferred rates and charges.

Council recognises that setting a penalty interest rate which is consistent with the *Penalty Interest Act 1983* could have a negative effect on the finances of ratepayers which prolongs their hardship. As such, where hardship is established, Council will reduce the penalty interest rates to Council's investment rate as assessed at the beginning of each financial year. The penalty rates will then be adjusted annually. This ensures that neither the council, nor ratepayer suffer unduly from implementing the rates and charges deferral.

4. Waiver of rates

Rates and charges will generally not be waived. However, under *Section 171 (a) of the Act*, Council may waive rates and charges if Council considers that a ratepayer is suffering financial hardship. The waived amount is capped at \$1,000 per property, with amounts greater than that requiring Council approval.

Ratepayers may have interest, or part thereof, waived subject to the compliance with the following conditions:

- The ratepayer must be experiencing unusual financial hardship and this may be assessed by an independent Financial Counsellor.
- Being a government benefit recipient is not sufficient grounds for claiming hardship.
- The property for which the interest waiver is being considered must be used exclusively for residential purposes and must be the ratepayer's principle place of residence in accordance with *Section 171 (b) of the Act*; and
- The ratepayer must request a review for eligibility of financial hardship.

All rates waivers will be reported to Council annually.

Determination on applications for waiver of rates and charges will be subject to CEO approval.

Determination on applications for waiver of interest and charges will be subject to Director Corporate and Community Services approval.

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

Supporting documentation

Council may ask for documentation as evidence to support any application under this policy.

Confidentiality

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

How do ratepayers apply for financial hardship?

Requests for payment date extension:

Please contact the Finance Manager on 5728 8000 to discuss over the phone. The Finance Manager will conduct a basic hardship assessment to determine the ratepayer's circumstances.

Payment plans, interest reductions, and payment deferrals:

The applicant is required to establish that they are experiencing longer term financial hardship by completing the application form (available on website or contact customer service on 5728 8000) and providing further relevant financial details (including income, expenditure, assets and liabilities). Additional financial information may be requested, including independent financial opinion where required.

Approval process

The Finance Manager will review applications in accordance with this policy and if satisfied that financial hardship exists, a report will be provided to the Director Corporate and Community Services for consideration. The report will be taken to the CEO for approval. The type of assistance and conditions attached will be confirmed in writing to the ratepayer once it has been approved.

External Resources - ratepayers should refer to external financial management services such as The Consumer Action Law Centre (<http://consumeraction.org.au>) (phone-based financial counselling services) or Financial Counselling Australia (www.debtselfhelp.org.au) for online financial counselling service.

COMMUNICATION

Council will publish the Financial Hardship Policy on its website and provide links to application forms (including appeal form).

Council will also provide information on financial hardship and this policy along-side other Council-provided family services.

Council will provide information regarding financial hardship and financial assistance on all rates notices.