

1. BACKGROUND AND PRINCIPLES

Whitsunday Regional Council ("Council") is committed to the collection of overdue rates and charges in a fair, equitable and timely manner but with due consideration to financial hardship faced by ratepayers and customers. Recovery of outstanding debts is an important aspect of Council's financial management and the effectiveness and efficiency in meeting the financial, social, economic and other objectives stated in Council's Corporate Plan.

Council will provide an independent Rate Relief Tribunal (Tribunal) to make recommendations to Council regarding the most appropriate assistance to be offered to ratepayers and not-for-profit organisations unable to meet their rates and charges obligations due to financial hardship. In developing recommendations, the Tribunal is to consider each application consistently with the principles and objectives established in this Policy and must provide an opportunity to each applicant to present and discuss their application in person with the Tribunal.

The resolution of Council will be made consistent with the principles and objective of this policy, after considering the Tribunal's recommendation. The nature of applications for concession is generally determined on a case-by-case basis against the principles outlined in this policy.

The following principles for consideration of an application for rate relief provide guidance to the Tribunal's recommendation and the resolution of Council:

- Council has a responsibility to recover monies owing to it in a timely and efficient manner to finance its operations and ensure effective cash flow management;
- Early intervention and prevention benefits both the rate payer and the Council to prevent large levels of debt to accumulate;
- Council must operate effective debt collection processes;
- Council aims to minimise the amount of outstanding monies that it is owed;
- Debtors are expected to take responsibility for their debt obligations and to organise their affairs in such a way as to be able to discharge these obligations when required;
- Concessions resolved by Council must be consistent with Section 120 of the Local Government Regulation 2012;
- Building relationships with local community services, such as financial counsellors or community legal centres, will assist to support customers experiencing financial difficulty or customers who may experience barriers engaging with Council.
- An application for a concession due to financial hardship should be able to demonstrate unusual and severe difficulty rather than the usual frustration and trial to which other ratepayers or similar organisations are subjected from time to time;
- Long term financial hardship - as defined by the inability to provide evidence that a ratepayer could meet future rates and charges in the medium to long term future – should not be provided rate relief, other than a short deferral of six months to make other financial arrangements to clear the debt; and
- A concession or arrangement made with a ratepayer must achieve the clearance of all outstanding rates and charges within a reasonable timeframe that must not exceed a maximum of three years.

2. SCOPE

This policy applies to all ratepayers of the Whitsunday Regional Council.

3. POLICY OBJECTIVES

The main objective of the policy is to provide for the welfare of the resident ratepayer and resident dependants, for the protection of their place of residency and the continuation of not-for-profit organisations experiencing short-term financial hardships due to circumstances beyond the normal frustrations and trials experienced by other similar ratepayers from time to time.

4. POLICY STATEMENT

- 4.1 Council shall consider hardship to assist ratepayers in owner occupied properties and not-for-profit organisations only who experience genuine financial hardship.
- 4.2 Financial hardship under this Policy is defined by the following criteria:
- (a) the rates debt being considered relates to an owner occupied property or a not-for-profit organization; and
 - (b) the ratepayer is unable to pay rates and charges or would not be able to provide for the welfare of the ratepayer and resident dependents if payment was made or continuation of the organization for a not-for-profit organization; and
 - (c) it is not likely that the debt would be recovered under other debt management policies (e.g. Payment of Rates By Arrangement); and
 - (d) the customer is willing and has the intention to pay, but is unable to meet their repayments; and
 - (e) the application is submitted with sufficient details, including all necessary information for the tribunal and Council to consider the application, including statutory declaration that the information is accurate and true; and
 - (f) the application demonstrates unusual and severe difficulty rather than the usual frustrations and trials to which other ratepayers or similar organizations are subjected to from time to time; and
 - (g) with formal hardship assistance a customer's financial situation can be restored.
- 4.3 Applications that do not meet the definition for hardship outlined above must not be provided with rate relief;
- 4.4 Financial hardship should be determined by the Tribunal and Council in relation to both income (gross household income, commercial income/profit) and assets (income producing assets). Gross household income should include income from employment, pensions, other social security benefits, income from rental properties, other investment income, as well as deemed income (e.g. potential rental income from non-owner residents such as children that live at home and earn income but do not pay rent).

- 4.5 Consideration should be given to whether the ratepayer could meet the rate liability by rescheduling commitments or by selling non-essential assets such as (but not limited to) non-residential caravans, holiday or investment properties, luxury cars, boats, substantia life assurances or annuity entitlements, shares or other investments. Face value as provided by the applicant should not be relied upon in complex cases, but rather a professional valuation will be required.
- 4.6 Consideration should be given as to whether the ratepayer has deliberately placed themselves in the financial hardship, in which case relief may be denied.
- 4.7 Applications that do not have sufficient information must be returned to the applicant for further information before presenting to the tribunal for consideration. Should sufficient information not be provided, or information needs to be substantiated, Council officers may seek further information from available sources (without breaching the applicant's right to privacy) to support information provided in the application.
- 4.8 A concession provided to a not-for-profit should only be made if in the opinion of the Council, the organisation will be a going concern and is providing services beneficial to the public and consistent with other considerations (e.g. Community Assistance Grant program).
- 4.9 Any payment arrangement negotiated or concession applied must take into account the ratepayer's or not-for-profit organisation's capacity to pay and allow for the arrangement to be re-negotiated if there is a demonstrable change in circumstances.
- 4.10 Where there is the intention – but not the capacity – to make a payment within the timeframe required, consideration will be given to a concession if there is evidence that the ratepayer will have the capacity to meet obligations in the medium to long term.
- 4.11 A failure to have a capacity to pay can be identified by any of the following:
- (a) the ratepayer themselves;
 - (b) the Tribunal considerations;
 - (c) Council's Corporate Services Department;
 - (d) an independent accredited financial counsellor; or
 - (e) a not-for-profit organisation providing assistance to people experiencing financial difficulties.
- 4.12 An application for consideration must be completed on an approved form. Council officers will provide assistance to complete application forms and provide all necessary information to the ratepayer to assist the ratepayer in making decisions regarding the management of their debt to Council.
- 4.13 A concession for hardship may include interest being written off where it is determined that a debt is irrecoverable or uneconomical to recover if the interest remained payable or when writing off interest will result in a favourable settlement of all outstanding debt.
- 4.14 Only in very exceptional cases would a concession include rates or charges being written off.
- 4.15 Any debt written off will be done in accordance with delegated authority as determined by Council.

- 4.16 To guide the Tribunal's assessment and Council's consideration, including concessions that may be provided and the conditions established, the hardship applications may be categorized into the categories indicated below.

5. CATEGORISATION OF APPLICATIONS

Category 1 – Temporary, short term financial hardship

- 5.1 Ratepayer is seeking assistance from Council to overcome a short term payment difficulty. It is likely the ratepayer will make their repayment in full at a later date. There is evidence of intention to pay but not the capacity to pay to be eligible for payment assistance due to short term impacts on capacity.

Category 2 – Complex hardship (not permanent) and where a Council concession is likely to restore a customer's financial situation

- 5.2 To be considered under this category for a concession the ratepayer must show evidence that their financial situation can be restored and future rates paid as they fall due, if the below concession/s is/are approved.
- (a) For Pensioners only - In accordance with the Local Government Regulation 2012, the relief will take the form of a deferral of a portion of the General Rate, that will reduce the General Rate levy payable immediately, to an amount equivalent to the Minimum General Rate levy applicable to the Residential Owner Occupied A Category in the relevant rating period(s). The amount in excess of the Minimum General Rate, will be deferred for the life of the pensioner, or until the property is sold or otherwise transferred from the name(s) of the aged pensioner(s). In accordance with Local Government Regulation 2012, a premium applies to any deferred rates equal to an amount of interest calculated at a rate equivalent to 50% of the current interest charged on overdue rates, compounded monthly, from the date that the deferred rates would have been due. The amount of the premium will also be deferred on the same basis as the deferred General Rates. The deferred rates and premium will remain a charge on the land.
- (b) For all Ratepayers (including Pensioners in Addition to Above) - In accordance with the Local Government Regulation 2012, the relief will take the form of waiving rates and/or interest and/or a deferral of the obligation to pay the rates and charges up to a maximum of two years.

Category 3 - Even with a Council concession, restoration of the customer's financial situation is unlikely

- 5.3 If, in the assessment of the tribunal and/or Council, the restoration of a ratepayer's financial situation over the medium to long term is unlikely, the application for a concession should not be approved. The ratepayer should be provided with a short period of deferral up to six months to make other financial arrangements, after which other debt recovery actions must be implemented (as per Debt Recovery Policy).

Category	Concession Available	Condition
1. Temporary, short term financial hardship (as defined by this policy)	<ul style="list-style-type: none"> Deferral and a payment arrangement between six months and two years. 	<ul style="list-style-type: none"> No interest applies during the period of the payment arrangement; Debt cleared in full by end of arrangement, including new charges accrued during the arrangement; Payment by direct debit; Failure to make payment, customer to rectify within 7 days; Two consecutive failures to make payment, arrangement terminated; and Ratepayer can renegotiate arrangement with Council approval.
2. (a) Complex hardship – Pensioners Only	<ul style="list-style-type: none"> Deferral of a portion of the General Rate, that will reduce the General Rate levy payable immediately, to an amount equivalent to the Minimum General Rate levy applicable to the Residential Owner Occupied A Category in the relevant rating period(s). 	<ul style="list-style-type: none"> The amount in excess of the Minimum General Rate, will be deferred for the life of the pensioner, or until the property is sold or otherwise transferred from the name(s) of the pensioner(s). Interest applies to any deferred rates equal to an amount of interest calculated at a rate equivalent to 50% of the current interest charged on overdue rates.
2. (b) Complex hardship	<ul style="list-style-type: none"> An agreement to defer payment of the rates or charges for a period up to two years A rebate on all or part of the debt that relates to interest charged (amount only up to where it makes the agreement financially feasible) A rebate of all or part of the rates or charges (only in very exceptional cases) 	<ul style="list-style-type: none"> No interest applies during the period of the payment arrangement; Debt cleared in full by end of arrangement, including new charges accrued during the arrangement; Payment by direct debit; Failure to make payment, customer to rectify within 7 days; Two consecutive failures to make payment, arrangement terminated; and Ratepayer can renegotiate arrangement with Council approval.
3. Restoration of financial situation unlikely	<ul style="list-style-type: none"> A time period up to six months may be provided in which Council will not pursue further action to provide customer time to make other financial arrangements. 	<ul style="list-style-type: none"> Customer provided with notification that no concession, other than a delay in Council recovering the debt Ratepayer advised to seek financial counselling

6. ROLE AND COMPOSITION OF THE TRIBUNAL

The role of the Tribunal is to recommend to Council the most appropriate form of assistance that Council should provide to ratepayers who make an application to Council for special consideration for rate relief due to financial hardship.

The role of the Tribunal is not to consider complaints or requests for Administrative Action Review or matters relating to rating law or practice. Such matters are to be referred to the Director of Corporate Services to resolve outside of the Tribunal.

The Tribunal will consist of a minimum of two (2) voluntary members of the community and two (2) current councillors. In addition to the minimum members, one other member of the Tribunal will be invited from Queensland Council of Social Service (QCOSS), or a similar organisation, to provide expertise in social welfare and community development.

The two community voluntary members will be recruited to the Tribunal through an expression of interest process using a position description that has been approved by Council.

Council at its sole discretion must appoint the Tribunal members. The Council will reaffirm the Tribunal membership each year.

The Tribunal chair will be appointed by Council each year from the two (2) Councillors appointed to the Tribunal. Should the Chair not be present, then the meeting shall elect a Chair from the councillors present at the meeting.

A quorum would consist of the Chair and two other Tribunal members.

Council's Corporate Services Department must provide sufficient secretarial and other support services to the Tribunal to meet the needs of the Tribunal.

The Tribunal shall meet on an "as required basis" to meet the target performance indicators of Council in regard to timeframes to process applications. The Tribunal meetings are not to be conducted in public due to the sensitive and confidential nature of the information being considered.

Attendance at the meeting, in addition to the members, shall be restricted to the secretariat and one other representative from Corporate Services to provide advice to the Tribunal. The applicant may present their case to the Tribunal personally.

The Tribunal will be conducted in a "without prejudice" manner.

The Tribunal will be provided by Council with a budget allocation each year. The Tribunal will be expected to manage recommended relief to ratepayers from within the annual budget limit.

7. APPLICATION PROCEDURES

The Tribunal secretary is to acknowledge receipt of all applications. The applications are to be reviewed by a Rates Officer, including providing sufficient history and other relevant details for the Tribunal and Council consideration.

Applications are reviewed by the members prior to the Tribunal meeting. Tribunal Secretary is to arrange the meeting, including the agenda and arranging for an opportunity for applicants to present at the meeting.

The Tribunal is to take care that the applicants are afforded their rights as to natural justice throughout the process and that the confidentiality of each applicant is maintained throughout the meeting, including the logistics of organising presentation by applicants during the meeting.

The Tribunal Secretary is to record the recommendations of the Tribunal at the meeting.

The Director Corporate Services is to prepare the Confidential Report to present the recommendations of the Tribunal to the Council. A report is to be prepared separately for each application. The report is not to include any other information or recommendations by the Director.

Following the decision the ratepayer should be notified of that decision as soon as possible.

8. RELEVANT LEGISLATION

Local Government Act 2009 Chapter 4 Part 1

Local Government Regulation 2012 Chapter 4 Part 12

Information Privacy Act 2009 Chapter 2 Part 2

9. DEFINITIONS

CEO shall mean a person who holds an appointment as Chief Executive Officer of the Whitsunday Regional Council under section 194 of the Local Government Act 2009. This includes a person acting in this position.

Welfare of the ratepayer shall mean the provision to family or other dependents the following:

- Food;
- accommodation;
- clothing;
- medical treatment;
- education; or
- other basic necessities.

Pensioner shall mean a person/s who is the holder of:

- Queensland Pensioner Concession Card issued by the Department of Human Services or Department of Veterans Affairs; or
- Queensland Repatriation Health Card – For all Conditions or a Gold Card issued by the Department of Veterans Affairs.

10. RELATED DOCUMENTS

Rate Recovery Policy

Payment of Rates by Arrangement Policy

11. DATE REVIEWED

30 June 2017

12. NEXT REVIEW

30 June 2018