

Hobsons Bay Financial Hardship Policy 2020

2020 Version 2.0



1. Purpose

1.1 Statement

Rates, fees and charges are the primary source of revenue for Council to ensure the ongoing delivery of a range of important services to the local community.

This policy applies to all monies owed to the Hobsons Bay City Council including rates, interest, rent, fees and charges.

1.2 Principles

Financial hardship may arise for a range of reasons, as not all circumstances are alike, and is often where the applicant would ordinarily pay but is unable to due to one or a combination of reasons. To accept a claim for hardship, it is important to adopt the following principles:

- i. Early identification – successful hardship programs have good identification and communication strategies, including proactive material on Council websites
- ii. Support for Individuals – Council will encourage Individuals or Bodies to utilise financial counselling, legal and other supporting services
- iii. Fairness and equity – Council will assess each application on its merits, demonstrating consistency and impartiality in its determination
- iv. Preference for payment arrangements – Council will preferably offer payment plans and/or extensions in order to assist the applicant to clear the amount outstanding prior to consideration of a waiver, refund or discount

2. Background

Council recognises unforeseen events such as with the COVID-19 pandemic and other situational events, can create significant hardship on individual members of the community, businesses, sporting and community clubs/associations.

Council has a range of remedial powers in accordance with the *Local Government Act*. Managing financial hardship in this context is a shared responsibility and Council has a part to play whilst ensuring that it maintains the necessary cashflow to deliver critical services to the community.

The purpose of this policy is to provide a framework for financial relief to Applicants who need assistance from the impacts of financial hardship.

3. Scope

The Policy

- i. Defines financial hardship and exceptional circumstances
- ii. Provides the framework and guidelines to Council, that will:
 - a. Enable the capacity for Council officers to authorise the deferral or reduction, of money paid to/ or payable to Council including rates, interest, rent, fees and charges
 - b. Enable the CEO, under exceptional circumstances to consider the authorization of a waiver or refund of money paid to/ or payable to Council including rates, interest, rent, fees and charges

In accordance with the *Local Government Act* relating to the possible granting of a deferral of the payment of levied fees or charges (including payment plans), and waiver of part or all rates, interest, rent, fees and charges.

This policy has no application in relation to fines issued under Council's Community Local Laws, or any other Act.

This policy focuses only on financial hardship and the payment of rates, rent, interest, fees and charges. It does not cover non-financial or special needs hardship requirements that may necessitate special arrangement being made. These matters are to be addressed directly with the applicable services.

4. Definitions

Applicant	An Individual or Body that has commenced an application with Council or is eligible to be considered under Council's Financial Hardship policy.
Body	An entity that operates within Hobsons Bay which meets the definition of Small Business, Medium Business or Sporting/Community Club or Association for the purpose of this policy.
Exceptional Circumstances	<p>For an <u>Individual</u>:</p> <p>Abnormally severe financial suffering or privation brought about by a significant disadvantaging life event due circumstances outside of an individual's control or contribution that has brought about personal financial ruin or bankruptcy.</p> <p>For a <u>Body</u>:</p> <p>Abnormally severe financial suffering due to a Force Majeure Event which could be brought on by at least 50% decline in annual turnover compared to the last financial year.</p>
Financial Hardship	<p>For an <u>Individual</u>:</p> <p>Financial suffering or privation which could be brought on by unemployment, sickness, family breakdown, death of spouse, lower income, loss of income, or other significant disadvantaging life event.</p> <p>For a <u>Body</u>:</p> <p>Financial suffering due to a Force Majeure Event which could be brought on by at least 25% decline in turnover compared to the same period last financial year.</p>
Force Majeure Event	<p>Any circumstances that were not within the reasonable control of the Individual or Body affected, but only if and to the extent that such circumstance demonstrates:</p> <ol style="list-style-type: none">i. That despite the exercise of reasonable diligence and the observance of good business conduct, cannot be or be caused to be, prevented, avoided or removed; andii. Material and adverse effects that impact the ability of the Body to perform business as usual and having taken all reasonable precautions and due care in order to avoid the Financial Hardship caused by such an event

Includes but not limited to events that take place within the local government area (or City) of Hobsons Bay and/or the State of Victoria

Individual

A person who has attained the age of 18 years but does not include a corporation or a Council or any other body incorporated or constituted by or under the Act or any public statutory corporation.

Instances of Force Majeure

Natural Force events

- i. Fire, chemical or radioactive contamination, earthquake, lightning, cyclones, hurricanes, floods, droughts or such other extreme weather or environmental conditions, unanticipated geological or ground conditions
- ii. Epidemic, pandemic, famine, plague or other natural calamities

Direction events

- i. Declaration of State of Emergency in Victoria
- ii. Any ban or prohibition adversely impacting the business

Other events

- i. Explosion, accident, breakage of a plant or equipment, structural collapse, or chemical contamination not caused by the Individual; or in the case of a Body, not by one of its contractors or subcontractors or any of their respective employees or agents
- ii. Strikes, lockouts, work stoppage, labour disputes and such other industrial action by workers not caused by the Individual, the workers, or unions associated with the Body
- iii. Acts of terrorists, blockade, embargo, riot, public disorder, violent demonstrations, rebellion, and sabotage not caused by the Individual or the workers of the Body

Small Business

A registered business (ABN/ACN) that is:

- i. A business that employs between 0 and 19 employees; and is
- ii. A business that has aggregated turnover of less than \$1 million per annum; and is
- iii. A business that is not a subsidiary or associate of a medium or large business, and is
- iv. A business that is not a superannuation or trust fund

Medium Business

A registered business (ABN/ACN) that is:

- i. A business that employs between 20 and 199 employees; and is
- ii. A business that has aggregated turnover of less than \$5 million per annum; and is
- iii. A business that is not a subsidiary or associate of a large business, and is

	iv. A business that is not a superannuation or trust fund
Sporting/ Community Club or Association	A not for profit agency, incorporated association, charity, co-operative, community group or club operating in Hobsons Bay.
Deferral	Suspension of a payment for a period of time as agreed upon.
Refund	The re-payment of due monies that have already been paid.
Waiver	Permanent exemption or removal of the obligation of part or all of the payment due.

5. Objectives

The purpose of this policy is to:

- i. Aid approved applicants experiencing financial hardship
- ii. Provide an easy mechanism that enables applicants to feel comfortable approaching Council about current hardship circumstances
- iii. Provide applicants with assurance they will be treated in a consistent, equitable and confidential manner
- iv. Provide applicants clearly defined options to assist people applying for a deferment or waiver of fees and charges
- v. Provide a transparent decision-making framework for Council officers when assessing hardship claims
- vi. Ensure the policy is fair and equitable to all applicants
- vii. Ensure Council's debt collection practices are sensitive and responsive to financial hardship issues
- viii. Ensure processes are in alignment with Council's constructive culture and core values

6. Application

6.1. Financial Hardship

An applicant can access the financial hardship provisions of this policy by:

- i. Completing the Request for Financial Assistance Application online via Council's website (www.hobsonsbay.vic.gov.au);
 - a. In circumstances where this is unable to be undertaken, any applicant can obtain confidential assistance through booking an appointment with one of Council's customer service staff at any Council library or the Altona Civic Centre to assist with completing an application online; and
- ii. Agreeing to enter into a payment arrangement under Section 6.4 of this policy
- iii. Being granted approval by Council to defer, reduce, waive or refund rates, interest, rent, fees and charges

6.2. Assessment

The Council will consider an application for financial hardship relief confidentially and objectively based on the information provided by the applicant in the application.

Council will advise of its decision in writing within 21 days of receiving the application and all supporting information.

Council may, at its discretion, seek applicable supporting information to be provided in the consideration and the assessment of any application. This may include, but not be limited to:

- company records
- bank statements
- financial records or assessments
- employment documentation
- Centrelink and/or taxation information.
- Financial Counselling report

Where an applicant is not satisfied with the initial assessment of the application, they may request a review of the decision by outlining the grounds for the review. The request for a review of the decision must be in writing and addressed to the Chief Executive Officer. The Chief Financial Officer will determine the appeal within 14 days from receipt of this correspondence.

6.3. Deferral of rates, fees and charges

Approved applicants may have their rates, fees and charges or rent deferred.

The Council will continue to levy these charges and will provide Balance Notices to the Individual or Bodies to keep them informed.

In all applications for deferral, applicants will be encouraged to continue to pay that portion of the rates, fees and charges or rent that is affordable given their individual circumstances.

This will be mutually agreed given the circumstances of the individual application.

6.4. Payment arrangements

An applicant to obtain approval under this policy will be required to reach agreement with the Council regarding the payment of rates, fees, charges or rent on the following conditions:

- i. Any payment agreement should be set with a known end date that clears the deferred debt within an agreed timeframe (preferably within 12 months)
- ii. Payment of a penalty interest (if applicable) that will be charged on amounts that are not paid as required by the payment agreement or at the conclusion of the agreement
- iii. That the Council and the applicant can agree to review and, if necessary, amend the payment schedules and due dates if the Council is advised in writing at the first available opportunity of further/continued additional hardship being experienced
- iv. Where there have been repeated payment defaults by the applicant, the Council may cancel the payment agreement, entitling it to initiate debt recovery in accordance with this policy

6.5. Exceptional Circumstances

Council acknowledges an inequity for ratepayers is created where rates are waived which would otherwise be charged against the property assets, and recognises the deferral of rates and charges as a more equitable outcome for the entire community.

However, Council will consider waiving or refunding rates for certain applicants where exceptional circumstances are experienced, and where abnormally severe impact can be demonstrated.

Consideration of a waiver can only occur if all financial information has been disclosed to Council with supporting documentation as requested. Council will also require the concurrence and validation of the circumstances by a qualified financial counsellor.

Penalties apply for providing false and misleading information for an application for waiver.

Exceptional Circumstances will be determined at the sole discretion of the Chief Executive Officer.

Waivers/ refunds can only be approved by the Chief Executive Officer and are limited to a cumulative total value of \$10,000 or of 12 months rates value, whichever is the lesser amount, for each applicant.

No more than one Exceptional Circumstances application will be approved for any Individual or Body.

7. Privacy

Any personal or health information provided as part of a Financial Hardship Application will be treated in accordance with applicable privacy legislation and the Hobsons Bay Privacy Policy.

Council may use and disclose personal information as part of the application process to determine eligibility for access to the options outlined in the Financial Hardship Policy. As part of this process, information may be provided to an external agency. Council or the external agency may seek consent to contact external bodies in order to verify the accuracy of any information provided. For any concerns on how Council will use, disclose or secure personal information, or to understand how to access your personal information, or to understand how to access your personal information held by Council, please refer to the Hobsons Bay Privacy Policy

8. Related Documents

Hobsons Bay Privacy Policy

9. Related Legislation

Local Government Act

Privacy and Data Protection Act 2014

10. Document Control

Policy Name	Hobsons Bay Financial Hardship Policy
Object ID	POLA3321901
Responsible Directorate	Corporate Services
Responsible Officer	Chief Financial Officer
Date Adopted by Council	23 June 2020
Review Date	June 2023

11. Version History

Version Number	Date	Authorised by
1.0	10 July 2012	Adopted by Council
2.0	23 June 2020	Adopted by Council