



(F6) FINANCIAL HARDSHIP POLICY

POLICY OBJECTIVE

- This policy is intended to ensure that the Shire offers fair, equitable, consistent and dignified support to debtors suffering hardship, while treating all members of the community with respect and understanding.
- Provide a decision-making framework for the appropriate assessment of hardship applications.

POLICY SCOPE

This policy applies to currently outstanding, as well as future Shire rates, fees, and charges.

It is a reasonable community expectation that those with the capacity to pay rates will continue to do so. For this reason, the policy is not intended to provide rate or other fees/charges relief to debtors who are not able to evidence financial hardship. The statutory provisions of the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996* will apply.

POLICY STATEMENT

1. Payment difficulties, hardship and vulnerability¹

Payment difficulties, or short term financial hardship, occur where a change in a person's circumstances result in an inability to pay a debt.

Financial hardship occurs where a person is unable to pay a debt without affecting their ability to meet their basic living needs, or the basic living needs of their dependents. The Shire of Derby/West Kimberley recognises the likelihood that on occasion, there will be payment difficulties, financial hardship and vulnerability in our community. This policy is intended to apply to all debtors experiencing financial hardship regardless of their status, be they a property owner, tenant, business owner, etc.

¹ Adapted from the *Ombudsman Western Australia publication, Local government collection of overdue rates for people in situations of vulnerability: Good Practice Guidance:* <http://www.ombudsman.wa.gov.au/>

2. Financial Hardship Criteria

While evidence of hardship will be required, the Shire recognises that not all circumstances are alike. The Shire will take a flexible approach to a range of individual circumstances including, but not limited to the following situations:

- Recent unemployment or under-employment;
- Sickness or recovery from sickness;
- Low income or loss of income;
- Unanticipated circumstances such as caring for and supporting extended family; and
- Declared disaster.

3. Payment Arrangements

Payment arrangements facilitated in accordance with Section 6.49 of the Act are of an agreed frequency and amount. These arrangements will consider the following:

- That a debtor has made a genuine effort to meet rate and service charge obligations in the past;



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- The payment arrangement will establish a known end date that is realistic and achievable, and will ideally allow the debtor to finalise payment as soon as is reasonably practical within the current financial year;
- The debtor will be responsible for informing the Shire of Derby/West Kimberley of any change in circumstance that jeopardises the agreed payment schedule;
- In the case of severe financial hardship, the Shire reserves the right to consider waiving additional charges (excluding the late payment interest applicable to the Emergency Services Levy); and
- The standard payment arrangement fee will not be charged.

4. **Interest Charges**

A debtor that meets the Financial Hardship Criteria and enters into a payment arrangement will not be charged penalty interest for the duration of the payment arrangement. Once the debt is cleared or the arrangement is cancelled under the provisions set out in section 10 of this policy, interest charges will resume where applicable.

5. **Deferment of Rates**

Deferment of rates may apply for debtors who have a Pensioner Card, State Concession Card or Seniors Card and Commonwealth Seniors Health Care Card registered on their property. The deferred rates balance:

- Remains as a debt on the property until paid;
- Becomes payable in full upon the passing of the pensioner or if the property is sold or if the Pensioner ceases to reside in the property;
- May be paid at any time, but the concession will not apply when the rates debt is subsequently paid (deferral forfeits the right to any concession entitlement); and
- Does not incur penalty interest or waste charges.

6. **Debt Recovery**

The Shire will suspend its debt recovery processes whilst negotiating a suitable payment arrangement with a debtor. Where a debtor is unable to make payments in accordance with the agreed payment plan and the debtor advises the Shire and makes an alternative plan, then the Shire will continue to suspend debt recovery processes.

The Shire will not commence any legal proceedings whilst the debtor's financial application is being reviewed. Additionally, the Shire will not commence any legal proceedings to recover a debt where the debtor is complying with their payment arrangement.

If legal proceedings have been commenced, and the debtor lodges a financial hardship application, these proceedings will be temporarily suspended whilst the debtor's application for hardship is reviewed and assessed. If the debtor is successful with their application, no further legal action will be taken whilst the debtor is complying with their payment arrangement.

The Shire reserves the right to recommence the legal proceedings if the debtor's payment arrangement is cancelled for noncompliance. The Shire will make all reasonable attempts to contact the debtor to advise them of the next course of action.

Rates and service charge debts that remain outstanding at the end of the financial year, will then be subject to the rates debt recovery procedures prescribed in the *Local Government Act 1995*.



7. **Applying for Financial Hardship**

To apply for financial hardship, the debtor is required to submit a F6 Financial Hardship Application which can be located on the Shire website or by attending the office in person and requesting a printed form.

Debtors are encouraged to provide any information in the application about their individual circumstances that may be relevant for assessment. This may include demonstrating a capacity to make some payment and where possible, entering into a payment proposal. The Shire will consider all circumstances, applying the principles of fairness, integrity and confidentiality whilst complying our statutory responsibilities.

8. **Review**

A debtor's application will be reviewed within ten (10) business days and if it meets the policy's criteria will proceed to the assessment stage. An application may be referred back to the debtor or the debtor's financial counsellor for further information or discussion.

An application will be assessed by applying the principles of fairness, integrity and confidentiality, whilst complying with statutory requirements. The delegated officer will exercise due diligence in assessing and identifying genuine hardship based on circumstances that vary in each debtor's situation.

9. **Communication and Confidentiality**

The Shire will maintain confidential communications at all times and will undertake to communicate with a nominated support person or other third party at your request.

Debtor will be advised of this policy and its application, when communicating in any format (i.e. verbal or written) with a debtor that has an outstanding debt.

The Shire recognise that applicants for hardship consideration are experiencing additional stressors, and may have complex needs. The Shire will provide additional time to respond to communication and will communicate in alternative formats where appropriate. The Shire will ensure all communication with applicants is clear and respectful.

10. **Non-Compliance to Payment Plan**

If a debtor does not comply with their payment arrangement and fails to contact the Shire to renegotiate the terms, the Shire will make all reasonable attempts to contact the debtor.

If the debtor misses three consecutive payments and fails to contact the Shire, the Shire reserves the right to cancel the payment arrangement for non-compliance. If an arrangement has been cancelled, penalty interest and any suspended collection/legal activity will recommence. The Shire is not obligated to offer a Hardship Payment Arrangement if the debtor has had three (3) Payment Arrangements cancelled because of non-payment or declined payments.

11. **Right to Appeal**

A debtor dissatisfied with the outcome of their application has the right to appeal to the Chief Executive Officer.

12. **Financial Counselling**

The Shire will advise a debtor of any financial counselling services or other organisation that may be available to them.



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Policy Details			
Original Adoption date:	30 April 2020 (Item 11.1, Res. 56/20)	Review Frequency (Annual/Bi-ennial):	Tri-ennial
		Next Review Due:	February 2026
Policy Implementing Officer or Team:	Finance Team	Policy Reviewer:	Director Corporate Services
Legislative Head of Power (Act, Regulation, or Local Law):	Local Government Act 1995 Local Government (Financial Management) Regulations 1996		
Related Documents (other Policies, Operational Procedures, Delegations, etc.):	Delegation 1.1.22 Defer, Grant Discounts, Waive or Write Off Debts Delegation 1.1.25 Agreement as to Payment of Rates and Services Charges Delegation 1.1.27 Recovery of Rates or Service Charges Delegation 1.1.28 Recovery of Rates Debts - Require Lessee to Pay Rent Delegation 1.1.29 Recovery of Rates Debts - Actions to Take Possession of the Land Financial Hardship Application Form		
Version Control Council Meeting Review Details:			
Review #:	Council Meeting Date:	Item/Resolution#:	
1.	24 June 2021	Item 11.2 Res. 57/21	
2.	24 February 2022	Item 11.5 Res. 07/22	
3.	29 June 2023	Item 13.2 Res. 70/23	