Draft Revenue Hardship Policy

(REM number)

Lifestyle Capital of Victoria

1. Policy statement

Frankston City Council recognise that there are genuine cases of financial difficulty and financial hardship that require respect and compassion.

This policy establishes the guidelines for assessment of financial difficulty or hardship applications based on the principles of fairness, integrity, confidentiality and compliance with statutory requirements. It applies to all applications for waiving or suspending interest and/or other fees and charges, but not to waiving the whole or part of any rate or rates service charge.

This policy replaces any previous versions of the Rates and Charges Hardship Policy adopted by Council.

If you are experiencing hardship please refer to Council's website for information at https://www.frankston.vic.gov.au/Your-Council/Rates/Financial-Hardship, or, alternatively **please contact Council's Customer Service team on 1300 322 322.**

2. Reason for Policy

The purpose of this Policy is to provide Council with a policy framework to provide relief to individuals who need financial assistance.

When assessing any application, due consideration must be given to Council's overall revenue requirements and services provided. While all property owners, ratepayers and residents receive the direct benefit provided through the payment of rates, service fees and charges, it is important that Council has a mechanism to consider the needs of customers who are suffering financial difficulty.

Sections 170 and 171 of the *Local Government Act 1989* (the Act) set out the circumstances in which a Council may consider an application for deferment or waiver of rates, charges and penalty interest.

This Policy must be read in conjunction with these sections, and does not take precedence over them.

It is envisaged that the financial cost to Council will be minor.

3. Scope

Upon adoption, this policy will apply to Council and Council staff.

4. Definitions

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.

"***Compassionate Grounds***" – Is a severe or unforeseen situation/circumstance that caused the property owner to miss the statutory payment due date. Such as, but not limited to:

- Recent death of the property owner's immediate family member (spouse or child).
- Substantial loss of income
- Significant increase in medical costs
- Family Violence

"***Financial Counsellor***" – is a member of, or is eligible to be a member of, a financial counselling association, and has undertaken appropriate training to ensure that they have adequate skills and knowledge to satisfactorily provide the financial services and any other aspect of the financial counselling service.

Financial counsellors are employed by agencies, typically not for profit community organisations that must comply with the ASIC licence exemption provisions for financial counselling. Financial counselling service is free, confidential, independent and without conflict. These provisions are specified in the ASIC Corporations (Financial Counselling Agencies) Instrument 2017/792 and the National Consumer Credit Protection Regulations.

5. Authorisation

This Policy is managed by the **Finance and Corporate Planning** Department, and is approved by Frankston City's Mayor and Council's Chief Executive Officer (CEO):

Manager Financial & Corporate Planning

Mayor, Frankston City Council

CEO, Frankston City Council

In accordance with Frankston City Council resolution at its Council meeting of TBC.

6. Revision date

This Policy will be reviewed and presented to Council no later than June 2026 or earlier as deemed necessary by Council, and therefore once within each subsequent Council term.

7. Application of the Governance Principles in the LGA 2020

This Policy is developed in the context of the overarching governance principles as referenced in the Local Government Act (2020), with the following relevant principles:

- Council decisions are made and actions taken in accordance with the relevant law.

  All appropriate legislation has been referenced accordingly in the development of this policy including the Local Government Act 1989 and 2020.

- Priority is given to achieving the best outcomes for the municipal community, including future generations.

  This policy achieves a fair and equitable outcome for all members of the community.

- The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is promoted.

  Consideration is given fairly to all residents within the community in particular the economic and social impacts.

- Innovation and continuous improvement is pursued.

  The broadening of this policy takes into account all revenue streams and therefore a broader application of the hardship policy statements and procedures. This is considered best practice.

- The ongoing financial viability of the Council is ensured.

  Providing for hardship does not affect the ongoing financial viability of Council.

- The transparency of Council decisions, actions and information is to be ensured.

  This policy provides the community with the overarching principles associated with applying for hardship ensuring transparency of the process.

8. Principles

Council is committed to ensuring that due consideration is given to persons who are in genuine need of financial assistance in addressing the payment of their rates, fees and or other charges.

8.1 Definition of Financial Hardship

Financial hardship/difficulty is a situation where an individual due to factors outside of their control is unable, because of illness, unemployment or other reasonable cause, to discharge their financial obligations.

Financial hardship involves an inability of the individual to meet their financial commitments and obligations, rather than an unwillingness to do so.

Financial hardship can arise from a variety of situations. Common causes may include, but not limited to:

- Loss of employment;
- Family breakdown;
- Family Violence

- Illness, including physical incapacity, hospitalisation, or mental illness;
- Recent death of the debtor or an immediate family member; or
- Other factors resulting in unforeseen change in the debtor's capacity to meet their payment obligations, whether through a reduction in income or through an increase in non-discretionary expenditure.

8.2 Identifying Financial Hardship

Rate Revenue

Judgement is required by the Revenue team member in determining whether a property owner is experiencing genuine financial hardship rather than simply seeking to defer payment due to short-term financial difficulty/stress.

In support of an application for financial hardship assistance, Council requires:

- That all property owners as noted on the Property Title must consult with a recognised Financial Counsellor, as outlined in section 16 below, who will provide, to Council, a letter of support confirming that a situation of hardship exists, together with an Income Statement and Statement of Position. The inclusion of an independent, confidential and without conflict third party Financial Counselling Service ensures that Council has considered the principles of fairness, integrity and confidentiality;
- Council may also request other documentation, such as a statutory declaration from a person familiar with the property owner's circumstances such as a family doctor, therapist, and family priest etc, to assist in determining whether a property owner is experiencing genuine financial hardship; and
- Financial Counselling Services are free, confidential, independent and without conflict. Property owners are encouraged to seek financial counselling by contacting the National Debt Helpline on 1800 007 007 or by visiting their website at www.ndh.org.au.

Other fees and charges

Judgement is required, by the department responsible for the raising and collection of the permit, licence, fee and charge (other than rates and charges), when assessing whether a debtor is experiencing genuine financial difficulty or hardship.

In support of an application for financial hardship assistance, Council may require:

- Documentary evidence to determine whether a debtor is experiencing financial hardship.
- Council may request other documentation such as a statutory declaration from a person familiar with the debtor/applicants circumstances (family doctor, Centrelink documents, bank statements etc.).

8.3 Financial Considerations

The waiver of rates or charges is governed by Section 171 of the *Local Government Act 1989.*

8.4 Waiver of Rates

Frankston City Council does not waive any rate and or service charges. This ensures that payment assistance offered to one ratepayer does not have a redistribution effect on Council's rate base.

8.5 Waiver of Penalty Interest

Interest waivers fall under two categories:

8.5.1 Waiver of penalty interest due to an administrative error by Council

Customers may have the penalty interest waived in the event of an administrative error by Council, which has resulted in or significantly contributed to the customer's failure to pay in a timely manner.

8.5.2 Waiver on Hardship/Compassionate Grounds

Customers may have penalty interest waived where they have demonstrated compassionate grounds for a payment being late. All interest waiver requests must be in writing.

9. Rate Revenue

The deferral of rates or charges is governed by Section 170 of the *Local Government Act 1989*. (Deferral applications for residential investment properties will not be considered.)

Council considers that there are three types of financial difficulty:

1. Late payment assistance (short term).
2. Financial hardship difficulty (medium term).
3. Prolonged and permanent state of financial difficulty (Residential Owner Occupied Properties)

9.1 Late payment assistance (short term)

A ratepayer who is unlikely to have their rates paid in full by the statutory due date due to short term financial difficulties and the requested extension is less than 30 days, may apply for a verbal extension to the payment due date. Where the payment extension requested exceeds 30 days, or two or more instalments, a formal payment arrangement is required.

Where a formal payment arrangement is required, Frankston Council has an online Arrangement to Pay Application process. For those property owners who are unable to make an online application, Council has an Arrangement to Pay form in place. The property owner(s) are required to complete this online process or application form as part of their agreement with Council.

All payment arrangements will attract penalty interest on unpaid instalments but allows the property owner(s) the required time to make payments with Council deferring any debt recovery action whilst the arrangement remains current.

Payment arrangements expire at the end of each financial year and a new application is required, unless extended by Council.

Financial difficulty (medium term)

A ratepayer who is unlikely to have their rates paid in full by the statutory due date due to medium to long term financial difficulties and requires an extension of time greater than 30 days, or two or more instalments, a formal payment arrangement is required.

Where a formal payment arrangement is required, Frankston Council has an online Arrangement to Pay Application process. For those property owners who are unable to make an online application, Council has available an Arrangement to Pay form, please contact Council's Customer Service team on 1300 322 322. The property owner(s) are required to complete this online process or application form as part of their agreement with Council.

The purpose of this offering is to allow property owners an alternative option to pay their rates and charges, if they are experiencing difficulties in meeting legislated timeframes.

All payment arrangements will attract penalty interest on unpaid instalments but allows the property owner(s) the required time to make payments with Council deferring any debt recovery action whilst the arrangement remains current.

Payment arrangements expire at the end of each financial year and a new application is required, unless extended by Council.

Prolonged and permanent state of financial difficulty Residential Owner Occupied Properties

Council recognise that some ratepayers do experience a permanent change in their circumstances, which has a direct effect on their financial situation. In some cases, they are unlikely to recover from, or are unable to discharge their financial obligations. However, this only occurs in a small number of cases, assistance and support is available as per sections 8.2 and 8.3.

9.2 Financial Hardship Support (Residential Owner Occupied Properties)

Financial Hardship is generally different to when a ratepayer has simply missed a payment as per section 8.1 of this document and needs temporary relief.

A ratepayer in financial hardship can reasonably be expected to recover their financial position if appropriate assistance or arrangements are provided. Once evidence is received by Council of the ratepayer having consulted with a Financial Counsellor as per section 8.2 of this document, an interest free period may be extended in situations where the payment of rates and charges may prove difficult for the property owner. The interest free period will be assessed on a case by case basis to a maximum of twenty four months.

The property owner must enter into a formal arrangement to pay Council and comply with such an agreement. The interest free period will only apply while the payment plan remains current, penalty interest may be reinstated where the arrangement lapses.

9.3 Deferring Rates, Charges and Interest (Residential Owner Occupied Properties)

Prolonged and permanent state of financial difficulty (Residential Owner Occupied Properties).

Council recognise that some ratepayers do experience a permanent change in their financial situation and are unlikely to recover their financial position and be able to discharge their financial obligations. However, this only occurs in a small number of cases.

In such cases, after an initial period of hardship support as per section 8.2 of this document Council may consider deferring rates, charges and interest.

Deferred rates, charges and interest is a postponement of payment for a specified period and may be for the whole amount outstanding or part thereof, and is subject to any terms and conditions determined by Council.

Whilst rates, charges and interest remain deferred, payment is not required on the deferred amount. During the period of deferment, annual rates, charges, and any accrued interest, will continue to be levied, and a rate notices issued to the property owner for information purposes.

Where there is a change in the property owner(s) circumstances, or the property is disposed of, the debt becomes due and payable on receipt of a rate notice issued by Council requesting payment by the date specified on this notice.

The outstanding debt remains as a first charge against the property until paid in full.

Frankston Council has a standard Deferment of Rates, Charges and Interest application form, upon receipt and acceptance of this form, the property owner(s) may have the payment of rates, charges and penalty interest, or parts thereof, deferred, subject to compliance with the following conditions:

- The ratepayer is a pensioner and is eligible to claim a pensioner rate rebate; or
- The ratepayer is able to evidence financial hardship as per section 8 of this document.

An application needs to be submitted to Council's Revenue Recovery Officer by the property owner or the property owner's representative providing evidence of such circumstances referred to above.

In all applications for deferred rates, charges and interest the property owner will be required to enter into a payment arrangement to make regular payments towards their rates in an amount that is equal to the annual rates or an amount that is affordable given the individual circumstances.

Penalty interest continues to accrue throughout the deferral period and is levied at fifty per cent of the prescribed penalty interest rate. Interest is calculated and applied as at 30 June each year.

9.3.1 Withdrawal of Deferred Rates, Charges and Interest

Rate deferral agreements are not transferable.

The rate deferment will terminate in situations where:

- The ratepayer's circumstances have changed and payment would no longer cause hardship;
- The applicant no longer owns or occupies the land. Where property ownership changes on any assessment with a rate deferral agreement in place, all rates, charges and interest must be fully paid;

- The applicant has defaulted in meeting any agreements with Council in regards to the deferment; or
- Confirmation every two years of ongoing hardship is not received within 30 days of Council's request for reassessment.

9.4 Rate Deferral Arrangement – Industrial and Commercial Properties

This Policy also provides for an application to be considered from a person liable to pay the rates and charges from a commercial and industrial property.

Any application will be considered on an individual basis against the following criteria:

- Evidence from the applicant that financial hardship is being experienced as per section 8 of this Policy;
- A commitment from the applicant to an agreed timeframe in which the deferred rates will be paid; and
- Documented evidence that the applicant is liable for the payment of the rates and charges (e.g. lease agreement).

The rate deferral agreement will be for a maximum of one financial year, with applicants having a maximum of one further financial year in which to fully repay all rates deferred. Rates will continue to accrue and will remain a charge against the property.

In the case of an occupier being liable for the payment of the rates and charges, an application may be made by an owner on behalf of the occupier. Any unpaid rates and charges remain a charge against the property with the owner of the property liable to pay any arrears outstanding. No rate deferral agreement will be entered into without the express consent of the property owner.

10. State of Emergency/Pandemic/Extraordinary Circumstances

In the event of a declared State of Emergency/disaster/pandemic/extraordinary circumstances, the following section(s) may come into effect and replace the equivalent section(s) within the Rates and Charges Hardship Policy, for the period determined by Council:

10.1 Identifying Financial Hardship (Rates)

In support of an application for financial hardship assistance, Council requires:

- That all property owners as noted on the Property Title must provide to Council a letter confirming that a situation of hardship exists for all property owners;
- The property owner(s) to provide a copy of a Centrelink issued concession card, or interim letter issued;
- All applications to be determined using the rate records as of the date of declaration, or where a Notice of Acquisition issued by a conveyancer or solicitor has been received by Council, since that date;
- An application for hardship to be submitted using the application form made available on Council's website along with the required documentary evidence;

- Ratepayers can access a free financial counselling service by calling 1800 007 007 or by visiting the National Debt Helpline website at www.ndh.org.au; and
- An applicant may at Council's discretion be referred to a financial counsellor for a capacity to pay assessment. Interest provisions as outlined in section 8 will apply.

10.2 Rate Relief

Council may determine, by a resolution of Council, to:

- Place on hold the raising of penalty interest on overdue rates payments for a period of time;
- Provide a rate waiver for a class or classes of property or ratepayer;
- Provide flexible arrangement to pay options;
- Provide a deferral of rates for a period of time on a case by case basis where hardship can be substantiated, as per section 9.1; and
- Withhold any new legal action, on outstanding accounts where the property owner would incur legal costs.

10.3 Waiver of Interest and or other Charges

Council may determine, by a resolution of Council, to:

- Place on hold the raising of penalty interest for a period of time;
- At the conclusion of this period, review the circumstances in existence and make a determination if there is to be further period of holding penalty interest; and
- Council by resolution may place on hold the raising of fees and charges (other than rates and charges), for a period of time.

10.4 Late Payment Assistance – Arrangement to Pay

Rate revenue

A ratepayer who is unlikely to have their instalment amount paid in full by the statutory due date may be granted an extension of 30 days, and the interest provisions as detailed in section 8.3 will apply.

Where the payment extension will exceed 30 days or two or more instalments then a formal payment arrangement is required.

Ratepayers are encouraged to pay an amount that is more aligned to their household budget by making regular payment on a weekly, fortnightly or monthly basis. With the aim to minimise secondary financial stress once the emergency/pandemic/extraordinary circumstance has been resolved.

Interest provisions as detailed in section 8 will apply.

All payment arrangements expire on 30 June each financial year, and where required a new arrangement may be entered into.

It is expected that ratepayer's who cannot make payment in full will enter into a payment arrangement.

Council will continue to raise and issue annual rate notices, quarterly instalment reminder notices and accounts receivable invoices and statements as per statutory requirements.

Other fees and charges

As determined by the issuing department the relevant payment date may be extended based on individual debtor circumstances.

10.5 Deferring Rates, Charges and Interest

Where a ratepayer/ debtor can provide evidence that they do not have the capacity to make any contribution towards their outstanding rates and charges as per section 8.4, then a period of deferral may be considered on a case by case basis.

An application for deferral must be submitted using the application form available on Council's website along with the required documentary evidence. Interest provisions as detailed in section 8.3 will apply.

The property owner/debtor are encouraged to seek financial counselling by contacting the National Debt Helpline on 1800 007 007 or by visiting their website at www.ndh.org.au.

An applicant may, at Council's discretion, be referred to a financial counsellor for a capacity to pay assessment. Interest provisions as outlined in section 8.3 will apply.

All deferrals expire on 30 June each financial year, and where required a new deferral may be entered into.

Council will continue to raise and issue annual rate notices, quarterly instalment reminder notices, invoices and statements as per statutory requirements.

10.6 Debt Collection

Council will place on hold all new debt recovery action for rates and charges where legal costs are incurred by the property owner, for a period of time as determined by Council.

Legal action already commenced or in the court system prior to the state of emergency/pandemic/extraordinary circumstances being declared will continue and all associated costs incurred will stand. Proceedings continue as per the court system timelines and processes.

Council will continue to raise and issue annual rate notices, quarterly instalment reminder notices and accounts receivable invoices and statements as per statutory requirements.

Council will attempt to make reasonable contact with ratepayers about their overdue accounts using various means of communication such as but not limited to, overdue reminder notices, email, text messages, account statements or telephone calls.

Council will issue reminder notices for those ratepayers who have not made any payments or entered into a payment arrangement as per section 8.4 or had their rate and charges deferred as per section 8.5 above.

Ratepayers will be encouraged to seek financial counselling and assistance through the National Debt Helpline on 1800 007 007 or through their website at www.ndh.org.au, alternatively, through The Good Shepherd which is a local service provider.

Debt recovery action for the recovery of infringements is excluded under this policy and will continue as per the normal legal debt recovery process.

11. Delegated authority to defer Rate charges or waive interest on rates

All applications for the waiver of interest will be assessed by the Revenue Recovery Officer or Team Leader Revenue and approved by the Coordinator Revenue in accordance with Frankston City Council's internal policy and procedures.

Applications for deferral of rates will be assessed by the Revenue Recovery Officer or Team Leader Revenue and approved by the Coordinator Revenue.

12. Other fees and charges

Permits, licences, fees and charges (other than rates and charges) constitute a significant annual income for Council. Permits, licences, fees and charges are raised in accordance with Council internal policies and procedures.

Council provides a number of options through which payments for these permits, licences or other fees and charges can be made.

Sections 113(3) and 142 of the Act provides Council with the authority to defer and/or waive in part or whole the payment of permits, licenses, fees and charges (other than rates and charges).

The purpose of this policy is to enable a person or a body liable for the payment of a permit, licence or other fees and charges and experiencing hardship to make application to Council for assistance relating to these permits, licences, fees and charges levied under the Act.

This policy covers permits, licences, fees and charges, defines hardship, and provides the framework and guidelines to Council, in accordance with the Act, relating to the possible granting of a deferral of the payment of levied fees or charges (including payment plans), or the waiver in part or whole the levied fees and charges.

The difference between a deferral and waiver:

- A deferral suspends payment for a set period of time.
- A waiver permanently exempts payment of the permits, licenses, fees and charges under discussion.

Council recognises that managing hardship is a shared responsibility and offers flexible payment arrangements for person or a body experiencing hardship.

Arrangement to pay - A customer who is unlikely to have their charges paid in full by the due date due to short term financial difficulties and require an extension of time and smaller regular payment amounts.

Where a formal arrangement to pay is required, please contact the issuing department for options available. For further assistance you can contact Council's Customer Service team on 1300 322 322.

Where the permit, licence or other fees and charges are statutory charges and collected by Council on behalf of the State Government or their agencies, Council is unable to provide a waiver for these statutory charges and in certain circumstances may not be able to offer an arrangement to pay.

13. Roles and responsibilities

Responsibility for this policy rests with the Director Corporate and Commercial Services.

Property owners applying for relief from rates and charges and interest are required to provide evidence in support of their application.

All information provided in accordance with this Policy is to be treated as strictly confidential.

14. Policy non-compliance

Failure to comply with this Policy has the potential to expose Council to financial loss.

15. Related Documents

2021-2031 10 year Financial Plan

2021-2025 Revenue and Rating Plan

Local Government Act 1989 (Section 170 & 171)

16. Implementation of the Policy

This Policy (in conjunction with other Related Documents) will be implemented immediately upon its adoption by Council and replaces any previous versions of the Rates and Charges Hardship Policy adopted by Council. An appropriate communication to staff on this Policy will be rolled out once adopted.

17. Document History

Date approved	Change Type	Version	Next Review Date