



## FINANCIAL HARDSHIP POLICY

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| Strategic Reference   | Provide leadership, good governance and efficient, effective and responsible Council services    |
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| Relevant Legislation  | <i>Local Government Act 1999 (SA)</i><br><i>Water Industry Act 2012 (SA)</i>                     |
| Related Policies      | Rating Policy<br>Rating Remission Policy<br>Debt Recovery Policy<br>Postponement of Rates Policy |
| Related Procedures    |  |

### 1. POLICY STATEMENT

The District Council of Yankalilla (**Council**) is committed to assisting people who are experiencing **financial hardship**, to manage their payments to the Council in a manner that best suits the person and, in respect of **retail services**, ensures they are serviced.

This **policy** is based on:

- a. the **financial hardship policy** for minor and intermediate **retailers**, made by the Minister for Communities and Social Inclusion, pursuant to section 37 of the *Water Industry Act 2012*, under a delegation by the Minister for Water and the River Murray, with modification. The modifications contained in this **policy** have been approved by the Essential Services Commission of South Australia; and

- b. sections 182 and 182A of the *Local Government Act 1999* which permits a council to partially or wholly remit **rates** or to postpone **rates** on the basis of **financial hardship**.

## 2. POLICY OBJECTIVES

The purpose of this **policy** is to identify people who are experiencing payment difficulties due to **financial hardship** and assist those people to better manage their bills on an ongoing basis.

This **policy** sets out:

- a. processes to identify people experiencing payment difficulties due to **financial hardship**, including identification by Council, self-identification by the person, identification by an **accredited financial counsellor** or welfare agency;
- b. an outline of a range of processes or programs that the **Council** will use or apply to assist people who have been identified as experiencing payment difficulties; and
- c. the processes applying to decisions of Council to postpone or remit rates under sections 182 and 182A of the *Local Government Act 1999*.

## 3. DEFINITIONS

**accredited financial counsellor** means a person who holds a Diploma of Community Services (Financial Counselling) and who has worked at least 12 months as a **financial counsellor** under the supervision of the South Australian Financial Counsellors Association

**connection** means an agreed point of supply at which a person receives a **retail service** from the Council

**financial hardship policy** means this **policy** that has been adopted by the Council, in accordance with section 37 of the *Water Industry Act 2012* and for the purposes of sections 182 and 182A of the *Local Government Act 1999*

**financial counsellor** means **accredited financial counsellor**

**financial hardship** means a circumstance of experiencing a lack of financial means that may be either ongoing or temporary, but does not include circumstances where a person chooses not to meet a liability for an unpaid debt

**financial hardship program** means an agreement between **Council** and a person for payment of outstanding sums due to the **Council** (as applicable)

**hardship** includes **financial hardship**

**payment plan** means an arrangement for the payment of outstanding amount owed to the **Council**

**policy** means this **financial hardship policy**

**prescribed ratepayer** means a ratepayer prescribed under section 182A of the *Local Government Act 1999*, being a person who holds a current *State Senior's Card* issued

by the State Government, or who has the qualifications to hold such a card and has applied for the card but has yet to be issued with the card

**rates** means rates imposed by the Council under Chapter 10 of the *Local Government Act 1999*

**regulations** means regulations under the *Water Industry Act 2012*

**retail service** means a service constituted by:

- the sale and supply of **water** to a person for use (and not for resale other than in prescribed circumstances (if any)) where the **water** is to be conveyed by a reticulated system; or
- the sale and supply of **sewerage services** for the removal of **sewage** (including but not limited to community wastewater management systems)

(even if the service is not actually used) but does not include any service or any service of a class excluded from the ambit of this definition by the **regulations** (as defined in the *Water Industry Act 2012*)

**retailer** means the holder of a licence issued by the Essential Services Commission of South Australia under the *Water Industry Act 2012*

**sewage** includes any form of waste that may be appropriately removed or dealt with through the use of a **sewerage service** (as defined in the *Water Industry Act 2012*)

**sewerage service** means:

- a service constituted by the collection, storage, treatment or conveyance of **sewage** through the use of a reticulated system; or
- any other service or any service of a class brought within the ambit of this definition by the **regulations**,

(as defined in the *Water Industry Act 2012*) (*Note: sewerage service includes but is not limited to community wastewater management systems*)

**water** includes rainwater, stormwater, desalinated water, recycled water and water that may include any material or impurities, but does not include **sewage** (as defined in the *Water Industry Act 2012*)

**water service** means:

- a service constituted by the collection, storage, production, treatment, conveyance, reticulation or supply of **water**; or
- any other service or any service of a class brought within the ambit of this definition by the **regulations**,

(as defined in the *Water Industry Act 2012*).

#### 4. IDENTIFYING A PERSON EXPERIENCING FINANCIAL HARDSHIP

- 4.1 A person experiencing **financial hardship** is someone who is identified by themselves, by **Council**, by an **accredited financial counsellor** or by a welfare agency as having the intention, but not the financial capacity, to make required payments in accordance with **Council's** payment terms.
- 4.2 There are two types of **financial hardship**: ongoing and temporary. People will have different needs and will require different solutions depending on the type of **financial hardship** being experienced.
- 4.3 Persons who are identified as experiencing ongoing **financial hardship** are generally those on low or fixed incomes. These people may require ongoing assistance.
- 4.4 Persons who may be identified as experiencing temporary **financial hardship** are those who have experienced a short-term change in circumstances, such as serious illness, disability or death in the family, loss or change in income, separation, divorce or other family crisis, a loss arising from an accident or some other temporary financial difficulty. These people generally require flexibility and temporary assistance, such as an extension of time to pay or an alternative payment arrangement.
- 4.5 The extent of **financial hardship** will be determined by either **Council's** assessment process or by an external body, such as an **accredited financial counsellor**.
- 4.6 Where Council assesses a person's eligibility for **financial hardship** assistance, **Council** will consider indicators including (but not limited to) whether:
- a. the person is on a Centrelink income and holds a Pensioner Concession Card or holds a Centrelink Low Income Health Care Card;
  - b. the person is eligible for a South Australian Government concession;
  - c. the person has been referred by an **accredited financial counsellor** or welfare agency;
  - d. the person advises they have previously applied for emergency relief (irrespective of whether or not their application was successful);
  - e. the person's payment history indicates that they have had difficulty meeting their payments to the Council in the past;
  - f. the person, through self assessment, has identified their position regarding their ability to pay.

#### 5. INFORMING A PERSON WHO IS EXPERIENCING FINANCIAL HARDSHIP

- 5.1 Council will inform a person of this **financial hardship policy** where:
- a. it appears that non-payment of an amount owing to the Council is due to the person experiencing payment difficulties due to **financial hardship**;  
or

- b. **Council** is proposing to install a flow restriction device due to **non payment** of a recycled **water** bill.

## 6. **ASSISTING A PERSON EXPERIENCING FINANCIAL HARDSHIP IN RESPECT OF RETAIL SERVICES**

6.1 In respect of **retail services**, where a person has been identified as experiencing **financial hardship**, **Council** will offer the person, as soon as is reasonably practicable, flexible and frequent payment options that have regard to the person's usage of **retail services**, capacity to pay and current financial situation. These options will include the following:

- a. an interest and fee free **payment plan** that complies with clause 8 (below);
- b. Centrelink's Centrepay service (only where available); or
- c. another arrangement under which the person is given more time to pay a bill or to pay in arrears (including any disconnection or restriction charges),

recognising that some people have a short-term **financial hardship** issue that may be resolved in the near to medium-term, where other people may require a different type of assistance for ongoing financial issues.

6.2 **Council** will not charge a person a reconnection charge where that person is experiencing **financial hardship** and should have been identified as eligible for this **financial hardship policy**, so long as the person agrees to participate in **Council's financial hardship program** upon reconnection.

6.3 **Council** will engage in discussion with a person experiencing **financial hardship** to determine a realistic payment option in line with the person's capacity to pay.

6.4 **Council** will work with the **financial counsellor** of a person experiencing **financial hardship** to determine the **payment plan** and instalment amount that best suits the person and their individual circumstances.

6.5 Where the circumstances of a person experiencing **financial hardship** change, **Council** will work with the person and their **financial counsellor** to re-negotiate their **payment plan**.

6.6 **Council** will not require a person experiencing **financial hardship** to provide a security deposit.

6.7 **Council** will not restrict **retail services** to a person experiencing **financial hardship** if:

- a. the person has agreed to a **payment plan** and continues to adhere to the terms of that **payment plan**; or
- b. **Council** has failed to comply with the requirements of this **financial hardship policy**; or

- c. the relevant **retail service** is a community wastewater management system or other **sewerage service**.

6.8 **Council** will also offer a person experiencing **financial hardship**:

- a. where appropriate, information about the right to have a bill redirected to a third person, as long as that third person consents in writing to that redirection;
- b. information about and referral to Commonwealth and South Australian Government concessions, rebates, grants and assistance programs;
- c. information about and referral to accredited financial and other relevant counselling and support services, particularly where a person is experiencing ongoing **financial hardship**.

6.9 Where a person experiencing **financial hardship** requests information or a redirection of their bills, **Council** will provide that information or redirection free of charge.

6.10 **Council** will provide information to a person experiencing **financial hardship** on how to reduce usage and improve **water** efficiency, which may include referral to relevant government **water** efficiency programs. This will be provided at no charge to the person experiencing **financial hardship**.

6.11 **Council** will explain to a person experiencing **financial hardship** how and when the person will be returned to regular billing cycles (and collection) after they have successfully completed the **financial hardship program**.

6.12 **Council** will also explain to a person experiencing **financial hardship** that they will be removed from **Council's financial hardship program** and be returned to **Council's** standard collection cycles including debt recovery, should they cease to make payments according to the agreed **payment plan** or fail to contact **Council** for a period of greater than 90 days.

6.13 **Council** will not take any action to remove a person experiencing **financial hardship** from its **financial hardship program** until the **Council** has sent the person a written notice allowing them 10 working days from the date of the notice to contact **Council** to re-negotiate their re-entry into the program.

## 7. **ASSISTING PERSONS EXPERIENCING FINANCIAL HARDSHIP IN RESPECT OF RATES**

7.1 The **Council** may postpone the payment of rates or remit rates in whole or in part if the **Council** is satisfied on application of a person, that the payment of rates would cause hardship. The **Council** will exercise this discretion in the circumstances set out below and in accordance with sections 182 and 182A of the *Local Government Act 1999*.

7.2 A postponement of rates suspends payment for a period of time. In comparison, a remission of **rates** removes the requirement to pay the **rates**.

7.3 The postponement or remission of rates only affects the payment of rates which have already accrued in respect of a rateable property. Rates will continue to

accrue in accordance with the *Local Government Act 1999* despite a decision to postpone payment of rates or to remit rates or a portion of rates.

#### **Postponement of rates under section 182 of the *Local Government Act 1999***

- 7.4 A person experiencing **hardship** may apply to the Council for the postponement or remission of rates.
- 7.5 Rate payments will be postponed in the following circumstances:
- a. **Council** is satisfied that payment of **rates** or charges would cause **hardship**; and
  - b. the person is:
    - i. a pensioner (eligible to claim the State Government pensioner rate rebate), excepting that if the person is a **prescribed ratepayer**, then the **Council** will consider the person's application for postponement strictly in accordance with section 182A of the *Local Government Act 1999* (see below); or
    - ii. is receiving unemployment benefits for a minimum period of three consecutive months; or
    - iii. is able to provide evidence of severe **financial hardship** as certified by an assessment carried out by a member of the South Australian Financial Counsellors Association or a Financial Counsellor funded under the Commonwealth Financial Counselling Service; and
  - c. an application is submitted to **Council's** Chief Executive Officer by the person or the person's representative providing evidence of such circumstances referred to in a. or b. above.
- 7.6 In all applications for the postponement of **rates** payments, the applicant will be encouraged to continue to pay the portion of **rates** that is affordable given their individual circumstances. This will be mutually agreed by the **Council** and the applicant on a case by case basis.
- 7.7 Ratepayers are required to re-submit an application every three years to qualify for a continuation of any postponement arrangement.
- 7.8 The total of **rates** postponed on a single assessment should not exceed 5% of the capital improved value of the subject property. Any deferrals of **rates** in excess of this amount will be considered by the **Council's** Chief Executive Officer and referred to **Council** for decision.

#### **Interest charges under section 182 of the *Local Government Act 1999***

- 7.9 Under section 182 of the *Local Government Act 1999*, **Council** is entitled to postpone **rates** on the condition that the ratepayer is to pay interest on the amount affected by the postponement at a rate fixed by **Council** (not to exceed the cash advance debenture rate).

- 7.10 The net interest on postponed **rates** will be set at the 'market rate' rather than the prescribed interest rate which applies to rates in arrears under section 181 of the *Local Government Act 1999*. The market interest rate will only apply to **rates** postponed through this application process and will be applied from the date on which the postponement is approved. Interest charged at the prescribed rate to arrears prior to the approval of the rates postponement will remain unchanged.
- 7.11 Once the rates postponement is approved, the difference between the prescribed interest levied and the interest that would be levied at the 'market rate' will be calculated monthly on arrears and waived. This will also be applied to current year **rates** if they become overdue.

#### **Postponement of rates under section 182A of the *Local Government Act 1999***

- 7.12 Where a person is a **prescribed ratepayer** and the person makes an application under section 182A of the *Local Government Act 1999* then the **Council** will consider the application for postponement strictly in accordance with section 182A of the *Local Government Act 1999* and the *Local Government (General) Regulations 2013*.

#### **Interest charges under section 182A of the *Local Government Act 1999***

- 7.13 Under section 182A(5) of the *Local Government Act 1999*, interest on **rates** which are postponed are to be charged at the prescribed rate per month.

#### **Rate postponement agreements (change of ownership)**

- 7.14 Under the *Local Government Act 1999*, where property ownership changes all overdue **rates** must be fully paid at the settlement date. **Rates** postponement arrangements are not transferable. All outstanding rates, fines and interest will fall due and payable when the title to the relevant land is transferred to another person.

#### **Remitting rates**

- 7.15 **Council** will only consider the remitting **rates** under section 182 of the *Local Government Act 1999* in exceptional circumstances.
- 7.16 All applications for a remission of **rates** need to be lodged in writing and will be considered by the **Council's** Chief Executive Officer. Any decision by the **Council** for a remission of **rates** due to **hardship** will be undertaken in accordance with this **policy**.

#### **Waiving interest**

- 7.17 Interest is charged by the Council on outstanding rates balances in accordance with the *Local Government Act 1999*. The Council may determine to waive interest. Interest waivers fall under three categories which are:
- a. administrative waivers;
  - b. waiver on compassionate grounds;
  - c. **financial hardship** waiver.



### ***Waiver for administrative reason/error***

- 7.18 A person may apply to have interest waived in the event of an administrative issue, error or omission which caused or significantly contributed to the failure to pay **rates** in a timely manner.

### ***Waiver on compassionate grounds***

- 7.19 A person may apply to have interest waived where they have demonstrated compassionate grounds for a payment being late.

### ***Waiver of interest due to financial hardship***

- 7.20 A person experiencing significant **financial hardship** may apply to have interest waived subject to compliance with the following conditions:
- a. a pensioner and unemployed person with current year balances to be cleared within 12 months under a **payment plan** may be placed on an interest free arrangement for this period by the **Council's** Chief Executive Officer. Any such interest free arrangement only remains in force while the agreed payments are being received;
  - b. in the case of a family or individual who is not a pensioner or unemployed, the person's financial circumstances must be substantiated and documented by an **accredited financial counsellor** and assessed by the Chief Executive Officer.

### ***Pensioner rate rebate***

- 7.21 A pensioner who is eligible to claim the State Government pensioner rate rebate will qualify to have current year interest charges waived if the **rates** are paid in full within the current financial year.

## **8. PAYMENT PLANS**

- 8.1 **Council's payment plan** for a person experiencing **financial hardship** will be established having regard to:
- a. the persons capacity to pay and current financial situation;
  - b. any arrears owing by the person; and
  - c. in respect of **retail services**, the persons expected usage of the **retail services** over the following 12 month period.
- 8.2 A **payment plan** will also include an offer for the person to pay for their **retail services** or **rates** in advance or in arrears by instalment payments at a frequency agreed with the person (as relevant) (e.g. weekly, fortnightly, monthly or as otherwise agreed with the person).
- 8.3 Where a **payment plan** is offered to a person experiencing **financial hardship**, **Council** will inform that person in writing within 10 business days of an agreement being reached of:
- a. the duration of the plan;

- b. the amount of each instalment payable under the plan, the frequency of instalments and the date by which each instalment must be paid;
  - c. if the person is in arrears, the number of instalments to pay the arrears; and
  - d. if the person is to pay in advance, the basis on which instalments are calculated.
- 8.4 **Council** will waive any fees for late payment of a bill or rates notice (as relevant) for a person experiencing **financial hardship** provided the terms of the payment agreement are being met.
- 8.5 Where a person experiencing **financial hardship** is seeking assistance in accordance with this **policy** but has failed to fulfil their obligations under an existing **financial hardship** arrangement, **Council** will require them to sign up for direct debit deductions or Centrepay (where available).
- 8.6 In respect of a **payment plan** in respect of **rates**, outstanding balances will attract interest at the prescribed rate under the *Local Government Act 1999*.

## 9. DEBT RECOVERY

- 9.1 **Council** will suspend debt recovery processes while negotiating a suitable **payment plan** with a person experiencing **financial hardship**.
- 9.2 **Council** will not engage in legal action or commence proceedings for the recovery of a debt relating to a **retail service** provided to a person experiencing **financial hardship** if:
- a. the person has agreed to a **payment plan** and continues to adhere to the terms of that **payment plan**; or
  - b. **Council** has failed to comply with the requirements of this **financial hardship policy**.
- 9.3 **Council** will not pursue debt recovery for outstanding **rates** under Chapter 10 of the *Local Government Act 1999* while a **payment plan** is in place with respect to the outstanding **rates** and the ratepayer is not in default in making payments under that **payment plan**.

## 10. RIGHTS OF PERSONS EXPERIENCING FINANCIAL HARDSHIP

Every person experiencing **financial hardship** has the right to:

- a. be treated respectfully on a case-by-case basis and have their circumstances kept confidential;
- b. receive information about alternative **payment plans**, this **financial hardship policy** and government concessions, rebates, grants and assistance programs;
- c. negotiate an amount they can afford to pay on a **payment plan** or other payment arrangement;

- d. consider various payment methods and receive written confirmation of the agreed payment arrangement within 10 business days;
- e. renegotiate their **payment plan** if there is a change in their circumstances;
- f. receive information about free and independent, **accredited financial counselling services**;
- g. receive a language interpreter service at no cost;
- h. be shielded from legal action and additional debt recovery costs, whilst they continue to make payments according to an agreed **payment plan**;
- i. not have **retail services** restricted or disconnected as long as they have agreed to a **payment plan** and continue to make payments according to that **payment plan**.

## 11. GENERAL PROVISIONS

- 11.1 **Council** will ensure persons have equitable access to this **financial hardship policy** and that this **policy** is applied consistently.
- 11.2 **Council** will ensure appropriate training of staff to enable the staff to treat persons experiencing **financial hardship** with respect and without making value judgements. Training will also assist staff in the early identification of persons experiencing **financial hardship**, with establishing **payment plans** based on a person's capacity to pay and include processes for referral to an **accredited financial counsellor** or welfare agency for assistance.
- 11.3 This **financial hardship policy** does not limit or prevent **Council** from waiving any fee, charge or amount of arrears for the provision of **retail services** to persons experiencing **financial hardship**, arrears of **rates** or associated interest, fees or charges.

## 12. DELEGATION

The Council has delegated to its Chief Executive Officer the necessary powers to make all decisions under or for the purposes of this **policy**. The Chief Executive Officer may sub-delegate these delegated powers.

## 13. CONFIDENTIALITY

Any information provided in accordance with this **policy** will be treated as strictly confidential. Information provided to the Senior Rates Officer, Chief Executive and the Manager – Finance & Community Services will be securely retained by those Officers with only the decision being presented to the Rates Officer.

## 14. COMPLAINTS HANDLING

- 14.1 Details of **Council's** complaints and dispute resolution process are available at **Council's** website: [www.yankalilla.sa.gov.au](http://www.yankalilla.sa.gov.au). Council will also make a copy of this process available to a person, upon request, as soon as practicable and at no charge.
- 14.2 A person experiencing **financial hardship** has a right to have any complaint heard and addressed by **Council** and in the event that their complaint cannot

be resolved, the right to escalate their complaint to the relevant Ombudsman. Further details can be found at [www.ombudsman.sa.gov.au](http://www.ombudsman.sa.gov.au) and [www.ewosa.com.au](http://www.ewosa.com.au).

## 15. REVIEW

This **policy** will be reviewed annually or earlier in the event of changes to legislation or related Policies and Procedures or if deemed necessary by the **Council's** Chief Executive Officer.

## 16. FURTHER INFORMATION

The **policy** will be available for inspection at the **Council** office listed below during ordinary business hours and provided to interested parties as per Council's Fees and Charges Register. Copies are available to be downloaded, free of charge, from Council's internet site: [www.yankalilla.sa.gov.au](http://www.yankalilla.sa.gov.au).

District Council of Yankalilla  
1 Charles Street, Yankalilla SA 5203

Phone: (08) 8558 0200  
Fax: (08) 8558 2022