



Rate Hardship & Fine Remission procedure

Procedure Type:	Business Support & Improvement
Responsible Area:	Rate Administration
Responsible Officer:	Manager Finance & Procurement
Related Policies and Procedures	Local Government Act 1999 (SA) Postponement Application Forms
Date Adopted:	Jan 2020
Next review date:	Jan 2023
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1. PROCEDURE STATEMENT

This Procedure is intended to provide guidance to council employees to ensure best practice to find an appropriate payment solution that is sustainable for our most vulnerable customers and ensure they are treated with integrity. The applicant will have to satisfy the requirement under the Acts listed below.

The Local Government Act 1999 Sections 182 & 182A Remission and Postponement of Payment, Section 181(8) and 181(9) of the Local Government Act 1999

2. COMMUNITY GOAL

Apply a fair and consistent process to all applicants.

3. PROCEDURE OBJECTIVES

- Set guidelines for the procedure to ensure that there is consistency for all applicants.
- Provide guidance to the community as to the matters that Council will consider in deciding an application for a rebate or remission of rates;
- Assist staff with delegated authority to determine remissions and postponement pursuant to both the Act and the requirements of this policy; and
- Provide a consistent framework under which applications will be considered.
- This policy should be read in conjunction with relevant provisions of the Act.
- To ensure consistency in remitting fines on rates.
- To set guidelines for application of procedures.

4. **PRINCIPLES**

In developing this procedure Council has given consideration to the five principles previously identified by the local government industry in applying the imposition of rates on communities.

These principles are:

- Equity - rating responsibility should be distributed in an equitable manner across and within our communities;
- benefit - ratepayers should receive some benefits from paying tax, but not necessarily to the extent of the tax paid;
- ability-to-pay - in raising rates the ability of the taxpayer to pay the rates must be taken into account;
- efficiency – Council’s rates are currently designed to be neutral in its effect on ratepayers and therefore it is considered efficient unless it changes ratepayer behaviour;
- simplicity – the application of rates should be understandable, hard to avoid and easy to collect.

5. **PROCEDURE**

Remission and Postponement of Rates, Charges and Interest (Section 182 of the Local Government Act 1999).

- a. Ratepayers may have rates and charges, or part thereof, postponed although rates and charges will continue to be levied subject to compliance with the following conditions
- b. The ratepayer must be experiencing undue and unavoidable hardship.
- c. The online application must be completed and submitted to the Senior Rates Coordinator the ratepayer or the ratepayer’s representative providing evidence from an approved Financial Counsellor of such circumstances referred to in a) above. The Senior Rates Coordinator will provide a recommendation to the Manager Finance & Procurement based on these details supplied.
- d. The postponement can be for a fixed period or ongoing basis until the property is disposed of or sold.
- e. In accordance with provisions of Section 182a of the Local Government Act 1999, persons who hold a current Seniors Card may apply to postpone any amount in excess of \$500 (\$125 per quarter) less any concession entitlement for their principal place of residence. Interest will accrue at the prescribed rate on postponed balances, with the accrued debt being payable on the disposal or sale of the property.

Interest on postponed rates will be levied at the “Cash Advance Debenture Rate” rather than the penalty interest rate in accordance with Section 182 (2)(a) of the Local Government Act 1999.

5.1 Rate Postponement for Seniors - Section 182A

- a. Rate postponement for seniors is available under the provisions of Section 182A of the Local Government Act 1999.

- b. Council requires an application for postponement of rates to be submitted on the required form.
<http://www.unley.sa.gov.au/CityOfUnley/media/CoU-Media-Library/Council%20and%20Administration/Rates%20Information/Application-Form-Rate-Rebate-2016-2017-Financial-Year.pdf>
- c. Applications do not need to be submitted on an annual basis for postponement to be continued, but Council must be notified if circumstances change that gave rise to the entitlement.

5.2 Penalties for Late Payment of Rates & Remission of Fines

The council-imposed penalties for late payment of rates in accordance with the section 181 (8) of the Local Government Act 1999 which provides

If an instalment of rates is not paid on or before the date on which it falls due—

- a. the instalment will be regarded as being in arrears; and
- b. a fine of 2 per cent of the amount of the instalment is payable; and
- c. on the expiration of each full month from that date, interest at the prescribed percentage of the amount in arrears (including the amount of any previous unpaid fine and including interest from any previous month) accrues.

The Council's rates notice includes details to notify ratepayers of the application of penalties for late payment of rates. Further, the Council gives at least 30 day's notice before a rates instalment falls due as required by section 181(15) of the Act.

Rate payments will be applied in accordance with section 183 of the Act, which requires the Council to apply money received towards payment of rates as follows:

- firstly—in payment of any costs awarded to, or recoverable by, the council in any court proceedings undertaken by the council for the recovery of the rates;
- secondly—in satisfaction of any liability for interest;
- thirdly—in payment of any fine;
- fourthly—in satisfaction of liabilities for rates in the order in which those liabilities arose.

5.3 Remission of Fines

Pursuant to section 181(9) of the Act, the Council may remit any amount comprising a penalty for late payment of rates in whole or in part (whether or not on the application of a ratepayer). The Council will consider remitting fines levied on rates in the following circumstances:

- where incorrect information has been included on a rate notice due to administrative error on the part of the Council;
- where penalties have been imposed in error by Council;
- where a rates notice was forwarded to the wrong address, provided that the ratepayer has duly notified the Council of any change in their address;
- where payment was received before the due date and was credited to an incorrect account by the Council or the payment agent;
- where payment for the whole financial year's rates is made after the first quarter due date, provided this payment is received before the second quarter due date;
- where good payment history exists, and the late payment is the first of its kind by the ratepayer;
- where payment was made by the due date but, was not applied to the ratepayer's account due to a delay on the part of Council;

- where a ratepayer is recently deceased and the next of kin or Executor has contacted the Council to advise when a payment will be made, provided that the payment is received before the next due date for payment of rates instalments.
- Where Council believes hardship may exist for a ratepayer due to circumstances imposed on the ratepayer that is beyond their control.

The decision to remit penalties on rates is at the Council's absolute discretion. The fact a ratepayer simply forgot to pay their rates before the due date or did not make reasonable arrangements to do so does not, of itself, give rise to reasonable grounds for Council to remit a penalty.

5.4 Financial Hardship Assistance

Depending on whether the hardship experienced is ongoing or temporary, ratepayers may have different needs and require different assistance.

A ratepayer experiencing financial hardship is someone who is identified by themselves as not having the financial capacity to make payments in accordance with Council's payment terms.

Ratepayers who may be experiencing **temporary hardship** may require short term assistance and are generally experiencing a short-term change in circumstances, such as;

- Loss or change in income due to unemployment or reduced employment
- Separation, divorce or other family crisis
- Serious illness, injury, or bereavement in the family
- Unexpected accident, incident, unexpected bills, or some other temporary financial difficulty.

Council will advise the ratepayer of assistance available including

- Payment plans and extensions of time to pay
- Referral to an Accredited Financial Counsellor

A ratepayer experiencing financial hardship is someone who is identified by Council, by an accredited financial counsellor, or welfare agency, as having the intention, but not the financial capacity, to make required payments in accordance with Council's payment terms.

Hardship assistance required will be determined by either an **accredited financial counsellor** or **Council's** assessment process([insert link to application form](#))

Ratepayers who are identified as experiencing **ongoing hardship** may require ongoing assistance and are generally on low or fixed incomes;

- Aged pension
- Disability pension
- Carers pension
- Single parenting pensions

Remission of Fines/Interest due to Financial Hardship

Pursuant to section 182 of the Act, any ratepayer may apply to the Council for the remittance of fines and interest on the grounds of financial hardship. A request to Council to remit fines imposed on rates on the grounds of hardship should be made in writing and outline the reasons why a remission is sought. The request should be accompanied by a statement from an independent financial consultant that supports the ratepayer's financial situation and

provides recommendations for a payment arrangement and the holding of fines and interest for 12 months or until the next review.

Completion of hardship assistance

Council will advise the customer when they have paid all outstanding arrears and are no longer receiving hardship assistance and provide options to continue making ongoing payments towards their current council rates based on their historical annual rates.

Removal of hardship assistance

Council will advise the hardship customer the requirements;

- To continue receiving hardship assistance or
- Should they re-seek assistance having failed to fulfil their previous obligations under an existing hardship arrangement

6. DEFINITIONS

Hardship refers to a situation where a ratepayer is unable, reasonably, because of illness, unemployment or other reasonable cause, to pay their rates when due for payment. It can be of limited or long-term duration and essentially involves an inability of the ratepayer to pay bills, rather than an unwillingness to do so.

Remission means a reduction of the rates amount to be paid or the return of part or all of an amount of rates paid pursuant to Section 182 of the Local Government Act 1999.

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.

7. LEGISLATION/REFERENCES

Local Government Act 1999 – Section 182 & 182A

8. PROCEDURE DELEGATIONS

The officers listed below have sub-delegation under this policy:

- Manager Finance & Procurement
- Senior Rate Coordinator.

9. ROLES/RESPONSIBILITIES

- Manager Finance & Procurement

10. DOCUMENT HISTORY

Date:	Council/Committee/Internal	Comment:
8/04/2020	Manager Finance & Procurement	Approved