



# Local Government Act Review

## Rates and Financial Hardship

Submission by Financial Counselling Network

March 2019

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### 1. About the Financial Counselling Network (FCN)

The Financial Counselling Network (FCN) is a unique collaboration of 14 member organisations and provides a range of integrated and person-centred services with the aim of reducing the drivers and impacts of financial hardship in the Western Australian community.

Member organisations of the FCN include community legal centres, large not-for-profits, community service organisations and local government. This collaboration provides access to comprehensive referral pathways and expert knowledge whilst leveraging local expertise and relationships.

The FCN delivers financial counselling services in 25 locations across the metropolitan area, financial wellbeing services and also operates a state wide third party assessment service for the Hardship Utility Grant Scheme (HUGS).

The following organisations have contributed to and endorsed this submission:

#### (i) Legal Aid WA

Legal Aid WA is the public face of the Legal Aid Commission of Western Australia.

The Legal Aid Commission of WA is an independent statutory body that started in 1978, as the first dedicated legal aid commission in Australia. Legal Aid are now the largest single provider of legal aid services in Western Australia, employing nearly 300 lawyers and support staff in 9 offices across WA.

The Legal Aid Commission is managed by a Board of Commissioners, who are appointed by the Governor of Western Australia. The Director of Legal Aid is appointed by the Governor, on the recommendation of the Commission. The Director is responsible for the day-to-day management of Legal Aid WA, and is supported by the head of each Division.

#### (ii) Financial Counsellors' Association of Western Australia (FCAWA)

FCAWA work with over 160 financial counselling members across Western Australia to ensure people experiencing financial hardship get the free, impartial support they need to regain control financially, escape debt and move on with clarity, certainty and confidence.

From advocating for legislative change to providing accredited training, tools and resources for financial counsellors, its role as the industry's not-for-profit peak body is focused on enabling financial counsellors to empower individuals and families in financial stress.

FCAWA lobby government on behalf of its members and work with business and industry to improve terms, conditions and outcomes for consumers. It connects its members, providing news, insights and support in maintaining their CPD accreditation. It also promotes financial counselling and its members to the public.

FCAWA has been performing this diverse role since it was incorporated in 1985, with the aim of establishing, monitoring and improving standards for financial counsellors in Western Australia.

### **(iii) WA Council of Social Service (WACOSS)**

WACOSS is the peak body of community service organisations and individuals in Western Australia. WACOSS stands for an inclusive, just and equitable society. It advocates for social and economic change to improve the wellbeing of Western Australians and to strengthen the community services sector that supports them. WACOSS is part of a national network consisting of ACOSS and the State and Territory Councils of Social Service, who assist people on low incomes and experiencing disadvantage Australia wide.

### **(iv) Broome CIRCLE**

Broome CIRCLE is a not-for-profit organisation in the Shire of Broome providing a range of services to communities. Its aim is to create a welcoming and safe environment where Broome families, individuals and community groups can find the support, networks, training and resources that empower them to achieve their goals and make valuable contributions to the community.

### **(v) Community Legal Centres Association (WA)**

The Community Legal Centres Association (WA) is the peak organisation representing and supporting 28 Community Legal Centres (CLCs) operating in Western Australia. Located throughout the state, CLCs are independent, not-for-profit organisations which provide legal services to disadvantaged and vulnerable people or those on low incomes who are ineligible for legal aid.

On behalf of our members, the Association is committed to the principles of human rights, social justice and equity, including the rights of Western Australians to equity in access to legal services. To do so, the Association also supports CLCs working together and with other organisations within the community.

## **2. Introduction**

The FCN welcomes the review of the *Local Government Act 1995* (the Act). The FCN has a particular interest in the provisions of the Act encompassing the collection of overdue rates. We have identified a need for law reform in this area.

The FCN recognises that local government relies on rates to provide essential services to ratepayers and that overdue rates impact on local government's ability to provide services, making them less

financially sustainable. However, a degree of flexibility and compassion is required to assist ratepayers in genuine financial hardship. In our experience, local governments in Western Australia have failed to adopt fair and transparent policies and procedures around the collection of local government rates. In many cases, local governments take a punitive approach towards ratepayers who are behind on rates and often start litigation without any substantial effort to engage with the ratepayer. This can have devastating consequences for ratepayers, who are usually suffering financial hardship.

Statutory hardship provisions are required to ensure local governments have fair and equitable procedures to deal with ratepayers in financial hardship. The FCN is uniquely placed to comment on this issue. In 2018 the FCN worked with 6,836 financial counselling clients.

- 37% of clients were homeowners
- 85% of clients presented with issues relating to debt
- 28% of clients presented with an issue related to mortgages

The total presenting debt recorded across the Network for 2018 was \$699,215,258.

An analysis of data within one member organisation shows:

- In 2018, 43% of cases with housing-related issues included issues with local government rates.
- The total rate-related debt in this period was \$183,035 with an average of \$6,311.55 per client.
- Under 38% of these cases had debt which met or exceeded three years of arrears. The majority, just over 62%, were less than 3 years in arrears. A small percentage of these had been issued with warnings of legal action after only one year's arrears.

### **3. Local Government Act 1995 and collection of rates**

The provisions of the Act provide for local governments to collect rates and give extensive remedies to collect unpaid rates. Section 6.44(1) of the Act provides that the owner for the time being of land on which a rate or service charge has been imposed is liable to pay the rate of service charge to the local government.

The Act empowers local governments to collect rates through a single payment (section 6.45(1)), four equal instalments (section 6.45(1)(a)) or such other method of payment by instalments as is set forth in the local government's annual budget (section 6.45 (1)(b)). Section 6.49 of the Act provides that a local government may accept payment in accordance with an agreement made with the person. Section 6.45(3) of the Act enables local government to impose additional charges for the payment of rates by instalments.

Furthermore section 6.50(1) of the Act provides that a rate or service charge becomes due and payable on such date that is determined by the local government. The Act gives local government significant power to collect overdue rates, including garnishing of rent from the lessee of a property (section 6.60), recovering through a court (section 6.56) and taking possession of the land to which the overdue rates apply, including the power to sell the land (section 6.64).

There is no provision in the Act to assist ratepayers experiencing financial hardship and who have overdue local government rates, fees and charges. Local governments in Western Australia will often

refuse to accept payment arrangements that do not comply with end of financial year timelines. Local governments often start legal proceedings to recover these debts and on occasion take steps to repossess the ratepayer's home.

#### **4. Improved approaches to financial hardship**

The NAB Consumer Behaviour Survey for the last quarter of 2018 indicated that consumer anxiety has reached its highest level in over three years, as slow income growth, high debt levels and weaker growth in household wealth weighed on households and their spending. Four in ten Australians said they had experienced some form of financial hardship in this quarter. Being unable to pay a bill remains the most common cause of hardship<sup>1</sup>. The annual cost of rates is a considerable expense to most households and even more so for households experiencing hardship.

In the recent past, organisations operating in the financial industry, and energy providers have recognised financial hardship as an issue and have taken steps to support vulnerable customers. Our experience advocating for clients in hardship has shown us that targeted legislation, defined policy and customer-centred processes lead to better outcomes for both the clients and the creditors.

Most hardship policies include a definition of hardship, a commitment to early identification, intervention and finding appropriate solutions for the customer. These policies also create opportunities for organisations to understand hardship, consult with community advocates and provide training to staff who deal with customers in financial stress.

A leading example of this in Western Australia is the *Water Services Act (WA) 2012* and the *Water Services Code of Conduct 2018* under which it is compulsory for licensees to offer assistance to customers experiencing financial hardship. This is detailed in Part 4 — Payment for water services (clause 29 onwards) within the *Water Services Code of Conduct (Customer Service Standards) 2018*.

This has seen the Water Corporation in WA introduce an excellent hardship policy and schemes to assist customers, including debt waiver and reduction. Financial counsellors and customers across Western Australia commend this policy and agree that this has led to better engagement and outcomes with clients experiencing financial hardship due to medical issues, unemployment, mental health and inadequate income. The Water Corporation is also the first Western Australian organisation to develop and launch a Financial Inclusion Action Plan (FIAP) which is a nationwide initiative to improve financial inclusion. Energy retailers and creditors also subscribe to a well-defined and public complaints handling process.

#### **5. Need for Reform**

In 2018, the office of the Western Australian Ombudsman (the Ombudsman) published best practice guidance for local government collection of rates called 'Local Government Collection of overdue rates for people in situations of vulnerability: Good Practice Guidance' (the Guidelines). It identified a need for these guidelines after many years of receiving complaints from ratepayers about the debt collection practices of local government authorities.

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<sup>1</sup> <https://business.nab.com.au/wp-content/uploads/2019/02/NAB-Consumer-Behaviour-Survey-Q4-2018.pdf>

The Guidelines identified four principles reflecting good practice in the collection of overdue rates for people in situations of vulnerability. These are:

1. Good culture;
2. Good decisions;
3. Good support; and,
4. Good service.

Good Practice Guidance 5 provides that local governments should develop and publish a financial hardship policy that is responsive to the needs of people in situations of vulnerability, including Aboriginal and Torres Strait Islander people in situations of vulnerability (on page 17). To the best of our knowledge, very few local governments in Western Australia have developed a financial hardship policy and those that have are very limited in scope, allowing only for nominal interest on debts to be waived.

Good Practice Guidance 8 states that staff responsible for assisting people in situations of vulnerability should have access to training, be supported and recognised. Based on our experience and the experience of financial counsellors in regional and remote Western Australia, local government currently fall well short of good practice in this area. Ratepayers experiencing financial hardship are dealt with at arms-length and do not feel supported by local government. There does not appear to be a commitment or motivation to train local government workers to communicate effectively with ratepayers experiencing financial hardship or to provide flexible options. Local governments make minimal efforts to create proactive working relationships with financial counsellors, community legal centres and other organisations.

Good Practice Guidance 12 provides that for ratepayers in situations of vulnerability, local governments should negotiate a flexible alternative payment arrangement that reflects their actual capacity to repay.

Very few, if any, local governments in Western Australia are adhering to the best practices set out in the Guidelines or adopting financial hardship policies, leaving vulnerable ratepayers subject to aggressive, inflexible and uncompassionate debt collection practices.

Other jurisdictions around Australia are leading best practice and implementing legislative provisions around the collection of unpaid local government rates. The *Local Government Act (Vic) 1989* sections 170-172 has prompted local governments to develop appropriate policies to ratepayers experiencing hardship, to make applications to local government for assistance relating to any unpaid rates or charges levied on a property under the Local Government Act 1989.

In November 2018, the New South Wales (NSW) Office of Local Government published Debt Management and Hardship Guidelines (NSW Guidelines) to develop fair and effective debt recovery and hardship policies and practices in line with the requirements of the *Local Government Act (NSW) 1993*. The Guidelines set out information that local government must take into account when developing and implementing debt management and hardship policies.

The NSW Guidelines are based on best practice and include a number of guiding principles, including;

- Clear and accessible communication



- Local flexibility
- Fair, equitable and respectful treatment
- A 'stop the clock' approach
- Informal action first
- Minimise costs
- Maintain confidentiality and privacy
- Regular review of policies and procedures
- Consistent debt management and hardship

These are all principles lacking in relation to debt collection practices in the majority of local governments in Western Australia. The NSW Guidelines encourages local governments in NSW to offer modern and flexible payment options, including 'bill smoothing' to reduce the impact of large bills by spreading payments evenly out across the year. The NSW Guidelines also recommend local governments work with ratepayers by taking a flexible and realistic approach. It also recommends referrals to financial counsellors, community legal centres and Legal Aid.

## **6. Ratepayers in Financial Hardship**

Ratepayers who are unable to pay local government rates are often dealing with multiple and complex financial issues, and may also be dealing with social isolation and health issues. Many ratepayers are in hardship due to the sudden loss of employment, injury, illness or family breakdown. In our experience,, the ratepayer is also in default on their mortgage and the bank is threatening to repossess or has already started legal proceedings. Ratepayers often have other debts such as credit cards and utilities and are often dealing with multiple creditors.

In the majority of cases, the ratepayers that we see recognise the need to pay local government rates and would like to pay. However, they are often experiencing competing financial pressures. Oftenthey need to prioritise utility bills to prevent essential services such as electricity being cut off and pay for food for their families.

The National Debt Helpline is often the first point of contact for those in financial hardship, including ratepayers, to manage their debts. The following are recent examples of common presenting issues in Western Australia;

- The client is 55 years old, on a Disability Support Pension and hasn't worked for the past four years. He owes three lots of shire rates totalling over \$8,000, car registration, electricity bill of approximately \$400, he has three home loans repaying \$390 per fortnight and only receives \$800 per fortnight with his pension. He has a payment plan for \$70 per fortnight with a credit collection company for another of his properties. Client also owes \$1,970 to the Water Corporation.
- The client is a single mother, with two children, who separated from her husband approximately three years ago. He doesn't pay child support. When they were together, she co-signed for a car loan for a work van used by her partner at the time. They currently owe \$54,000 on this contract. This car was written off in an accident which wasn't covered by insurance due to the ex-partner driving under the influence. Since the relationship breakdown, she has been in financial hardship due to a decrease in income and an increase in

her financial obligations. She is over 3 years behind in rates and the local government authority are threatening to take her to court. She owes \$6,792 to the Water Corporation and her mortgage is currently interest only payments.

- The client is self-employed and works full-time. He cares for his mother and has one dependent child. He owes Synergy \$800, gas \$250 and his mortgage is five months in arrears. His rates are years behind totalling \$9,000. He owes \$6,787 to the Water Corporation.

## 7. Case Studies

Case Studies from the metropolitan based FCN

### Case Study 1

The client is a 50 year old woman who had been on a Disability Support Pension for over a decade. The client had elected to defer her local government rates several years ago in order to make her living situation affordable. However in 2013,, Centrelink changed their system which required the client to update her details with her Local Government Authority (LGA). The client believes she did so by fax but the LGA had no record of it and thus arrears had been accruing.

The client was still eligible for deferral but the LGA would not back date the deferred debt. Furthermore, the LGA required the full debt to be cleared before future rates could be deferred. On negotiation, the LGA offered a partial rebate (current year only) and a payment arrangement for the old debt which the client was unable to afford.

The LGA had threatened legal action including eviction from the property.

The Financial Counsellor advocated for a compassionate resolution, arguing that the client's eligibility had never changed, that the error was clerical in nature and that although the client did have some responsibility to check her mail and address the matter sooner, it should be recognised that the client was on a disability pension and had every reason to believe she had done the right thing and that there was no problem.

The matter was referred to the State Treasury. The State Treasury approved the request and all eligible debt (with the exclusion of bins arrears from last two years) was deferred.

We would like to see the legislation provide improved protection for ratepayers who are eligible for a concession. Where ratepayers with arrears can provide evidence of past eligibility for concessions. Such concessions should be applied and any related penalty interest or fees be waived.

### Case Study 2

In early 2018, Mr Y was in arrears on both his mortgage (two months, after already capitalising several prior months' arrears) and his local government rates (2 years). Mr Y had heard that he might be able to access his superannuation to 'catch up' and 'start afresh'. An assessment of his financial situation showed that Mr Y lacked the financial capacity to sustain his living costs even with a clean slate but Mr Y was desperate to keep his home and stated that he had just had a pay increase. A 'last chance' serviceability period was put into place, which failed.



By early-mid 2018, the client decided to sell his home and it was listed for sale before the end of the financial year; when it did not sell he re-listed. The price was lowered twice. In mid-late 2018, a request for a hold on collection activity was sent to the LGA as the next lot of rates had come out and the client was now over the 'three year mark' and at risk of legal action. This was intended to protect against any legal charges that may otherwise begin to accrue. A hold would be considered reasonable, given the LGA has security over the property.

The LGA refused. Instead, they required the debt to be paid at an amount that would clear the account within 2 years, more than 3 times the budgeted 'usage' amount which the client already couldn't afford. The LGA was provided with evidence that the house was listed for sale and that the client needed to maintain some surplus in his budget to save up for moving costs/bond for a replacement rental. Again, the LGA refused to place a hold. The Financial Counsellor escalated the matter and secured a hold 'while under review'.

The matter remained 'under review' for the next three months, as the Financial Counsellor kept the LGA updated on the sale progress. An offer was made, settlement completed in early 2019 and the debt was cleared in-full a month after the initial due date for a decision/the end of the hold had passed with no word from the LGA.

The LGA's unwillingness to apply a 'reasonable solution' (hold on collection activity after evidence of being listed for sale and multiple price reductions) caused unnecessary distress to the client, who feared that legal action would continue without the LGA making any formal decision. Even when such fear is combatted by the FC, it tends to persist – particularly for clients facing uncertainty and other stressors.

### Case Study 3

Clients are both on Newstart, have no dependent children and live in a mortgaged property. Client A used to be a mechanic general manager for a car dealership. Clients presented for financial counselling with \$15,000 in mortgage arrears and \$10,000 in local government rate arrears. Clients have been on Newstart since early 2018 and Client A has medical barriers that are preventing him from work and therefore has been put on a Centrelink medical exemption.

When clients came in they provided court documents from Westpac to repossess the property so a complaint to Australian Financial Complaints Authority (AFCA) was made and court action has since been put on hold. The Financial Counsellor is working with the financial institution. The Financial Counsellor rang the LGA Rates Department however they had changed their process and the Financial Counsellor was only able to speak to a Rates Receptionist instead of a Rates Officer. The Rates Receptionist consulted the Rates Officer internally and then information was relayed to the Financial Counsellor by the receptionist. This was a long, drawn out process.

The receptionist advised that the Rates Officers won't discuss hardship with the Financial Counsellor and that all negotiations will have to go through their third party debt collector. The Financial Counsellor sent through a hardship request to the debt collector and copied in the LGA Rates Department. The Financial Counsellor also left two voice messages with the debt collection agency requesting a call back and did not receive a response. Medical support documents and a completed

signed income and expenditure statement were emailed through; the LGA had already been provided with a copy of the sale contract as the clients were selling their home.

Two days after the Financial Counsellor sent through the hardship request detailing the client circumstances including supporting evidence and requesting additional time to sell the property, the clients received a knock on their door handing them legal papers (general procedure claim).

Since the home loan matter had been referred to the bank's internal dispute resolution, the bank offered additional support, including giving the client more time to sell their property.

The only creditor that was being difficult is the LGA and their third party debt collector, a legal firm. The client advised that even after informing the debt collector that a financial counsellor is acting on their behalf they were threatened with repossession. The LGA has requested the client pay \$200 per week which is unaffordable. The clients intention is to clear the outstanding rates in full as soon as the property is sold however unlike the bank the LGA has been unwilling to consider the clients circumstances (despite the evidence provided) and offer an appropriate solution.

This is a good example of the difference between the steps taken by the bank and the LGA when dealing with clients experiencing financial hardship. The client was willing but unable to pay the overdue home loan and rates arrears. The client had a solution which the bank's financial hardship procedures recognised however the LGA's procedure failed to assist a client who was already dealing with unemployment caused by health issues.

#### Case Study 4

The client sought financial counselling as she was in financial hardship due to undergoing treatment for cancer and required major surgery. The client was on a Disability Support Pension. The income and expenditure statement indicated that the client had the capacity to offer a repayment plan of \$70.00 per fortnight. The LGA rejected this offer countering with a minimum of \$250.00 per fortnight, with an "ideal" payment plan of \$800.00 per fortnight to clear the arrears by 31st June 2019.

As the LGA and their third party debt collector refused to cooperate, the Financial Counsellor submitted a complaint to the office of the CEO. A complaints officer contacted the FC and referred to the LGA guidelines and advised that no further assistance was available.

The matter has now been escalated as a complaint to the WA ombudsman, with an outcome pending.

Despite a detailed financial assessment conducted by the financial counsellor, the LGA was unwavering in its response. The client is willing to address the arrears however is limited in what she is able to offer within the LGA's prescribed financial year timeline. The inflexibility of the proposed arrangement and the LGA's refusal to recognize the clients' circumstances and offer an appropriate solution is a common theme in relation to local government rate arrears across the State.

#### **Regional case studies supplied by Broome CIRCLE**

#### Case Study 5

Client presented in late 2017 in financial hardship. The client was injured in 2014 in a serious workplace accident and suffered multiple injuries and has been on Centrelink sickness payments since

then. The client receives just \$589/fortnight in payments and he fell behind with rates and utilities payments, rent, Telstra bills, and all other bills, including a credit card debt. This included a local government rates debt for almost \$5000 with a payment arrangement for \$100/fortnight.

The Financial Counsellor assisted the client to manage most of his debts and also organise repayment plans. The only major problem remaining is the local government rates debt. The LGA threatened to take legal action in February 2018 due to the unpaid debt. Ongoing requests have been made through the Financial Counsellors since February 2018 to the LGA for the:

- acknowledgment of his financial hardship
- fortnightly payment arrangement of \$50
- all interest and overdue fees accrued on his account for the last 3 years waived
- legal action to be dropped and no charge for setting up a payment arrangement

There has been very limited correspondence from the LGA in response to the Financial Counsellor's requests and no satisfactory outcome thus far and he continues to pay \$100/fortnight out of his sickness payment, which is unaffordable for him.

#### Case Study 6

Client found himself in the difficult situation of meeting the cost of LGA rates due to a relationship breakdown in 2015, resulting in health issues impacting his ability to manage his financial affairs. The client has tried on numerous occasions to come to an affordable arrangement with the LGA and has had no success. He even tried to get a personal loan to pay off his debt but unfortunately the bank declined after assessing his finances.

The client was unaware that the LGA had initiated legal action against him until the Bailiff turned up at his house. He received no correspondence from the LGA whatsoever. When he confronted the LGA he was told that they had the wrong PO Box. The client was stunned when he did finally receive his rates account which had doubled with legal fees and interest.

The Financial Counsellor completed an intensive assessment which indicated that he was experiencing genuine financial hardship. As requested by the LGA in previous attempts at negotiating an agreement, the financial counsellors have addressed all of the required steps including: ongoing financial counselling, organising affordable payment arrangement for other debts, organising for government assistance, investigated all available options to improve their consequences, including debt recovery procedures, goods and land repossession/sale, bankruptcy and other alternatives. The client initially wanted to go bankrupt, however it was explained that he could get on top of his finances by following a tight budget and continual support from his creditors. The Financial Counsellor also helped to access all applicable support services, for example, relevant helplines, family support, personal counselling, medical assistance or community legal aid.

Unfortunately, the client will never be able to catch up with his LGA rates at the current accrual of interest. The Financial Counsellor submitted a request to the LGA that they consider his circumstances and waive all his interest and legal fees, stop legal proceedings and set up a \$300 per month repayment arrangement. The client aimed to pay off the outstanding rates (minus the legal fees and

interest) by the end of the year and start fresh in 2018, however no agreement was met due to lack of correspondence with LGA.

## **8. Proposed amendments to Local Government Act 1995 (Act)**

With consideration to the areas raised previously, we believe that amendments to the *Local Government Act 1995 (WA)* Part 6 Division 6 'Rates and service charges' are required and should include:

- A general right to apply for financial hardship.
- A process for an application to be reasonably considered, including a clearly defined financial hardship policy, procedure and hardship assistance.

The outcomes of these changes are targeted to:

- Encourage ratepayers experiencing financial hardship to access support and be referred to services as soon as possible.
- Reduce the number of vulnerable ratepayers being sued for unpaid rates and charges.
- Reduce court proceedings and associated costs and legal costs related to rate arrears.

Overdue local government rates are an issue for clients. Financial Counsellors along with clients would like to see local governments take an alternate approach to the collection of arrears. We recommend that local governments adopt a similar approach to recognising financial hardship and implementing appropriate assistance.

We recommend a new subdivision to Division 6: Rates and service charges of the West Australian Local Government Act to include policies and procedures to deal with ratepayers experiencing financial hardship. This is largely based on the Water Services Act 2012 and the Water Services Code of Conduct 2018.

We recommend the following changes to the Act:

### **1 Include definitions of ongoing financial hardship and payment difficulties (temporary financial hardship)**

### **2 Include a requirement for Local Government Authorities to have a financial hardship policy**

- This must be a written policy.
- The hardship policy is developed, in consultation with relevant stakeholders and community partners, that is compulsory and transparent.
- This hardship policy needs to include specific measures on assisting ratepayers who are the victims of family violence.
- The financial hardship policy must be publicly available.
- A Local Government Authority must review its financial hardship policy at least once in every five year period.

### **3 Procedures for dealing with ratepayers identified under the hardship policy**

- Each Local Government Authority should have clearly defined internal policies.

- Guides to assist Rates Officers to conduct a standards assessment of financial hardship; many organisations do this via an application process including a statement of financial position.
- The Local Government Authority should provide information about their hardship policy and the availability of free financial counselling to ratepayers with payment difficulties and overdue notices.
- When formulating a payment plan or other arrangement for a ratepayer the Local Government Authority must take into account the owner's capacity to pay.
- Allow ratepayers identified as being in financial hardship and payment difficulty more time to pay, flexible payment arrangements including Centrepay (i.e. the facility that allows Centrelink customers to have automatic deductions taken from Centrelink payments) or any other payment arrangement that doesn't adversely affect their circumstances or cause further financial hardship.
- If a ratepayer has been assessed as being in financial hardship the Local Government Authority must not charge interest or fees for late payment.

#### **4 Waiver**

Local Government Authorities should consider waiver of the whole or part of any rates, charges, interest or legal costs in relation to —

- (a) an eligible concession card holder; or
- (b) a request made by a rate payer or advocate on grounds of financial hardship.

#### **5 Deferment of rates and charges**

The Act refers to the Rates and Charges (Rebates and Deferments) Act 1992 where deferment is available to pensioners and other eligible persons:

- (i) a Seniors Card holder;
- (ii) a pension concession card holder;
- (iii) a State concession card holder;
- (iv) a Commonwealth seniors health card holder.

We recommend that section 6.50 of the Local Government Act make some provisions to allow deferment of rates and charges be available to those who are outside of this definition (non-concession card holders) but have been assessed as being in financial hardship. Deferment would be time specific to allow, for example, where customers are in the process of selling a property and are in hardship and unable to pay for rates due immediately.

We recommend where ratepayers with arrears can provide evidence of past eligibility for concessions that such concessions should be applied again.

#### **6 Complaints**

As referenced in the 'Local Government Collection of overdue rates for people in situations of vulnerability: Good Practice Guidance' published by the Western Australian Ombudsman in October 2018 we recommend that the Act should prescribe a complaints procedure including;

- The right to complain about the decision making process;
- An accessible timely complaints handling procedure that is publicly available;
- Information on rights to internal and external review of decisions regarding overdue rates;
- Information about the availability of the WA Ombudsman scheme for external review;

## 7 No debt collection in certain cases

A provision in the Act to include certain cases where a Local Government Authority must not commence or continue proceeding to recover debt from a ratepayer if:

- the ratepayer is complying with a payment plan or other arrangement entered with the Local Government Authority;
- the Local Government Authority is assessing, under its financial hardship policy, whether or not the ratepayer is experiencing financial hardship;
- a complaint made by the ratepayer to the Local Government Authority that directly relates to financial hardship is not resolved;
- a complaint made by the ratepayer to the WA Ombudsman that directly relates to financial hardship is not determined or is upheld the WA Ombudsman.

## 9. Recommended Hardship Policy essentials:

- Purpose
- Policy objectives
- Definitions of hardship (individual and business)
- Overview of assistance
  - a. identifying customers who are experiencing financial hardship
  - b. Treating customers sensitively and respectfully
  - c. Reduction and/or waiver of fees, charges and interest
  - d. Instalment plans and payment options
- Staff training e.g. FCAWA provide hardship training to energy providers
- Outline debt collection process
- Policy review date
- Standard application for assistance
- Complaints handling
- Hardship policy to be endorsed by an external peak body e.g. FCAWA

## 10. Recommended resources:

- Water Services Act 2012  
[https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc\\_41498.pdf/\\$FILE/Water%20Services%20Act%202012-%20%5B01-d0-01%5D.pdf?OpenElement](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_41498.pdf/$FILE/Water%20Services%20Act%202012-%20%5B01-d0-01%5D.pdf?OpenElement)
- Water Services Code of Conduct (Customer Service Standards) 2018  
[https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc\\_41044.pdf/\\$FILE/Water%20Services%20Code%20of%20Conduct%20\(Customer%20Service%20Standard%202018-%20%5B00-b0-00%5D.pdf?OpenElement](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_41044.pdf/$FILE/Water%20Services%20Code%20of%20Conduct%20(Customer%20Service%20Standard%202018-%20%5B00-b0-00%5D.pdf?OpenElement)
- Water Corporation Financial Hardship Policy <https://www.watercorporation.com.au/-/media/files/residential/my-account/financial-hardship-policy.pdf>



- City of Monash: Financial Hardship Policy <https://www.monash.vic.gov.au/About-Us/Rates/Hardship-Policy>
- Local Government Collection of overdue rates for people in situations of vulnerability: Good Practice Guidance  
[http://www.ombudsman.wa.gov.au/Publications/Documents/reports/Local\\_government\\_collection\\_of\\_overdue\\_rates.pdf](http://www.ombudsman.wa.gov.au/Publications/Documents/reports/Local_government_collection_of_overdue_rates.pdf)
- Financial Inclusion Action Plans (FIAP)  
<https://goodshepherdmicrofinance.org.au/services/financial-inclusion-action-plans-fiap/>

**Endorsing organisations:**



**Financial Counselling Network Partners**

