

Initial views on a hardship guideline to the Minister for Local Government

In 2021, the Victorian Ombudsman highlighted the experiences of ratepayers in hardship due to local government collection practices. This advice builds on those experiences, drawing on our deep knowledge of consumer vulnerability and expertise in developing consumer protection frameworks.

Background

In 2022, the *Local Government Act* 1989 was amended to allow the development of Ministerial Guidelines on the collection of unpaid rates and charges and financial hardship. The aim of these changes was summed up by the Minister for Local Government in the second reading speech:

The new arrangement will ensure that people are treated fairly and that the use of court actions and forced sale of property are an absolute last resort.¹

Consideration of how councils can improve their policies to support ratepayers in hardship is also timely, given the rising cost of living and changing economic circumstances being faced by Victorians.

Amendments to the *Local Government Act* take effect on 20 June 2023 unless proclaimed earlier. They require the Minister to consult with the Essential Services Commission and the Assistant Treasurer (as the Minister administering the *Essential Services Commission Act*) on the content of any guideline. In the meanwhile, the chairperson of the Essential Services Commission received a letter from the Minister on 28 October 2022 (Attachment 1) seeking the commission's initial views on the content of any prospective guidelines.

¹ Victorian Parliamentary Debates, Legislative Assembly, 8 June 2022, [p. 2210](#).

Our initial views

These initial views are based on our extensive experience delivering successful regulatory reform to better support Victorians who are experiencing vulnerability. We also used feedback from stakeholders during December 2022 – February 2023, and a desktop review of approaches to hardship support across different essential services sectors.

This paper sets our initial views on the content of the prospective guidelines and implementation approach. While the request asked us to provide the initial advice to Local Government Victoria, we are also providing the advice to the Minister for Local Government and the Assistant Treasurer to help expedite any formal request to consult the commission in accordance with section 181AA(2) of the Local Government Act 1989.

This paper provides our initial views on:

- what an effective approach to supporting ratepayers in hardship looks like
- defining hardship
- the content of a guideline, and
- implementing and embedding an effective approach.

What sector-specific consultation we've done so far

This advice is informed by our engagement with community support agencies and local government representatives.

We held individual meetings to gain early feedback on an approach we might take, and to ensure we understood the issues, concerns and aspirations stakeholders had for this work. We followed this with a multi-sector workshop where we tested our early thinking, and stakeholders shared some of the practical issues they are likely to face. Attachment 2 lists the sector organisations we contacted in forming our advice.

This advice reflects the outcomes of this engagement.

What an effective approach looks like

We have identified four key principles we think should underpin an effective approach to ratepayers experiencing hardship. These principles are drawn from our experience in other sectors, our early discussions with stakeholders and our review of other approaches.

Principle 1: Leadership should come from the top, and council leadership needs to be accountable

Mayors, councillors, council chief executive officers and executive teams need to set expectations and be accountable for the approach the organisation takes in responding to ratepayers experiencing hardship, this includes:

- senior executives being responsible for developing, implementing and reviewing the council's financial hardship policy
- embedding cultural and systems change to create a whole organisation understanding of, and consistent approach to, ratepayer hardship
- creating a culture that trusts that most ratepayers are honest and want to pay their rates
- ensuring staff have appropriate training, resources and support to identify and respond to ratepayers experiencing hardship
- ensuring appropriate referrals to independent financial counsellors, government-funded assistance programs, and customers who may be affected by family violence to specialist family violence services.

Principle 2: Support needs to be flexible and proactive

Councils need to be flexible and proactive in identifying and supporting ratepayers experiencing hardship. This is not a one size fits all approach and includes:

- recognising that vulnerability and financial hardship come in many forms, and that many ratepayers experiencing vulnerability will not self-identify
- prioritising early intervention by proactively identifying and engaging with ratepayers who may be experiencing financial hardship
- providing assistance that is meaningful, tailored, and proportionate to individual circumstances
- not creating barriers to ratepayers accessing support through complicated application processes for payment plans or support.

Principle 3: Be fair and consistent

Councils should be consistent with their hardship policy, and the support offered to ratepayers should not depend on who they happen to speak to, this includes:

- treating all ratepayers fairly and without discrimination,
- providing access to consistent billing, debt recovery and payment-difficulty assistance
- only requesting the information needed to make a decision and ensure requests are specific, reasonable, and proportionate
- ensuring third parties (such as debt collection agencies) comply with council policies
- providing timely responses to hardship-assistance requests and complaints.

Principle 4: Council's hardship support needs to be considerate, accessible and transparent

Ratepayers need to be able to understand what support councils can provide, this includes:

- making sure information about hardship support is clear, accessible and communicated through multiple channels, and in a way that reaches diverse groups in the community
- communicating in a language and style that is sensitive and appropriate
- providing options for how ratepayers can access hardship support, including assistance in navigating application processes
- ensuring systems and processes are in place to protect the privacy and confidentiality of ratepayers affected by family violence, as well as addressing their financial hardship
- ensuring appropriate referrals to independent financial counsellors, government-funded assistance programs and specialist family-violence support services, as needed.

These principles have informed our advice on the content of the guideline and how to implement and embed an approach to dealing with ratepayers in payment difficulty.

Defining hardship

It is our view that a broad definition of *hardship* be used to cover both 'hardship' and 'financial hardship'. These terms are often used interchangeably across different sectors. Most councils have already adopted a broad definition based on the Municipal Association of Victoria's 2013 guideline or some variation that would be a good starting point for a broad definition:

*The simplest definition of hardship is a customer or ratepayer who wants to pay but cannot.*²

There are various ways that hardship could be defined, and we provide selected examples of existing definitions for hardship and financial hardship in Attachment 3.

The definition of hardship should not act as a barrier to people accessing support. It should not define or limit access based on specific situations that may cause hardship, such as mental health issues. A narrow definition will not reflect different individuals' diverse experiences and circumstances and runs the risk of often excluding those needing support the most.

A broad definition of hardship also means that councils will be better able to tailor the support they can offer to the individual ratepayer's circumstances. A narrow definition of hardship may lock a council into a specific response which may not always be appropriate.

Although getting an agreed definition of hardship for the purposes of meeting legislative requirements is important, it is more critical that councils understand and agree what it means to

² Municipal Association of Victoria, Hardship Policy Guidelines, November 2013, pp. 4-5.

be in hardship. In dealing with a ratepayer in hardship, the focus should be on understanding the ratepayer's circumstances and what support can be provided, not on determining whether the ratepayer falls into a particular definition of hardship.

The understanding of what it means to be in hardship needs to be consistent with other essential services sectors in Victoria. It should be consistent with the definition of *vulnerability* developed for the commission's Getting to Fair strategy.³ This aligns with contemporary understanding and practice around consumer vulnerability.

Our definition of consumer vulnerability identifies that barriers (rather than characteristics of the individual) are the biggest contributing factor, when consumers have difficulty accessing and engaging with essential services. Our definition also highlights the role of regulators and business practices in supporting consumers. These barriers can be event-based (such as job loss, family violence, loss of a loved one or natural disasters), systematic (such as insufficient work and employment insecurity or low and inadequate rates of income support) or market-based (such as inadequate or overly complex documentation).

Vulnerability, including hardship, exists on a continuum, can happen to anyone, and may be of short, medium or long-term duration. Regardless of their individual circumstances, ratepayers are entitled to fair and consistent treatment. People who experience vulnerability 'are likely to perceive barriers to accessing essential services as insurmountable' and 'feel less confident that they have the power to change things'.⁴

The definition should include references to *family violence*. This is because a ratepayer affected by family violence may experience additional barriers that contribute to their vulnerability and payment difficulty. In Victoria, family violence is defined through the *Family Violence Protection Act 2008*. In Victoria, family violence is defined in legislation as any behaviour that occurs in family, domestic or intimate relationships that is physically or sexually abusive; emotionally or psychologically abusive; economically abusive; threatening or coercive; or is in any other way controlling that causes a person to live in fear for their safety or wellbeing or that of another person. It includes any person that causes a child to hear or witness or otherwise be exposed to the effects of family violence.⁵

Consistent with the adoption of a broad definition of hardship, we believe all ratepayers who are experiencing hardship should be eligible to request or apply for assistance under a council's

³ Getting to fair defines consumer vulnerability as 'a person experiencing, or at risk of experiencing vulnerability is someone who experiences barriers to accessing or engaging in the essential services we regulate or administer. As a result of those barriers, that person experiences economic and social exclusion or harm. Barriers include event-based circumstances, systemic factors and market-based factors.' (Essential Services Commission, [Getting to Fair: Breaking down barriers to essential services](#), August 2021, p. 3).

⁴ Essential Services Commission, [Getting to Fair: Breaking down barriers to essential services](#), August 2021, p. ii.

⁵ Section 5 Family Violence Protection Act 2008.

hardship policy. And all options for support should be considered in the context of the ratepayers' individual circumstances. (This is explored in more detail in attachments 4 and 5)

In forming our advice, we researched how other sectors (water and energy) as well as other jurisdictions approach hardship, vulnerability, and payment difficulty. We met with external stakeholders, including representatives from Councils and the community sector. The feedback in the box below has informed our advice.

What we heard from stakeholders

Councils often do not differentiate between financial hardship and hardship. This is because the consequences of both are similar. Banks also use these terms interchangeably, including financial difficulty, hardship, and financial hardship; however, the result is that customers are unable to meet their financial obligations.

Hardship and vulnerability should not be defined too narrowly. The more hardship or financial hardship is categorised, the harder it is to train people to respond appropriately.

We can call it hardship, including financial hardship and family violence. We need to incorporate the term hardship so that people cannot go back to legislation and say it does not apply.

It is necessary to include family violence and be specific about what Councils can do in these circumstances. Also, there is a need to signal the longer-term impacts of family violence.

The term 'vulnerability' captures those who are 'in or at risk of hardship'. Vulnerability exists on a continuum, so people often move in and out of it. A synergy in how vulnerability is defined across other sectors is important for people who apply the process.

The definition needs to be something that people can relate to because people may not only relate to the term 'hardship'.

Some existing examples of hardship could be useful but should not limit to several reasons in the definition (e.g., due to illness, separation, reduced income, unemployment, over-commitment, or disaster).

There is a difference between *economic hardship* (such as being unable to pay someone's financial obligation due to, for example, loss of employment) and *social hardship* (such as having the funds to pay but having to focus elsewhere due to other issues at play, such as the loss of a family member).

Understanding the application process can influence the definition.

What should be included in a guideline content

The Local Government Act 1989 provides councils with a lot of discretion in terms of dealing with ratepayers in hardship. The guideline should clearly outline the minimum expectations for how councils respond to ratepayers in hardship. Under the Act, the Minister's guideline can cover:

- (a) the meaning of hardship for the purposes of section 170 (deferrals); and
- (b) the meaning of financial hardship for the purposes of sections 171 (council waivers), 171A (waiver by application) and 172A (maximum interest rate); and
- (c) the content of hardship policies and financial hardship policies; and
- (d) the circumstances in which a Council may apply the hardship policies and financial hardship policies; and
- (e) the process for applying for a payment plan; and
- (f) the waiver of interest on unpaid rates or charges under sections 171, 171A and 172 (charging interest on unpaid rates and charges); and
- (g) any other matters covered by sections 170, 171, 171A, 171B (payment plans), 172, 180 and 181.

The previous sections set out our views on the principles underlying an effective approach and how hardship could be defined. Those views are relevant to thinking about the circumstances in which councils should apply their policies and the process for applying for payment plans and financial support. The following section provides more detail on the potential content of a guideline.

Clear information about the minimum inclusions for a council's hardship policy

At a minimum, a local council's hardship policy should:

- Apply to all ratepayers who are identified either by themselves, by the council, or by an independent accredited financial counsellor as experiencing hardship.
- Comply with the legislative requirements in the Local Government Act 1989 (as amended) and not exclude any options (such as waivers). It is important that all requests for assistance are considered on merit and not refused due to blanket policies.⁶

⁶ The Ombudsman's investigation found that 38 councils do not include rate waivers as part of their standard hardship policies and that some expressly state they never waive rates. Of the remaining councils, 27 limit the availability of waivers to exceptional circumstances or a total amount. And, although the Ombudsman's report noted that there is limited data available on the actual use of waivers, it found that 9 councils (out of 13 that provided data) did not use waivers at all in 2018-19 and 2019-20. Victorian Ombudsman, [Investigation into how local councils respond to ratepayers in financial hardship](#), 5 May 2021, pp.44-45.

- Align with the ‘good approach to financial hardship’ information in the Victorian Ombudsman’s Investigation report:⁷
 - A copy of this section of the report is provided as Attachment 4. It is our view that this describes a comprehensive and appropriate approach to financial hardship and could be used as the basis for the guideline and individual council policies, along with the other points in this section.
 - Attachment 5 outlines additional considerations that relate to each element of the Ombudsman ‘good approach to financial hardship’ information.
 - This good approach to financial hardship is well supported by the principles outlined earlier in this advice.
- Be developed in consultation with key stakeholders, such as local community support services (for example, financial counsellors) and/or ratepayers.
- Align with other key council plans and strategies (for example, municipal health and wellbeing plan, community plan and vision, council plan).

Set a clear expectation that coercive powers, such as legal action and debt collection, are only to be used as measures of last resort

In line with recommendation 31 in the Local Government Rating System Review (which the government has supported in full), we strongly advise that any measure such as legal action or debt collection must be considered as a last resort. Councils must develop clear processes that consider the ratepayer’s situation and experience of vulnerability (including family violence) and include reasonable attempts to engage ratepayers before considering the use of such measures.

Third parties acting as agents on behalf of councils should also be required to meet the requirements of the council’s hardship policy

Councils often use third parties (such as debt collectors) to assist them in dealing with ratepayers in hardship. The Ombudsman found that few councils are willing to deal with ratepayers once they have been referred to a debt collector and that debt collectors only offer ratepayers limited options for support.

It is important that the council’s hardship policy and processes apply, whether the council or a third-party agent acting on its behalf undertakes to assess suitability for support and the recovery of rates debt.

⁷ Victorian Ombudsman, [Investigation into how local councils respond to ratepayers in financial hardship](#), 5 May 2021, pp. 90-92

Waiving interest on unpaid rates or charges

Councils have the power to charge interest on unpaid rates or charges under the Local Government Act (section 172). While not all councils do so, many of them charge 10% penalty interest, even in hardship circumstances. Most councils even charge penalty interest on payment plans and deferrals, though some of them recognise that setting a penalty interest could have a negative impact on the finances of ratepayers which prolongs their hardship. Some councils only consider reducing interest on a case-by-case basis or only waive interest in 'extreme circumstances' — often limiting the amount they will waive.⁸

The Local Government Act provides that councils can waive all or part of a ratepayers' rates and interests on unpaid rates. There are three ways this can happen under the Act:⁹

- Councils 'may exempt any person from paying the whole or part of any interest either generally or specifically' (section 172(3)).
- Councils may waive the whole or part of interest for people eligible for the State Government rates concession or 'any other class of persons determined by the Council for the purpose of waiving rates or charges on the grounds of financial hardship' (section 171). For example, those who have a Pensioner Concession Card or a DVA Gold Card such as people with an age or a disability support pension. People who are unemployed and receiving a JobSeeker payment do not qualify in many cases.
- Councils can waive interest for individual ratepayers who apply for relief if 'satisfied that the applicant is a person who is suffering financial hardship if that person paid the full amount of the rate or charge for which he or she is liable' (section 171A).

The Water sector has similar powers to charge interest on the unpaid amount when:

- a water business fixes and gives notice (of at least 10 business days) of the due date of payment (Due Date)
- the notification referred to in the first paragraph above indicated that interest will accrue from the Due Date and
- any part of the amount payable by the customer is not paid by the Due Date.

It is also made clear that interest cannot be applied retrospectively.

However, a water business must not charge a residential customer interest on unrecovered amounts while that customer:

- is the holder of an eligible concession card
- is on a payment plan, or

⁸ Victorian Ombudsman, '[Investigation into how local councils respond to ratepayers in financial hardship](#)', 5 May 2021.

⁹ Please refer to sections 171(1), 171(4), 171A(1), 171A(3), 172(3) of the Act for more details.

- is receiving assistance under a water business's customer support policy.

When penalty interest is applicable, the maximum rate that may be charged on an unrecovered amount is based on the 10-year Australian Commonwealth Government Bond Rate plus a margin to be determined by the Commission. It will start accruing on the day the amount is due and ends on the date all unrecovered amounts of the charges are paid in full, both days inclusive.^{10, 11}

It is our view that similar exclusions would be appropriate for councils, subject to consultation with the sector.

Clearly outline minimum training requirements for relevant staff

We consider staff training to be essential for councils to successfully develop and deliver appropriate hardship support. All councillors and council staff should be provided with a basic understanding of what vulnerability is, how it can impact ratepayers and how the council can support ratepayers experiencing vulnerability.

More specific training should be provided to staff who engage with ratepayers, managers of staff who engage with ratepayers, and staff who are responsible for systems and processes that guide interactions with ratepayers. At a minimum, this training should include:

- understanding and recognising the different signs of vulnerability
- the nature and consequences of family violence (including economic abuse), identifying and engaging appropriately with ratepayers affected by family violence
- respectful communication
- assistance available under the hardship policy
- supporting staff who are responding to ratepayers experiencing vulnerability.

¹⁰ Essential Services Commission, '[Water Code Review: Final decision on Water Industry Standards](#)', sections 3.5.2 and 3.5.3, 27 September 2022, pp. 29-30.

¹¹ Essential Services Commission, '[Water Industry Standard – Urban Customer Service](#)', sections 15.5 and 15.6, 27 September 2022, pp. 22-23.

What we heard from stakeholders

Stakeholders told us that staff need training to respond appropriately to ratepayers experiencing vulnerability. We know from our experience in energy and water that staff training is essential to developing organisational capacity to appropriately identify and support ratepayers who may be experiencing vulnerability. We know that sometimes people don't self-identify or disclose they are experiencing hardship or vulnerability, so it is important for council staff to be trained to proactively identify ratepayers who may be experiencing hardship, or at risk of hardship.

We also heard that frontline staff who are having conversations with ratepayers need to be supported both through training and through the establishment of internal processes to manage how this support is provided.

We also heard that ratepayers need to feel confident that they can approach councils and disclose hardship. They need to trust that they will be treated with respect and will have options available to support them that respond to their individual circumstances, not a standard approach applied to all ratepayers. Councils are working hard to create this culture and need to communicate it clearly to ratepayers.

Stakeholders raised concerns about the resourcing required to provide staff training and to implement their policy. We recognise that many council staff are doing the best they can with the resources they have been allocated. This links back to the first principle, 'lead from the top and be accountable'. Council and council leadership need to own this cultural change and lead by resourcing and supporting their staff to deliver appropriate and individualised support to ratepayers experiencing hardship.

Recognise family violence as a cause of hardship and include specific references to how councils should respond to ratepayers who are affected by family violence.

We have learnt from our work in the energy and water sectors that responses to customers affected by family violence must extend beyond just providing payment support. Councils that hold account information also have a role in supporting ratepayers to best manage their own personal and financial security. This includes ensuring councils have effective processes for the secure handling of information, maintaining confidentiality, and avoiding repeat disclosure that can be re-traumatising for people affected by family violence (and also for council staff). Councils may also identify ratepayers who would benefit from specialist family violence support, so they need referral pathways to facilitate this. The guideline should address this through:

- staff training to identify and deal appropriately with ratepayers affected by family violence and to apply a council's policy and related procedures
- processes to ensure secure handling of information about ratepayers in a manner that maintains confidentiality

- council's approach to managing and recovering debt from ratepayers, including those with joint property titles and those whose debt will be suspended or waived
- processes to reduce or avoid the need for ratepayers to repeat disclosure of their family violence, and
- a means for referring ratepayers to specialist family violence services.

What we heard from stakeholders

Stakeholders told us it is important to include family violence in a definition of hardship, and to be specific about what Councils can do to support ratepayers affected by family violence.

We also heard how important it is to victims of family violence that organisations they deal with keep secure their personal information, particularly when the perpetrator is or has been a joint account holder. We heard perpetrators can use knowledge of a victim's personal information to answer privacy-screening questions and obtain new contact details in order to continue abusive behaviour.

Stakeholders have told us that where there is joint debt and sale of property, resolution can take years, and perpetrators may use the system to extend the property settlement.

Stakeholders have also told us that people affected by family violence often have difficulty making disclosures about their abuse, yet were often required to tell their story several times — which had a traumatising effect when trying to access assistance. We also heard this can also be traumatising for staff, when policies or processes require them to review evidence of family violence.

It is important for council policies to address the specific needs of ratepayers affected by family violence and for staff to be trained to understand how best to support ratepayers in these circumstances.

Implementing and embedding an effective approach

The development of a Ministerial Guideline and consistent council hardship policies should be seen as only the first step in developing an effective approach to supporting ratepayers in hardship. As noted in the Rating Review:

Offering effective support to people who may experience hardship requires corporate capacity, a supportive organisational culture, sensitive policies and procedures and related skills and knowledge.¹²

¹² Local Government Victoria, [Local Government Rating System Review – Report of the Ministerial Panel, March 2020](#), section 11.1.4, p. 99.

Beyond providing guidance to councils to improve outcomes, there should also be a focus on what needs to happen across the sector to support embedding an effective approach.

As councils begin to develop their approaches to ratepayer hardship based on the Ministerial Guideline, it must be emphasised that this is an ongoing task and that the work does not end with having a council hardship policy in place. If the sector is going to get better at responding to ratepayers in hardship, councils will need to develop (or update) and implement appropriate policies and procedures and:

- find better ways to review their impact and improve their ways of working
- review them and update them to reflect contemporary practice and learnings from implementation.

We see an opportunity to foster a growth mindset by providing councils with opportunities to learn from each other, through workshops, panel discussions, or communities of practice.

Cultural change

To be successful in promoting lasting change by ensuring that ‘people are treated fairly,’ as expressed in the Minister’s second reading speech, the guideline will need to be supported by a cultural change from within the sector. There needs to be sector understanding and buy-in that proactively supporting ratepayers in hardship is the right thing to do, both for the ratepayers involved, the community and the organisation.

An important part of the cultural change that needs to happen is recognising that vulnerability is not something you ‘are’. Vulnerability can happen to anyone at any time. There also needs to be an acceptance that most ratepayers want to pay their rates bill, but that councils retain appropriate avenues for dealing with those who don’t.

Councils also need to shift their thinking about ratepayer hardship as a debt-management issue to a customer-service issue. This includes recognising that early intervention to avoid accumulating debt works better for councils and ratepayers. Not only can ratepayers avoid being overwhelmed by debt, but councils can also avoid carrying large debts on their books.

By working with ratepayers to understand their circumstances and their ability to make appropriate payments, councils may also be able to improve their own cashflow. This is consistent with feedback given by Port Phillip City Council to the Ombudsman’s investigation. Port Philip changed its approach to debt collection and saw a reduction in legal costs and an improved collection rate.¹³ This is also our experience in the water sector, where earlier intervention has led to reduced debts and improved outcomes for customers and corporations. Yarra Valley Water has done work to

¹³ Victorian Ombudsman, [Investigation into how local councils respond to ratepayers in financial hardship](#), 5 May 2021, p.55.

show that there is a positive business case from proactively supporting customers experiencing hardship. Their programs have helped reduce customer debt levels and transition customers back to regular payments.¹⁴

It should also be recognised that, ultimately, councils can recover any unpaid rates, interest and any costs awarded, as a first charge on the land at the time it is sold or transferred. In moving to an approach where coercive powers and legal action are used as a last resort, councils will need to explore whether, given the individual circumstances of ratepayers, that the best course of action is to let the rates debt accrue against the value of the land.¹⁵ Councils also need to stop equating hardship support solely with waivers and the potential issues their widespread use may cause. In other sectors we deal with, debt waivers are the last stage of the process, and the focus is far more on early intervention and working with those with payment difficulties. The legislation provides councils with a range of options in terms of the support they can provide.

Council policies and processes need to reflect the range of support that is available and tailor that support to individual ratepayer circumstances. This includes recognising that approaches that are flexible and promote ratepayer engagement are more likely to be effective. Ratepayers are more likely to respond to language and messages they understand and engage proactively in options that are meaningful to them and reflect their circumstances.

Individual staff may be able to promote their organisation's policy or champion a particular approach. But without support from senior management and the executive, changes are unlikely to be embedded into the organisation's culture and values.

As we found in [Better practice in responding to family violence](#), our review of energy and water retailers' practices, one point is clear.

For a business's family violence response to be effective in the long-term it must embed changes to its culture and systems, requiring buy-in from across the organisation.¹⁶

And, without ongoing monitoring and evaluation, perhaps supported by public reporting mechanisms as a way of showing commitment, cultural change is unlikely to prove effective and lasting.

Sharing of better practice — what works and what does not

Some councils are already providing appropriate support to ratepayers in payment difficulties and can help lead the way for the rest of the sector. Others have more recently improved their approach. Some councils will find it a challenge moving to a more compassionate approach,

¹⁴ Water Services Association of Australia, [WaterCare Supporting Vulnerable Customers](#).

¹⁵ A similar arrangement exists in the case of the water sector but not in the case of the energy sector.

¹⁶ [Essential Services Commission, Better practice in responding to family violence, August 2019 \(revised March 2022\)](#).

whether this is training staff, managing interactions and outcomes with those who seek assistance, or providing financial help to those in need.

There is an opportunity for councils to learn from each other and from other sectors in terms of developing their understanding of what works well when dealing with ratepayers in hardship. This could take the form of:

- shared resources, including application forms, financial assessment processes, and training material
- shared experiences, including case studies, trialling and implementing new practices and communities of practice
- better practice guides that provide councils with practical advice and highlight innovative approaches, and
- other opportunities for collaboration between councils, peak bodies, other service providers and the community support sector.

Collaboration and sharing of experiences could also help promote consistency across the sector.

Going forward, there should be opportunities for councils to share their experiences and learn from the experiences of others. Better-practice approaches require the collective efforts of councils, community support groups, peak bodies and Local Government Victoria to be involved. But to be successful, this sharing of better practices needs to be facilitated and coordinated across the local government sector. In other sectors, the Commission has taken a supportive role in facilitating the sharing of better practices such as holding cross-sector workshops, specialised workshops during the pandemic and developing and releasing better practice guidance material to assist businesses working with victim-survivors of family violence. For example,

- As part of our 2022 review of the payment difficulty framework applied in the energy sector, we facilitated a better practice program with retailers and community service organisations. This program consisted of three workshops with the purpose of discussing and sharing practical actions energy retailers could take in supporting customers.¹⁷
- As part of our family violence framework for the energy and water sectors, we developed a better practice guide to ensure businesses implement safe and effective family violence responses. This guide highlights innovative, cross-sector industry examples that may go beyond the minimum obligations required by regulatory rules.¹⁸

Councils would benefit from participating in our work with energy and water businesses.

¹⁷ Essential Services Commission, [Payment difficulty framework implementation review 2021 – Improving the operation of the framework](#), 17 February 2023.

¹⁸ Essential Services Commission, [Better practice in responding to family violence](#).

Council reporting on outcomes

As noted in the Ombudsman's report, there is no reliable data on ratepayers experiencing hardship. The Ombudsman also found that, while some councils systematically collected information on support provided and action taken, a significant number did not.¹⁹

Councils should systematically collect information on requests for support and the types of support provided to ratepayers. This information can help in understanding the scope of hardship and how this is changing over time. Collecting information on the types of support provided, including the outcomes that are delivered, can also provide an effective feedback loop for continuous improvement.

Consistent with such an approach to better practice, councils need to ensure their own processes collect, retain, review and report on all the information they need for effective management.

To assess its own performance, a council needs to seek and respond to the feedback of ratepayers it approaches as potentially being in hardship. Equally, the council needs to define:

- targets of performance — such as dollar value of late and deferred payments, interest due and paid, interest and principal waived
- measures and reports of progress, including time to process and approve waivers and deferrals
- public reporting of outcomes.

Councils need to be accountable to their communities and report back to them on how they are supporting ratepayers experiencing vulnerability. This reporting could be on their websites, or through their budgeting and planning processes, or through their annual reports.

Monitoring and oversight

Good policy design should always include mechanisms that allow for ongoing monitoring, evaluation and reporting of the impact of the policy and its effectiveness in delivering on the stated objectives.²⁰ Effective monitoring and oversight will also help improve accountability for the delivery of improved outcomes and compliance with any guideline requirements.

As required by the Local Government Act 1989 (as amended), councils must comply with any guideline issued by the Minister. However, the Act is silent on how that compliance should be assessed and the consequences of failure to comply. Without effective monitoring and oversight, it will be difficult to assess whether councils have been successful in delivering improved outcomes.

Public reporting to an oversight body on the matters identified in the Ministerial Guideline is vital to ensure councils are held to account for poor performance. Monitoring and reporting can also be

¹⁹ Victorian Ombudsman, [Investigation into how local councils respond to ratepayers in financial hardship](#), 5 May 2021, p.18 and p.83.

²⁰ Department of Treasury and Finance 2014, Victorian Guide to Better Regulation, December, p.35.

used to highlight and share good performance. Embedding ongoing monitoring into the design of the framework also creates a feedback loop that will allow for continual refinements to the framework over time.

Public reporting can take many forms and levels of intervention, including a focus on qualitative reporting at the early stages of implementation, transitioning to quantitative reporting as systems and processes mature. Public reporting, in addition to being a vital form of accountability, when used judiciously as part of a well-thought-through and well-explained framework, can harness reputational incentives as a strong driver of cultural and behavioural change. We note the role public reporting has played in the expansion of hardship support in the water sector since 2013.²¹

In the energy and water sectors, we regularly report on measures such as the use of legal actions, hardship grants and applications, outstanding debts, and customers on hardship programs. During the pandemic, this monitoring was increased to monthly and reported across government.²²

Performance targeting, measurement and reporting could become a required element of annual budgeting and annual report processes and public reporting by councils through Local Government Victoria²³. We would also expect to include appropriate measures as part of our biennial outcomes reporting.

What we would expect to see in the first six months

In the first six months following the issue of any new Ministerial Guideline, it would be reasonable to expect all councils to review their internal systems and procedures and their published policies on handling rate debt. Each council will need to make sure these are consistent with the current Act and published ministerial guidelines.

Councils will also need to ensure that their current policies are reflected in the accounting systems and their documentation and are understood by staff and councillors. The policies should also be readily accessible to those who need to find and read them online, including financial counsellors and others to whom the council refers people in need.

We would expect someone (such as the commission or Local Government Victoria) to develop a sector-wide strategy to promote change and council buy-in. The strategy would cover:

- how to engage with the sector
- how to share better practice
- identify opportunities for collaboration.

²¹ Essential Services Commission, [Review of Hardship Measures Taken by Metropolitan Water Businesses 2013-14](#)

²² Essential Services Commission, [Water customer support during the coronavirus pandemic](#), [Supporting energy customers through the pandemic](#)

²³ This could be through the Know Your Council Reporting framework.

Councils are far behind other sectors such as water and energy in terms of their approaches, processes and practices for dealing with people experiencing vulnerability. Both the Victorian Ombudsman's Investigation and Local Government Rating System Review found that councils' current practices also fall short of what is required by legislation in terms of the range of support that is offered to ratepayers. The move to a fairer and more proactive approach, as envisioned by the changes to legislation, will only happen with significant cultural change from within the sector. This is something that has happened in other sectors, and we have seen substantial progress as a result. The local government sector is well placed to build on this experience.

Attachment 1 – Letter from Local Government Minister



The Hon Melissa Horne MP

Minister for Consumer Affairs, Gaming and Liquor Regulation
Minister for Ports and Freight
Minister for Local Government
Minister for Suburban Development

GPO Box 2392
Melbourne, Victoria 3000 Australia

Ref: BMIN-2-22-24686

Ms Kate Symons
Commissioner and Chairperson
Essential Services Commission
Level 8
570 Bourke Street
MELBOURNE VIC 3000
reception@esc.vic.gov.au

Dear Ms Symons

I am writing to advise you of recent amendments made to the *Local Government Act 1989* (the Act) that, among other things, give the Minister for Local Government new powers regarding council practices in managing ratepayers experiencing financial hardship.

The *Local Government Legislation Amendment (Rating and Other Matters) Act 2022* (the Amendment Act) received Royal Assent on 9 August 2022. The Amendment Act, among other things, inserts new provisions in the *Local Government Act 1989* making changes to the arrangements for ratepayers facing financial hardship and the payment of rates and charges.

New section 181AA(1) will, once it has commenced, allow the Minister to issue Guidelines in relation to:

- (a) the meaning of 'hardship' for the purpose of sections 170 of the Act
- (b) the meaning of 'financial hardship' for sections 171, 171A and 172A of the Act
- (c) the content of hardship policies and financial hardship policies
- (d) the circumstances in which a Council may apply the hardship policies and financial hardship policies
- (e) the process for applying for a payment plan
- (f) the waiver of interest on unpaid rates or charges under sections 171, 171A and 172;
and
- (g) any other matters covered by sections 170, 171, 171A, 171B, 172, 180 and 181.

In the making of such Guidelines, section 181AA(2) requires the Minister responsible for this section of the Act to formally consult with both the Minister responsible for administering the *Essential Services Commission Act 2001* and the Essential Services Commission.

Section 181AA of the Amendment Act does not commence until 20 June 2023 unless proclaimed earlier. I am therefore writing at this stage to seek the Essential Services Commission's initial views on the content of any prospective Ministerial Guidelines. This will assist my department to begin preparing draft Guidelines for Ministerial approval upon commencement of section 181AA, in turn ensuring councils have sufficient time to adopt any new practices in response to such Guidelines for the 2023-24 financial year.

The ESC's views may be provided to Leighton Vivian, Senior Manager, Local Government Victoria via (03) 9623 1214 or leighton.vivian@ecodev.vic.gov.au.

I have, for your information, also written to the Assistant Treasurer informing him of my request. Thank you for taking the time to consider this.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Melissa Horne', written in a cursive style.

The Hon. Melissa Horne MP

Minister for Consumer Affairs, Gaming and Liquor Regulation

Minister for Ports and Freight

Minister for Local Government

Minister for Suburban Development

Date: 28/10/2022

Attachment 2 – Sector organisations we contacted

Organisations and individuals contacted
Thriving Communities Partnership
Financial Counselling Victoria
Economic Abuse Reference Group
Municipal Association of Victoria
Local Government Finance Professionals (FinPro)
South East Community Links (SECL)
Western Community Legal Centre (WEstjustice)
Mortgage Stress Victoria
Women's Legal Service Victoria
Revenue Management Association
Westpac Bank
Uniting
Financial Counselling Victoria (FCVic)
Consumer Action Law Centre
Yarra Valley Water
Ratepayers Victoria
VincentCare
Victorian Local Governance Association

Attachment 3 – Examples of definitions for hardship and financial hardship

- According to [Oxford](#) and [Collins](#) dictionaries, hardship is a situation in which your life is difficult or unpleasant, often because you do not have enough money, food, clothes, etc. Hardship can equate to suffering, trouble, deprivation, adversity, austerity, difficulty, or poverty, some of which are the outcomes of economic abuse and family violence.
- Hardship is any situation where an individual is having difficulty paying legally owed debt. This can result from life changes (for example, because of illness, unemployment or changed financial circumstances) restricting the short-term capacity to pay.²⁴
- The simplest definition of hardship is ‘a customer or ratepayer who wants to pay but cannot’. However, not all cases of financial hardship are alike.
 - Hardship generally exists when
 - a ratepayer is experiencing difficulty paying their rates and charges;
 - a ratepayer would experience difficulty paying other essential bills if the ratepayer paid the full amount of the rate or charge due; or
 - a ratepayer’s sole source of income is benefits, except where two or more benefit recipients share the rate payment obligations.
 - Hardship can also arise due to illness or injury, which may contribute to the difficulty a ratepayer is experiencing in meeting their obligations in respect of their rates and charges.²⁵
- A ‘hardship customer’ is defined as ‘a residential customer of a retailer who is identified as a customer experiencing financial payment difficulties due to hardship in accordance with the retailer’s customer hardship policy.’²⁶
- The banking Code of Practice defines financial difficulty as ‘Financial difficulty means you are unable to repay what you owe and are experiencing difficulty meeting your repayment obligations. This can be as a result of an unexpected event or unforeseen changes outside your control.’²⁷
- You are in financial hardship if you have difficulty paying your bills and repayments on your loans and debts when they are due.²⁸

²⁴ NSW Office of Local Government, [Debt Management and Hardship Guidelines](#), November 2018, p. 36.

²⁵ Municipal Association of Victoria, [Hardship Policy Guidelines](#), November 2013, pp. 4-5.

²⁶ Essential Services Commission, [Supporting customers, avoiding labels: Energy hardship inquiry final report](#), February 2016, p. 19.

²⁷ Australian Banking Association, [Banking Code of Practice](#), March 2020, p. 45.

²⁸ National Debt Helpline, [What is financial hardship and what are your rights?](#).

- Financial hardship is difficulty in paying the repayments on your loans and debts.²⁹
- We consider you to be in financial hardship if you're unable to provide necessities for yourself or your family. Necessities may include food, accommodation, clothing, education and medical treatment.³⁰
- Genuine financial hardship refers to a situation where a property owner is reasonably unable to discharge their financial obligations due to compassionate grounds or necessitous circumstances such as illness, unemployment, impacts of natural disasters, or other reasonable cause. Financial hardship involves an inability of the property owner to meet their financial commitments (bills), rather than an unwillingness to do so. Customer hardship can arise from a variety of situations. Common causes of hardship may include, but are not limited to:
 - Loss of employment of the property owner or family member;
 - Family violence;
 - Family breakdown;
 - Illness, including physical incapacity, hospitalisation, or mental illness of the property owner or family member;
 - A death in the family; or
 - Other factors resulting in unforeseen change in the property owner's capacity to meet their payment obligations, whether through a reduction in income or through an increase in non-discretionary expenditure.³¹

Definition of consumer vulnerability (from Getting to Fair decision paper)

A person experiencing, or at risk of experiencing, vulnerability is someone who experiences barriers to accessing or engaging in the essential services we regulate or administer.³² As a result of those barriers, that person experiences economic and/or social exclusion or harm. Barriers can include event-based circumstances, systemic factors, and market-based factors.

We mean barriers to include events, systems and structures that do not facilitate the participation of consumers. These experiences can include:

- Event-based circumstances such as illness, job loss, financial stress, family violence, death of a loved one, ageing and disability, natural disaster, global pandemic.
- Systemic factors such as unaffordable and poor-quality housing, insufficient work and employment insecurity, siloed services, digital living and the emergence of a digital divide, regional limitations, low and inadequate rates of income support, racism and colonisation.

²⁹ Financial Rights Legal Centre, [What is financial hardship?](#).

³⁰ Australian Taxation Office, [Serious financial hardship](#).

³¹ City of Ballarat, [Financial Hardship Policy](#), undated, pp. 1-2.

³² Essential Services Commission, [Getting to fair: breaking down barriers to essential services – decision paper](#), August 2021, p. 8.

- Market based circumstances such as inadequate or overly complex documentation, pricing strategies, marketing practices, and targeted services that exclude some customers.

Definition of family violence, economic abuse and emotional psychological abuse (Family Violence Protection Act 2008)

5 Meaning of family violence

(1) For the purposes of this Act, family violence is—

- (a) behaviour by a person towards a family member of that person if that behaviour—
 - (i) is physically or sexually abusive; or
 - (ii) is emotionally or psychologically abusive; or
 - (iii) is economically abusive; or
 - (iv) is threatening; or
 - (v) is coercive; or
 - (vi) in any other way controls or dominates the family member and causes that family member to feel fear for the safety or wellbeing of that family member or another person; or
- (b) behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to in paragraph (a).

Examples

1 The following behaviour may constitute family violence under paragraph (a)—

- using coercion, threats, physical abuse or emotional or psychological abuse to cause or attempt to cause a person to enter into a marriage;
- using coercion, threats, physical abuse or emotional or psychological abuse to demand or receive dowry, either before or after a marriage.

2 The following behaviour may constitute a child hearing, witnessing or otherwise being exposed to the effects of behaviour referred to in paragraph (a)—

- overhearing threats of physical abuse by one family member towards another family member;
- seeing or hearing an assault of a family member by another family member;
- comforting or providing assistance to a family member who has been physically abused by another family member;

- cleaning up a site after a family member has intentionally damaged another family member's property;
 - being present when police officers attend an incident involving physical abuse of a family member by another family member.
- (2) Without limiting subsection (1), family violence includes the following behaviour—
- (a) assaulting or causing personal injury to a family member or threatening to do so;
 - (b) sexually assaulting a family member or engaging in another form of sexually coercive behaviour or threatening to engage in such behaviour;
 - (c) intentionally damaging a family member's property, or threatening to do so;
 - (d) unlawfully depriving a family member of the family member's liberty, or threatening to do so;
 - (e) causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the family member to whom the behaviour is directed so as to control, dominate or coerce the family member.
- (3) To remove doubt, it is declared that behaviour may constitute family violence even if the behaviour would not constitute a criminal offence.

6 Meaning of economic abuse

For the purposes of this Act, economic abuse is behaviour by a person (the first person) that is coercive, deceptive or unreasonably controls another person (the second person), without the second person's consent—

- (a) in a way that denies the second person the economic or financial autonomy the second person would have had but for that behaviour; or
- (b) by withholding or threatening to withhold the financial support necessary for meeting the reasonable living expenses of the second person or the second person's child, if the second person is entirely or predominantly dependent on the first person for financial support to meet those living expenses.

Examples—

- coercing a person to relinquish control over assets and income;
- removing or keeping a family member's property without permission, or threatening to do so;
- disposing of property owned by a person, or owned jointly with a person, against the person's wishes and without lawful excuse;

- without lawful excuse, preventing a person from having access to joint financial assets for the purposes of meeting normal household expenses;
- preventing a person from seeking or keeping employment;
- coercing a person to claim social security payments;
- coercing a person to sign a power of attorney that would enable the person's finances to be managed by another person;
- coercing a person to sign a contract for the purchase of goods or services;
- coercing a person to sign a contract for the provision of finance, a loan or credit;
- coercing a person to sign a contract of guarantee;
- coercing a person to sign any legal document for the establishment or operation of a business.

7 Meaning of emotional or psychological abuse

For the purposes of this Act, emotional or psychological abuse means behaviour by a person towards another person that torments, intimidates, harasses or is offensive to the other person.

Examples—

- repeated derogatory taunts, including racial taunts;
- threatening to disclose a person's sexual orientation to the person's friends or family against the person's wishes;
- an adult child repeatedly denigrating an elderly parent's sexual orientation, including by telling them it is wrong to be same-sex attracted and that they must change or the adult child will no longer support them;
- threatening to withhold a person's medication;
- preventing a person from making or keeping connections with the person's family, friends or culture, including cultural or spiritual ceremonies or practices, or preventing the person from expressing the person's cultural identity;
- threatening to commit suicide or self-harm with the intention of tormenting or intimidating a family member, or threatening the death or injury of another person.

Attachment 4 – What does a good approach to financial hardship look like?

Excerpt from Victorian Ombudsman investigation into how local councils respond to ratepayers in financial hardship.

Recommendations

The Ombudsman makes the following recommendations pursuant to section 23(2) of the Ombudsman Act:

To the Minister for Local Government and the Assistant Treasurer

Recommendation 1 – Stronger laws and standards

Seek changes to relevant local government legislation and regulations to:

- a. ensure a clear, consistent definition of ‘financial hardship’
- b. empower the Essential Services Commission and the Minister for Local Government to issue standards (in the form of a code of practice or guidelines) for rates hardship relief, including where rates debts are associated with family violence
- c. require councils to have a rates hardship policy. The policy should include provisions related to economic abuse associated with family violence.
- d. require councils to include hardship relief information on their websites and rates notices
- e. give councils discretion to waive or defer rates and interest for individual ratepayers without an application
- f. recognise payment plans or arrangements as one of the statutory options for responding to ratepayers in financial hardship, along with waivers and deferrals
- g. provide for the Minister for Local Government and the Essential Services Commission to set a maximum interest rate that may be charged by councils where a ratepayer is complying with the conditions of a payment plan or arrangement or a deferral
- h. require councils to make reasonable efforts to contact a ratepayer before taking legal action to recover unpaid rates
- i. require councils to report data on rates hardship relief through the Local Government Performance Reporting Framework (or another appropriate reporting mechanism).

The Department of Jobs, Precincts and Region’s response:

The Department’s response to the recommendations in this report said:

The report’s recommendations will be considered in the context of the Victorian Government’s response to the Local Government Rating System Review final report. The government committed to ensuring that the rating system is set out in primary legislation and provides transparent and flexible ways for councils to treat ratepayers facing financial hardship fairly.

The Victorian Government has committed to designating local government rates as a form of taxation in statute. This benefits the nature of rates and the status of local governments as a distinct and essential tier of government as per the Victorian Constitution Act 1975. In considering ratepayer circumstances of financial hardship, alignment with the best practices of the State Revenue Office (SRO) and Australian Taxation Office (ATO) will be sought wherever possible.

To Local Government Victoria (in the Department of Jobs, Precincts and Regions)

Recommendation 2 – Building knowledge and skills

Work with the Essential Services Commission, councils and local government professional associations to develop training and guidance material (such as model hardship policies) on dealing with rates hardship applications and debt recovery, including in relation to the following matters:

- a. identifying indicators of financial hardship
- b. assessing financial hardship applications and determining the most appropriate relief options
- c. identifying indicators of family violence and responding to ratepayers who have disclosed family violence.

The Department's response:

Accepted.

The Department said:

[it] will work with councils and local government professional associations to develop training and guidance material, centred around future iterations of the Revenue and Rating Plan as required by the Local Government Act 2020 and work on developing model financial hardship policy requirements ... [T]his work will take its lead from the best practice approaches of the SRO and ATO and advice will be sought from these entities along with the Essential Services Commission. This work will also support improved collaboration by councils with financial counsellors and other groups as per Recommendation Four.

Recommendation 3 – Use of debt collectors

Work with councils, the Municipal Association of Victoria and Procurement Australasia to ensure that arrangements with debt collection agents:

- a. are subject to clear and enforceable standards
- b. require debt collection agents to comply with the ACCC and ASIC guidelines for debt collection
- c. require debt collection agents to be familiar with and comply with council rates hardship policies
- d. require debt collection agents to inform ratepayers of all statutory options available for hardship relief
- e. refer ratepayers who disclose financial hardship to the council for consideration.

The Department's response:

Accepted. The Department said:

Improvements to the use of debt collectors by councils will be included in the work to develop training and guidance material, centred around future iterations of the Revenue and Rating Plan as required by the Local Government Act 2020 and work on developing model financial hardship policy requirements.

Recommendation 4 – Building collaboration

Work with the Essential Services Commission, councils and local government professional associations to build regular and ongoing consultation with financial counsellors, community legal groups and other sectors and organisations that work with people in financial hardship.

The Department's response:

Accepted.

What does a good approach to financial hardship look like?

Information for ratepayers

- having a rates hardship policy that sets out hardship relief options, eligibility for those options and how to apply
- making the policy easily accessible online and in hard copy on request
- publishing a plain English explanation of the policy online and in hard copy on request
- providing the summary in accessible formats appropriate to the community eg community languages, audio or video versions or Easy English or Easy Read versions.
- having a communication strategy for reaching ratepayers in hardship eg prominent information on rates notices, use of local media and social media, offering information through local support services
- using customer-focused, effective language in communication
- ensuring council officers dealing with ratepayers are familiar with the rates hardship policy

Application processes

- making it clear when farmers, or other people who live at their place of business, are eligible for hardship relief
- making application processes proportionate to the relief sought by the ratepayer eg accepting verbal applications for payment plans or deferrals under three months
- seeking only relevant information from ratepayers and ensuring questions are not intrusive

- requiring supporting documents only where necessary, for example in cases of:
 - long-term hardship relief
 - relief for a significant rates debt
 - a waiver of rates or interest
 - situations where the council considers the ratepayer is not providing honest and accurate information
- offering referrals to financial counsellors, but being flexible if ratepayers do not want to see or apply through such a service
- consulting with local financial counsellors to ensure referral schemes operate effectively
- offering assistance to complete application forms in appropriate cases.

Early intervention

- taking proactive steps to identify ratepayers who may be in hardship regarding their rates, for example ratepayers who miss due dates, request payment plans or disclose hardship or other vulnerabilities
- informing ratepayers about alternative payment options, the hardship policy and available support services.

Payment options

- offering alternative payment options to help ratepayers budget and pay for rates eg Centrepay and monthly instalment options.

Attachment 5 – Hardship guideline additional considerations

This attachment presents more detailed information under each of the subheadings of the Ombudsman’s good approach to financial hardship. This attachment contains information that is not presented in the main body of this advice.

It is important that the guideline apply whether the actions to assess suitability for support and the recovery of rates debt are undertaken by the council or a third-party agent (such as debt collectors) acting on behalf of the council).

Information for ratepayers

- Information needs to be accessible and appropriate for people’s needs and abilities; for example, using interpreters.
- A plain English version of the council’s policy may help to communicate with ratepayers.
- Information about hardship support can be communicated through IVR (Interactive voice response) automated telephone messages.
- The policy or information can be distributed through libraries and citizen advice centres.
- Councils can share information with banks that can share with customers and make referrals to councils.
- The tone of communication should be appropriate and reach ratepayers who may not have navigated these systems before.
- All council staff who interact with ratepayers should be able to encourage them to talk to the appropriate department about hardship support (e.g. rates team, vulnerability team).

Application processes

- Outline eligibility for support. All ratepayers who are experiencing hardship are eligible to request or apply for assistance under a council’s hardship policy. And all options for support should be considered in the context of the ratepayers’ individual circumstances. There should be no blanket exclusions.
- Do not require ratepayers to see a financial counsellor as a condition of being able to access support
- Online forms are a good option, especially for those who are reluctant to speak to someone over the phone to begin the process.
- Assistance should be provided to those with low literacy and numeracy.
- If a written application form must be completed, it should be provided in both printed and digital formats.

Early intervention

- Use a strengths-based approach and do not diminish people through their circumstances
- Consider automated reminders for overdue payments that focus on the support available and encouraging ratepayers to contact the council, including 'nudge' approaches in the reminder to prompt ratepayers to reach out for support.

Payment options

- Outline reasonable payment instalments (amount and number) in line with the ratepayer's capacity to pay and consider recent/current hardship as well as family violence.

Hardship relief

- Do not require ratepayers to commit to a payment plan as part of their hardship request.
- Support arrangements may be short, medium- or long-term arrangements.
- Ratepayers must advise councils if their circumstances change.
- Detail the circumstances in which the hardship policy and support will cease to apply.
- Outline the methods of communication, taking into account ratepayers preferred method, and the number of attempts councils will make to communicate with ratepayers before initiating actions (for example, court proceedings).
- Ensure a ratepayer is not charged interest if they are on a payment plan or have had payments deferred.
- Outline the circumstances in which waivers of debt will extend to the principal debt and not be limited to interest accrued.
- Do not exclude debt waiver as an option as it is a requirement of the Local Government Act 1989.

Debt recovery

- Local councils comply with the ACCC/ASIC Debt Collection Guideline.³³
- Debt collectors are used as a last resort.
- Ensure ratepayers are exempt from debt-collection recovery/action whilst a hardship application is being decided.

Decision-making and reporting

- Decision making must be open and able to be reviewed.
- Provide decisions about financial hardship applications and support in writing to the ratepayer.

³³ Australian Competition and Consumer Commission (ACCC) and the Australian Securities and Investments Commission (ASIC) joint [Debt collection guideline](#)

Disputes and complaints

- No additional information was provided about this section (outside of what is already covered in the Ombudsman's approach to financial hardship).

Attachment 6 – Suggested reading material and resources

Documents referenced in preparing this Advice

Australian Banking Association, [Banking Code of Practice](#)

Australian Competition and Consumer Commission (ACCC) and Australian Securities and Investments Commission (ASIC), [Debt collection guideline](#)

Australian Taxation Office, [Serious financial hardship](#).

City of Ballarat, [Financial Hardship Policy](#), undated

Essential Services Commission, [Better practice in responding to family violence](#), August 2019 (revised March 2022)

Essential Services Commission, [Getting to Fair: Breaking down barriers to essential services](#), August 2021

Essential Services Commission, [Getting to fair: Breaking down barriers to essential services – decision paper](#), August 2021

Essential Services Commission, [Payment difficulty framework implementation review 2021 - Improving the operation of the framework](#)

Essential Services Commission, [Review of Hardship Measures Taken by Metropolitan Water Businesses, 2013-14](#)

Essential Services Commission, [Supporting customers, avoiding labels: Energy hardship inquiry final report](#)

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Essential Services Commission, [Water Code Review: Final decision on Water Industry Standards](#)

Essential Services Commission, [Water customer support during the coronavirus pandemic](#)

Financial Rights Legal Centre, [What is financial hardship?](#)

Local Government Victoria, [Local Government Rating System - Review - Report of the Ministerial Panel, March 2020](#), section 11.1.4

National Debt Helpline, [What is financial hardship and what are your rights?](#)

NSW Office of Local Government, [Debt Management and Hardship Guidelines](#), November 2018

Victorian Ombudsman, [Investigation into how local councils respond to ratepayers in financial hardship](#)

Water Services Association of Australia, [WaterCare Supporting Vulnerable Customers](#)

Other relevant documents

Energy – [Energy Retail Code of Practice \(version 2\)](#)

Water – [Customer service codes](#)