



# Essential Services Commission submission on the draft Ministerial Guidelines for Councils relating to payment of Rates and Charges

**The 2025 draft Ministerial Guidelines for Councils relating to payment of Rates and Charges is a vast improvement on the previous 2023 consultation draft guidelines. Our feedback identifies opportunities for further improvement, 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 for the development of Ministerial Guidelines on the collection of unpaid rates and charges and financial hardship. The amendments were made in response to the Victorian Ombudsman's 2021 investigation that highlighted the experiences of ratepayers in hardship due to local government collection practices. 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.<sup>1</sup>

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.

The amendments to the *Local Government Act* require the Minister for Local Government 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 guidelines.

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<sup>1</sup> Victorian Parliamentary Debates, Legislative Assembly, 8 June 2022, p. 2210.

In 2023, at the request of the Minister for Local Government, the commission provided its initial views on the content of prospective guidelines for councils engaging with ratepayers experiencing hardship, including financial difficulties. Following this, the Department of Government Services released draft Ministerial Guidelines Relating to Payment of Rates and Charges (the 2023 draft guidelines) for public consultation. The commission provided feedback on the 2023 draft guidelines in a submission to that consultation process.

In November 2025, the Department of Government Services has released new draft Ministerial Guidelines for Councils relating to payment of rates and charges (the guidelines) for public consultation.

### **Why getting it right is important**

The commission considers that robust hardship support frameworks directly reinforce the objectives of the Fair Go Rates system. Affordability is driven not only by the total cost of rates but also by the accessibility of appropriate payment support. Policies that help ratepayers experiencing financial difficulty to continue to meet their obligations align with the broader aims of promoting the long-term interests of ratepayers and the community, and enabling councils to sustainably deliver essential services.

As part of this hardship support framework, the guidelines will play a key role in ensuring the local government sector provides hardship support that is effective and consistent. However, to be successful in promoting lasting change there needs to be buy-in from the sector. The guidelines will need to be supported by a cultural change across the local government sector, including a shift from thinking about ratepayer hardship as a debt-management issue to a customer-service issue. Therefore, it is important to get the guidelines right – including a focus on implementation and support for councils to make the necessary cultural changes and deliver the best outcomes.

The 2025 draft guidelines are a vast improvement on the previous 2023 draft guidelines. They take on board much of our initial advice provided to the Minister for Local Government on the content of any prospective guidelines, as well as our feedback on the 2023 draft guidelines. In particular we welcome the:

- overall positive tone and language
- prominence of messages about the need for ratepayer treatment that is fair and compassionate, including that punitive actions would be methods of last resort
- adoption of a principles-based approach to developing policies and processes, and endorsement of the principles
- recognition of the value of proactive approaches to support ratepayers to manage payments
- inclusive definition for hardship and financial hardship.

Nonetheless, we have identified areas where the guidelines could be further strengthened to better facilitate effective and consistent practice in the sector.

## Our submission

This submission sets out our feedback on the draft guidelines. Our views are based on our extensive experience delivering successful consumer protection regimes in essential services sectors. It draws on our knowledge of approaches to hardship support and insights into the experiences of Victorians in vulnerable circumstances who rely on these essential services. It is also based on feedback from stakeholders during preparation of our initial advice to the minister in 2023, as well as ongoing conversations with these stakeholders.

Our feedback specifically relates to the need for consumer protections to be stronger, or clearer, in some areas – in particular to align with Australian consumer law and community expectations about family violence assistance. Our feedback also relates to the need for the guidelines to include guidance to councils on implementing and embedding their hardship and debt management policies and procedures. We consider both areas to be necessary if councils are to achieve effective and consistent practice across their sector. We have detailed each area of feedback below.

## Strengthening necessary consumer protections

This section sets out our detailed feedback on opportunities where consumer protections should be strengthened or made clearer in the draft guidelines.

### Summary of ways to improve customer protection

- Expanding Family violence protections.
- Clarifying expectations and requirements of third parties acting on behalf of councils.
- Requirements around collection of relevant information and third-party support in verifying or supporting hardship applications.
- Stronger language generally, with more areas identified as minimum expectations.
- Proactively working with ratepayers who have built up arrears.
- Clarifying expectations around timing of debt recovery.
- Clarifying expectations around limits of debt recovery.
- Setting a cost-reflective maximum interest rate with no punitive element.

## Expanding family violence protections

Our initial advice stressed the importance of recognising family violence as a cause of hardship, and the need for specific references to how councils should respond to ratepayers affected by family violence.<sup>2</sup> 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.

The guidelines have reflected key parts of our advice, however this is limited to encouraging the use of specialist referrals (in clause 7.2) and for measures to maintain confidentiality regarding personal details of joint property owners (in clause 8.1).

This could be enhanced by moving clause 8.1 to a new stand-alone section covering family violence and economic abuse. This section should also include the following matters raised in our initial advice:

- 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 expectations regarding councils not seeking repayment solely from a victim-survivor of family violence or economic abuse where there is shared ownership or joint liability
- Processes to reduce or avoid the need for ratepayers to repeat disclosure of their family violence.

We also suggest that councils should take all reasonable steps to apportion or defer payment recovery actions until the safety and financial capacity of the victim-survivor can be assessed and supported.

## Clarifying expectations and requirements of third parties acting on behalf of councils (as a responsibility of council)

Many councils use third party agents to undertake debt recovery activities. Where a council outsources these activities to a third-party agent, the guidelines and the council's hardship policy should still be followed. That is, the guidelines and the council's hardship policy should apply to the actions of a third-party agent acting on behalf of a council.

The 2023 draft guidelines contained a requirement that:

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<sup>2</sup> Essential Services Commission, *Initial views on a local government hardship guideline*, 15 August 2023, pp. 11-12.

Where councils use a third party to undertake debt recovery activities, they must ensure that third parties comply with the requirements of these Guidelines.<sup>3</sup>

This requirement was not included in the 2025 draft guidelines – such a requirement should be re-instated into the guidelines. This could be framed as an obligation on the third parties to comply with the guidelines and the council's hardship policy (as well as the ACCC & ASIC *Debt collection guideline: for collectors and creditors*). Alternatively, it could be framed as an obligation on the council to ensure any third-party agent acting on their behalf complies with those guidelines and policies. That is, that there should be expectations that a council assesses and appoints debt collectors on the basis that they meet requirements of the guidelines, the council's own hardship policy and the ACCC & ASIC Debt collection guideline, and actively monitors this compliance.

It should also be considered whether the guidelines prescribe that third party debt collectors are only to be involved after the council has made reasonable attempts to contact and negotiate with the ratepayer in arrears, and these attempts have failed.

## **Requirements around collection of relevant information and third-party support in verifying or supporting hardship applications**

### **Collection of relevant information**

Clause 7.1 of the guidelines states, helpfully, that councils should only request and collect information directly relevant and necessary in order to make a decision on financial hardship. It then goes on to provide many examples of potentially relevant documentation.

For clarity, it should be noted that not all the examples are relevant in every application, and that requests for information should be specific, reasonable and proportionate to a ratepayers' financial hardship request and relief sought. It can be common practice for service providers to require lots of information that is onerous – which is a barrier to ratepayers seeking hardship support and should be discouraged by the guidelines.

### **Third-party support in verifying or supporting hardship applications**

Clause 7.2 of the guidelines states that (emphasis added):

However, Councils must not require an applicant to engage a professional to support the preparation or verification of a hardship application **if it is at cost to the ratepayer** who is experiencing hardship and/or financial hardship.<sup>4</sup>

<sup>3</sup> Local Government Victoria, *Draft Ministerial Guidelines Relating to Payment of Rates and Charges*, August 2023, p. 9.

<sup>4</sup> Department of Government Services, *Draft Ministerial Guidelines for Councils relating to payment of Rates and Charges*, November 2025, p. 19.

This should be redrafted to prohibit a council from requiring such a referral at all – that is, regardless of whether or not there is a cost to the ratepayer.

For most applicants, the council should be able to make a decision without reference to a financial counselling assessment. While financial counselling is a vital support for many people experiencing financial difficulty, it is a voluntary service and it should always remain the ratepayer's choice to seek it. Particularly given resource constraints, a referral is generally more appropriate only where financial difficulties are complex or across multiple providers.<sup>5</sup>

### **Stronger language generally, with more areas identified as minimum expectations**

Through our ongoing conversations with stakeholders, we have heard feedback that the guidelines need to place clearer obligations on councils if they are to be effective and achieve consistency across the sector. Our view is that the guidelines could be strengthened by identifying minimum expectations in more areas.

For example, we have identified the following areas where mandatory or minimum expectations could be established.

#### **Translation services and formatting of notices**

Clause 4.1 encourages councils to consider the demographic and socioeconomic environment of their communities and whether additional aids are needed to help ratepayers understand council notices, including translation and alternative formatting notices. Our view is that the guidelines should be stronger on this – to meet the 'place-based' mandatory requirement. Councils providing ratepayers information on notices in community languages relevant to the locality and offering interpreter services should be a minimum requirement.

#### **Centrepay**

Clause 4.2 of the guidelines on flexible payment options includes Centrepay amongst a list of options. Our view is that Centrepay should be a minimum expectation. Centrepay is a safe, fee-free and predictable way for people on low incomes to manage essential costs, reducing the risk of arrears and financial stress.

#### **Referral to other support measures when hardship assistance is rejected**

Clause 7.3 refers to hardship application decisions and reviews. The guidelines could set some minimum requirements, should a council decide not to provide hardship assistance following an application. In addition to providing clear information about the right to review, including time

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<sup>5</sup> Financial Counselling Australia issues guidance for service providers on referring to financial counsellors, see: [Referring to Financial Counsellors - a Guide for Energy Companies - Financial Counselling Australia](#) and [Referring to Financial Counsellors - a Guide for Telcos - Financial Counselling Australia](#).

frames, the council should refer unsuccessful applicants to other support measures and, before initiating any further legal action, give ratepayers time to get independent support and advice.

### Council review and CEO attestation of hardship and financial hardship policies

Another example is including a minimum expectation for hardship and financial hardship policies to be reviewed by council and attested by the council's CEO. This requirement could be included in section 8 on Council hardship and Financial Hardship policies.

### Further examples where language can be strengthened

Further areas where 'must' could replace 'should' to strengthen consumer protection while remaining consistent with relevant legislation include:

- 'When a payment plan is being arranged, the Council **should** work with the applicant to ensure the plan is realistic in terms of the applicant's capacity to pay.' on p. 17.
- 'Council **should** also clearly communicate the process for which a payment plan will be cancelled, and how a ratepayer will be informed of the cancellation.' on p. 17.
- 'Information on how Councils assess hardship applications, how decisions are made, how to contact Council, and resources, such as hardship factsheets and application forms, **should** be easily accessible on the Council website and in person to allow ratepayers to apply.' on p. 18.
- 'Each application **should** be assessed on a case-by-case basis, and/or on the information provided by the ratepayer.' on p. 18.
- Councils **should** only request and collect information directly relevant and necessary to make a decision on financial hardship. All information **should** be collected and held in line with privacy legislation and Council's privacy policies.' on p. 18.
- 'Applicant ratepayers may benefit from a referral by a Council to a financial counsellor, or a community lawyer, a government-funded assistance program or specialist family violence support service. Councils **should** provide details to applicants that request these services.' on p. 19.
- 'The applicant **should** be informed of the Council's decision in writing within a reasonable timeframe after making the application and should be given reasons for the decision.' on p. 19.
- 'Resources, such as hardship factsheets and application forms, **should** be easily accessible on the Council website and in person to allow ratepayers to apply.' on p. 21.
- 'In circumstances where a ratepayer has identified circumstances of family violence or economic abuse (including in relation to other joint owners of the property), Councils **should** implement measures to prevent each owner from accessing confidential information regarding the other's personal details and detail these measures in their policies.' on p. 21.

### Proactively working with ratepayers who have built up arrears

Clause 6.3 sets out the information a council must provide on reminder notices and on cancellation notices issued when a payment under a payment plan is missed. Both points of contact are critical

opportunities to engage with ratepayers who may be experiencing unforeseen circumstances. We suggest strengthening the requirements for both reminder and cancellation notices so they proactively offer assistance, including clear information on options and support available for those experiencing hardship and financial hardship.

### Clarifying expectations around timing of debt recovery

Clause 9.2 of the guidelines restate the statutory position that councils may recover unpaid rates and charges by taking legal action. However it is unclear whether escalation may occur on the full balance or only on arrears of a defined age. This makes it difficult to understand whether there is any limit on the period of unpaid amounts that may be referred for collection.

To support clarity and consistent practice, the guidelines should expressly confirm the timing of debt recovery action, including what portion of debt is considered recoverable once an arrangement ends or where no arrangement is in place.

### Clarifying expectations around limits of debt recovery

Clause 9 of the guidelines outlines councils' powers to charge interest on unpaid rates and to recover debts through court action, including the sale of land.

For completeness, the guidelines should also acknowledge that councils ultimately retain a statutory right to recover any unpaid rates, accrued interest and court-awarded costs as a first charge on the land, recoverable when the property is sold or transferred. For a limited subset of cases, particularly those involving significant or entrenched hardship, this approach may represent the most appropriate and least harmful option. The council's financial position remains protected, and the matter becomes one of cashflow rather than any real risk of non-recovery.

However, while it is important that the guidelines accurately reflect the full range of legislative powers available to councils, it is equally important that these powers are not promoted or emphasised in councils' own hardship policies or communications with ratepayers. Highlighting powers such as charging interest, initiating legal action or selling property risks creating a punitive or intimidating tone. This is directly at odds with the principle that the relationship between councils and ratepayers is best served by a sensitive and supportive approach, focused on understanding the ratepayer's circumstances rather than punishing them for non-payment.

This concern is consistent with the ACCC & ASIC *Debt collection guideline: for collectors and creditors*, which cautions that:



How legal action is threatened or taken can, in certain circumstances, amount to misleading or deceptive conduct, unconscionable conduct or harassment.<sup>6</sup>

Part 2, section 19 of the ACCC & ASIC guideline, which relates to representations about the consequences of nonpayment, is particularly relevant. Section 19(c) of the ACCC & ASIC guideline states:

You must not threaten legal action if the start of proceedings is not possible, not intended, or not under consideration, or you do not have instructions to start proceedings.<sup>7</sup>

To ensure councils' practices align with these consumer protection principles, we recommend that clauses 5 and 9 of the guidelines explicitly reference section 19 of the ACCC & ASIC guideline. We further recommend that the guidelines make clear that council's public facing information on hardship or financial hardship should not reference debt recovery processes or legal enforcement powers, as such references may discourage early engagement and undermine the supportive intent of the guidelines.

### Setting a cost-reflective maximum interest rate with no punitive element

The Minister for Local Government has the power to set a maximum rate of interest on unpaid rates and charges under section 172A of the *Local Government Act 1989*. At the request of the minister, we provided advice on an appropriate interest rate for unpaid rates and charges in April 2024.

We recommended a cost-reflective rate with no punitive element, noting that:

- A punitive interest rate drives ratepayers facing hardship or vulnerability away, reducing the likelihood they seek council support (e.g. interest waivers or payment plans).
- A punitive interest rate that is higher than the financing costs to councils provides a perverse incentive to councils against proactive debt management.
- Even with the most proactive hardship and debt management processes in place, there will always be ratepayers who fall into arrears without entering council hardship management programs. The harm caused to these ratepayers by a punitive interest rate in the form of financial and emotional stress is significant and disproportionate to any disincentive to pay from a higher interest rate.
- Councils have a variety of other powers available when collecting unpaid rates and charges.

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<sup>6</sup> Australian Competition and Consumer Commission & Australian Securities and Investments Commission, *Debt collection guideline: for collectors and creditors*, April 2021, p. 4.

<sup>7</sup> Australian Competition and Consumer Commission & Australian Securities and Investments Commission, *Debt collection guideline: for collectors and creditors*, April 2021, pp. 33-35.

The minister has yet to make any change to the maximum interest rate, which remains at the penalty interest rate of 10 per cent since 2017.

We see the maximum interest rate mechanism as part of the broader move towards more contemporary approaches to hardship and debt management practices within the local government sector. Retaining a punitive interest rate is not consistent with this move, and it would make sense for the minister to set a non-punitive maximum rate of interest in conjunction with release of the guidelines.

## **Implementing and embedding an effective approach**

To be effective in supporting councils to proactively work with ratepayers, the guidelines must include guidance to councils on implementing and embedding hardship support. This is consistent with the approach taken in the existing sections 2 (Mandatory Principles), 3 (Principles Councils are strongly encouraged to consider) and 4 (Proactive management for the payment of rates and charges). Each of these sections includes information to support councils to develop effective policies, procedures and communication methods. We suggest including a new section 4 that expands this guidance to include further necessary elements to effectively implement and embed hardship and debt management policies and procedures.

### **Summary content that could be included in an 'Implementation' section**

- Adopting a customer service approach.
- The need for training, resources and support for council staff.
- Public facing materials for ratepayers about a hardship support.
- Adopting “place based” approaches when implementing and embedding policies and procedures.
- Measuring and reporting councils' performance.

### **Adopting a customer service approach**

For hardship support to be proactive as intended in the second reading speech, ratepayers need access to hardship support early alongside other forms of council customer service.

Flexible payment options, concessions, and payment plans should all be available via the customer service team and accessible when ratepayers are enquiring about other critical council services. This creates a positive culture of collaboration between the council and ratepayers who are seeking assistance managing the payment of rates and charges.

In many other sectors it is now commonplace for the delivery of payment plans and hardship support to be integrated into customer service areas. The businesses that have adopted this

approach have benefited through increased cashflow from proactive payment plans, and avoided debt management costs. Our view is that the guidelines should explicitly direct councils towards this form of delivery for their own benefit and for the benefit of ratepayers.

## **The need for training, resources and support for council staff**

### **Staff training**

Staff training is critical in the effective and consistent implementation of hardship and debt collection policies. It ensures council staff engage with ratepayers in a way that is consistent with the principle of fair, equitable and compassionate treatment. It also assists ratepayers to have more open and meaningful conversations about their circumstances.

Research by Uniting, with people with lived experience of family violence and their experience with utility providers highlights the importance of staff receiving family violence training. Victim-survivors indicated that knowing there were specialised trained staff would:

- significantly encourage the disclosure of family violence
- help participants feel more comfortable sharing their experiences
- reduce the need to repeat their stories
- improve access to protections and resources.<sup>8</sup>

We recommend the guidelines include minimum expectations on council regarding the roles of staff to be trained and the nature of the training to undertake. Refer to our recommendations on training in our initial advice.<sup>9</sup>

### **Templates, better practice examples**

To support consistency in implementation, councils should have access to templates, toolkits and resources identified in the guidelines. This includes materials on:

- easy to understand language and accessible communication methods
- how council assesses hardship applications
- how council makes decisions on hardship and financial hardship
- hardship and financial hardship fact sheets
- when council applies interest to rate payers, and when it applies a lesser rate or applies no interest
- referrals when applications are not successful.

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<sup>8</sup> Uniting, *Better practice in responding to family violence- lived experience insights for utility providers*, September 2025, p. 16.

<sup>9</sup> Essential Services Commission, *Initial views on a local government hardship guideline*, 15 August 2023, p. 10

## Public facing materials for ratepayers about hardship support

Clause 5.2 of the guidelines refers to penalties for ratepayers providing misleading information.

We consider that information about penalty powers in the *Local Government Act 1989* is not appropriate in public facing materials to ratepayers who are experiencing hardship or financial hardship. (See above: Clarifying expectations around limits of debt recovery.)

The relationship between council and ratepayer would be better served by the council taking a sensitive approach to ratepayers claiming to be in financial hardship, and seeking to understand and clarify the ratepayer's situation rather than threaten to punish the ratepayer.

Including this information is also likely to be counter to the mandatory principles around accessible communication, and compassionate treatment. If councils never actually prosecute these offences, then it may be misleading to threaten them or represent that they will take action.

## Adopting 'place based' approaches when implementing and embedding policies and procedures

The mandatory principles set out in section 2 of the guidelines refers to a 'place based' approach. But it is not articulated how councils would meet this requirement, beyond:

...modern and flexible payment options and methods for payment of rates and charges that align with local community expectations, needs and hardship circumstances.<sup>10</sup>

There is an opportunity for councils to expand on this 'place-based approach' when implementing and embedding hardship policies and processes, beyond being flexible. We suggest that this include:

- councils engaging with local organisations (including financial counsellors, Community Legal Centres, First Nations groups, community services, etc) in the development and monitoring of hardship policies.
- assessing applications for hardship assistance by considering relevant local issues such as housing costs in the locality, differential access to transport or transport expenses, and that these transport expenses might be higher in some areas compared to others.
- considering the make-up of the local community in designing application processes, such as the level of digital literacy and whether the council offers outreach services, library access or mobile support.

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<sup>10</sup> Department of Government Services, *Draft Ministerial Guidelines for Councils relating to payment of Rates and Charges*, November 2025, p. 7.

## Measuring and reporting councils' performance

In our initial advice, we noted the importance of councils measuring and reporting on outcomes in relation to ratepayers experiencing hardship.<sup>11</sup> This includes information that can help in understanding the scope of hardship and how this is changing over time, as well as information for a council to assess its own performance.

Clause 4.4 of the guidelines on measuring council performance merely 'encourages' councils to record and report information relating to outstanding rates and charges to demonstrate transparency and improvement. This needs to be much stronger.

Councils need to be accountable to their communities and report back to them on how they are supporting ratepayers experiencing vulnerability. It's only through public and comparable reporting that the community will know there is improvement.

The guidelines should require councils to publicly report on key measures – this reporting could be on their websites, or through their budgeting and planning processes, or through their annual reports. Alternatively, the local government performance reporting framework could be updated to include mandatory reporting of these measures.

Potential measures to include:

- percentage of ratepayers with unpaid rates, charges and interest
- percentage of ratepayers on payment plans
- percentage of ratepayers on Centrepay
- the number and amounts of waivers
- the number and periods of deferrals
- time to process and approve waivers and deferrals
- the nature and number of actions taken for non-payment
- debt levels for any legal action
- percentage of ratepayers required to pay penalty interest
- the amounts of interest due and paid
- the amounts of interest waived.

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<sup>11</sup> Essential Services Commission, *Initial views on a local government hardship guideline*, 15 August 2023, p. 16.