

Fees and Charges (Non-Rates) – Waivers, Discounts and Subsidies Policy

Classification:	Council Policy
First Issued / Approved:	10 March 2015 C10083 27 June 2017, C11264 25 June 2019, C12143
Last Reviewed:	22 June 2021, C220621/12857
Next Review:	June 2025
ECM Tracking No.:	2306521
Responsible Officer:	Director, Corporate and Development
Relevant Legislation:	<i>Local Government Act 1999</i>
Related Policies:	Fees and Charges (Non-Rates) Policy Internal Review of Council Decisions (Section 270) Policy Hire of Community Open Space and Facilities Policy Community Funding Policy Sponsorship and Donation Policy

1. Introduction

- 1.1 Council recognises that there are reasonable and legitimate circumstances in which it would waive, reduce or subsidise fees and charges.
- 1.2 This policy applies to the waiving, discounting or subsidising of fees and charges listed in Council’s Fees and Charges Schedule, published annually as part of the budget setting cycle.
- 1.3 It also applies to the waiving, discounting or subsidising of any new fee that maybe introduced and authorised for publication throughout the financial year, not previously included in the Fees and Charges Schedule.
- 1.4 This policy should be read in conjunction with Council’s *Fees and Charges (Non-Rates) Policy* for users to be fully informed of governance frameworks applicable to fees and charges procedures.
- 1.5 It does not apply to Council rates and rebates. Please see the Council’s *Rating Policy* for guidelines concerning rates and relief for rate payers.
- 1.6 The correction of an error in processing a fee or charge is not considered to be a reduction or discounting of a fee.

2. Strategic Community Plan Desired Outcome

2.1 The strategic Desired Outcomes are;

Principle: Spans all Strategic Plan Principles

Theme: Spans all Strategic Plan Themes

Goals: Spans all Strategic Plan Goals

Priority: Spans all Strategic Plan Priorities

3. Strategic Community Plan Approach

3.1 Regularly review, update and adopt leading governance, risk management and administrative practices.

3.2 Provide sufficient resources to meet current and future needs of the community.

4. Legislative Requirements and Corporate Policy Context

4.1 This policy operates as a direct consequence of the provisions of Section 188 (Fees and Charges) of the *Local Government Act 1999* (the Act) for South Australia, empowering a Council to impose fees and charges.

4.2 The provisions of the Act state a Council may provide for:

- (a) specific fees and charges;
- (b) maximum fees and charges and minimum fees and charges;
- (c) annual fees and charges;
- (d) the imposition of fees or charges according to specified conditions or circumstances;
- (e) the variation of fees or charges according to specified factors; or
- (f) the reduction, waiver or refund, in whole or in part, of fees or charges.

4.3 In addition to these provisions, the Act states at Section 188 (5) that fees may be fixed, varied or revoked:

- (a) by By-Law; or
- (b) by decision of the Council.

4.4 However, the Act states at Section 44(3)(j), Council may not delegate power to fix, vary or revoke fees under Section 188(1)(d) to (h) which are:

- (d) for providing information or materials, or copies of, or extracts from, council records;
- (e) in respect of any application to the council;
- (f) in respect of any authorisation, licence or permit granted by Council;
- (g) in respect of any matter for which another Act provides that a fee fixed under this

Act is to be payable; or

(h) in relation to any other prescribed matter.

4.5 Therefore, Council may only delegate power to fix, vary or revoke a fee under Section 188(1)(a) to (c):

(a) for the use of any property or facility owned, controlled, managed or maintained by the council;

(b) for services supplied to a person at his or her request; and

(c) for carrying out work at a person's request.

4.6 In addition to these provisions, the Act states at Section 271, Council is obliged to maintain policies and procedures for the services it offers and provide transparent mechanisms to review Council, or delegate decisions regarding the provision of those services.

4.7 This Policy briefly outlines those statutory remedies summarised in the existing Council policy framework for reviewing internal decisions within *Internal Review of Council Decisions (Section 270) Policy*.

5. Interpretation

5.1 For the purpose of this policy:

5.1.1 "Council" means the City of Burnside.

5.1.2 "Fees and Charges Schedule" means the table that informs Council and residents of fees and charges published on Council's website.

5.1.3 "Financial hardship" means an individual or group that does not have the capacity to pay Council a fee, charge or expiation.

5.1.4 "Statutory Fees" means fees, charges and expiations set by statutory legislation and administered by Council.

5.1.5 "Discretionary Fees and Charges" means fees and charges set by Council where it has discretion as to the provision of the good or service being offered and what price is charged for it.

5.1.6 "Legislation" means all relevant State and Federal legislation and Council By-Laws.

5.1.7 "Public benefit" means having a purpose aimed at achieving a universal or common good and has a practical benefit, directed towards the general community, not exclusively to a specific section of the community.

5.1.8 "the Act" means the Local Government Act 1999 for South Australia.

5.1.9 "Waiver" or variants of this word, such as "discount" or

“subsidy” means a monetary reduction to or of a Fee, Charge or Expiation approved by Council under the provisions of the Local Government Act 1999.

6. Policy

6.1 Objectives

- 6.1.1 The objective of this policy is to guide Council in the establishment and application of fee and charge reductions to those established in its annual fees and charges approval and/or review process.
- 6.1.2 It outlines the principles and methodology of how reductions to fees and charges, through a waiver, discount or subsidy are established according to criteria explained in this Policy.
- 6.1.3 This policy also establishes a controlled framework by which Council and its delegates where allowed, approve fee reductions.
- 6.1.4 In addition, this policy explains the process by which a new or amended fee waiver, discount or subsidy can be introduced and approved by Council, if not previously established and approved in the annual fees and charges approval process.

6.2 Categories

- 6.2.1 Fees and Charges are categorised into two (2) key components.
 - Statutory Fees and Charges are those that are set and regulated under the provisions of the legislation relevant to Council business. These fees are non-discretionary and must align with the relevant statute or current Ministerial advice.
 - Discretionary Fees and Charges are not regulated by legislative statute and are at Council's discretion to determine.
- 6.2.2 Accordingly, the process allowing a reduction to a fee is reliant upon whether the charge is statutory or discretionary in nature.

6.3 Statutory Fees – Waiver, Discount and Subsidy Principles

- 6.3.1 Statutory fees, charges and expiations are non-discretionary. Once set and approved, Council has no discretion in their initial application to users or recipients.
- 6.3.2 Some legislative provisions and arrangements allow for circumstances where a variation of a statutory fee may occur including arrangements prescribed in Council By-Laws¹.
- 6.3.3 In these cases, Council is obliged to adhere to those provisions and arrangements and any other relevant policies and protocols, before commencing any recourse that may

enable reductions in statutory fees and charges.

6.3.4 In conjunction with these provisions Council may apply the following criteria to assist reaching a decision to reduce a statutory charge:

- demonstrated financial hardship for an individual;
- demonstrated financial hardship for a non-profit organisation;
- error in charging the initial fee or charge; or
- the Council's cost of recovering the charge exceeds the value of the fee/charge to be recovered.

6.3.5 Revision of a statutory fee, charge or expiation made under the above criteria that may result in a reduction being applied to the original charge, will require the approval of Council.

6.4 Discretionary Fees – Subsidising Principles

6.4.1 Discretionary fees and charges approved and set by Council can be reduced according to any Council approved price reduction framework which may be in the form of:

- a matrix (Appendix 1 – Subsidy Fee Structure) according to a particular type of user or group or;
- A case-by-case assessment at Council's, or its delegate's discretion.

6.4.2 The criteria for allowing a fee or charge subsidy must be based on a current or future benefit, quantitative or qualitative, accruing to Council because of that individual or groups characteristics.

6.4.3 This accruing benefit may be in the form of:

- ongoing service to the community that otherwise would, or may have to be, performed by Council.
- individuals and groups establishing a going concern that may otherwise be Council's responsibility.

6.4.4 Fee and charge reductions may also be in the form of concessional levels of full price fees for individuals or groups according to a recognised inability to pay that full price, such as pensioners or students.

6.4.5 Any individual meeting this criterion will receive a fifteen percent (15%) reduction to the full price published in the Fees and Charges Schedule (rounded to the nearest dollar).

- 6.4.6 A fee or charge reduction may also be in the form of a price discount offered by Council to encourage purchases of goods or services underpinned by economic rationale.
- 6.4.7 Council or its delegates may also reserve the right to reduce or cancel a discretionary fee to an individual or group on a case-by-case basis arising from extraordinary circumstances.
- 6.4.8 Examples of these circumstances are provided below, but are not limited to:
- error in charging the initial fee or charge;
 - death or incapacitation of an individual after making a booking for a service;
 - support for charitable or commemorative initiatives; and
 - to support the necessary service provision to a member of our community where there are compelling circumstances.

6.5 Approval of Fees and Charges Subsidies

- 6.5.1 Under the provisions of the Act, authority to approve fee and charge variations rests with Council or its delegates.
- 6.5.2 Council does not have the statutory power to delegate authority to fix, vary or revoke some specific fees or charges, as prescribed by the Act.
- 6.5.3 These conditions are outlined in the *Legislative Requirements and Corporate Policy Context* section above;
- 6.5.4 Council has the power to delegate approval of variations to fees for the use of any property or facility owned, controlled, managed or maintained by its operations, or services or works supplied to a resident.
- 6.5.5 A delegate can be any officer within Council operations who has authority to oversee the approval of fee reductions, as part of the annual fees and charges review cycle approved by Council.
- 6.5.6 Delegated approval of fee reductions must occur according to the following table (Table 1) unless otherwise prescribed by Council.
- 6.5.7 The table also outlines the level of fee reduction allowed, according to the office held within Council operations.

Table 1 – Fee Reduction Approval Levels

OFFICE HELD	MAXIMUM REDUCTION
Authorised by Chief Executive Officer	100% of Fee Published in Fees and Charges Schedule
Authorised by Director	50% of Fee Published in Fees and Charges Schedule
Authorised by Department Manager	25% of Fee Published in Fees and Charges Schedule
One (1) Approving Officer at the point of sale	15% of Fee Published in Fees and Charges Schedule

This table is separate in operation to the fee reduction an individual or group may receive from the Revised Subsidy & Criteria Matrix in Appendix 1.

6.6 Review of Decisions

- 6.6.1 Statutory provisions prescribed in the Act compel Council to provide a complaints framework whereby an individual or group may review a decision made by Council or a delegate.
- 6.6.2 Therefore, Council has an overarching Policy - *Internal Review of Council Decisions (Section 270)* Policy that specifically deals with the processes and procedures concerning a disputed decision that Council and its officers are required to comply with.
- 6.6.3 For the purposes of reviewing decisions to grant a waiver, subsidy or reduction to a fee or charge, this Policy is subordinate to the processes and procedures prescribed in the *Internal Review of Council Decisions (Section 270)* Policy.
- 6.6.4 This is particularly so for a review of a decision based on provisions stated at clause 6.3.4 and clause 6.4.8 in this Policy.
- 6.6.5 For the procedural actions required of Council and its officers when a review of a decision is triggered by an individual or a group, please refer to the *Internal Review of Council Decisions (Section 270)* Policy particularly clause 9 through to clause 17.

6.7 New or Amended Fee Reduction (Variation)

- 6.7.1 Under the provisions of the Act, Council is to take reasonable steps to bring a variation of a fee or charge, to the notice of persons who may be affected.
- 6.7.2 Council may introduce or amend a fee waiver, subsidy or discount outside of the annual fees and charges review cycle.
- 6.7.3 A new or amended variation may refer to the conditions a fee reduction will be granted, or the quantum of the reduction to the fee.
- 6.7.4 Once approved by Council a new or amended fee variation should be added to the Fees and Charges Schedule for the attention of users.

7. Review and Authority

- 7.1 This Policy will be reviewed every four years at maximum in line with Council's Policies and Protocols Framework

8. Availability

- 8.1 The Policy is available to be downloaded, free of charge, from Council's website www.burnside.sa.gov.au
- 8.2 The Policy will be available for inspection, free of charge, at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.
 - 8.2.1 City of Burnside Civic Centre; 401 Greenhill Road, Tasmore SA 5065
Telephone; 8366 4200; Email; burnside@burnside.sa.gov.au
Office hours: Monday to Friday, 8.30am to 5.00pm (except public holidays)

9. Further Information

- 9.1 For further information about this policy please contact:
City of Burnside Civic Centre; 401 Greenhill Road, Tasmore SA 5065
Telephone; 8366 4200; Email; burnside@burnside.sa.gov.au

Appendix 1

Revised Fee Subsidy Structure (Community Centres and Other Facilities)

Table 1 – Subsidy and Criteria Matrix

No subsidy	Any non-City of Burnside resident, non-City of Burnside business or commercial operator OR any other Government individual or group
15% subsidy	Any concession card holder entitling the holder to a concession as stipulated in clauses 6.4.4. and 6.4.5 of this Policy.
25% subsidy	Any City of Burnside resident OR any other Community Organisation, School, Not-for-Profit or Charitable Organisation. Burnside-based businesses by evidence of ABN registered address or street address within City of Burnside as demonstrated at the time of booking.
50% subsidy	Community Organisation, School, Not-for-profit or Charitable Organisation AND conducts its primary activities for the sole benefit of the City of Burnside residents.
100% subsidy	Community Organisation, School, Not-for-Profit or Charitable Organisation where Council is an identified sponsor.

Note: applicant is only able to apply for one subsidy category

The subsidy matrix includes but is not exclusive to the following Council Community facilities;

Burnside Ballroom

Burnside Civic Centre

Burnside Community Centre

Burnside Town Hall

Community Tennis Courts

Dulwich Community Centre

George Bolton Swimming Centre (limited to pool hire, lane hire, and function room hire)

Glenunga Hub