

From: [Allie Dunn](#)
To: tararua@mancomlaw.org.nz
Subject: CM: Response to Tararua Community Law Centre re request for information
Date: Tuesday, 15 October 2024 4:48:00 pm
Attachments: [image002.png](#)
[image003.png](#)
[Report re Adoption of Rates Postponement Policy.pdf](#)
[Minutes - Tararua District Council 4 September 2024 - public excluded.pdf](#)
[Report - Public Excluded session of Council re Rates Rebate Direct Debit Error Redacted.pdf](#)
[image001.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Kia ora

I refer to your official information request dated 8 October 2024 for provision of information related to the faulty process for recalculating direct debits of rates for Tararua District residents who receive rates rebates and pay by direct debit.

We understand the importance of transparency and appreciate your request for information.

The way your request has been framed would require a significant amount of officer resource to be deployed to search for, review for relevancy, undertake consideration of any information that may require redaction, for example, to protect information subject to protections under the Privacy Act 2020, and compile for provision to you. It would be beyond our resourcing capability presently to redirect resources to focus on searching our records management system, and Microsoft Teams, especially as the officers are currently focussed on responding to the rates rebate direct debit error, and expediting our response to the affected members of our community.

When considering what would be the most helpful information to provide to you, in relation to your particular interest in Council's deliberations on Section 90(A) of the Local Government (Rating) Act 2002, we felt providing a copy of the report considered by the Council in public excluded session at its meeting held 4 September 2024, the report considered by the Council in open session (also available to download from Council's website) at its meeting held 25 September 2024, and the minutes from the public excluded session of the meeting held 4 September 2024 would provide sufficient information.

However, the report considered in public excluded session by Council on 4 September 2024 contains legal advice that was provided to the Tararua District Council in confidence, and the report was placed on the public excluded agenda of the Council in accordance with section 7(2)(g) of the Local Government Official Information and Meetings Act 1987 (to maintain legal professional privilege). We have considered whether there are any public interest factors that may favour release of this information, however we believe maintaining this legal safeguard is not outweighed by public interest factors.

To ensure we can receive and consider legal advice openly and without prejudice, we are relying on legal professional privilege to withhold this information under section 7(2)(g) of the Local Government Official Information and Meetings Act 1987. This is a legal safeguard that allows us to seek and apply legal guidance as part of our decision-making processes, especially where future legal proceedings may be involved.

The sections of the report that deal with the legal advice have been redacted from the report in

accordance with this provision.

We want to assure you that this decision is not made to withhold information unnecessarily but to protect the integrity of the legal advice process and ensure the Council is able to manage any potential legal matters appropriately.

If after reviewing the material released through this LGOIMA process you feel you still require more information, please let us know. If you do need to request more information, please bear in mind if the request would result in a significant amount of collation and research in order to make the information available, we may need to consult with you about amending or clarifying your request, extending the timeframe for provision of information, or charging for the work involved in supplying the information.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Ngā mihi



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Public Excluded Items of Business

Minutes of a public excluded Extraordinary Meeting of the Tararua District Council held in the Council Chamber, 26 Gordon Street, Dannevirke on Wednesday 4 September 2024 commencing at 9:35am.

1. Present

Her Worship the Mayor - Mrs T H Collis, Crs E L Peeti-Webber (Deputy Mayor), N L Chase, A K Franklin, S M Gilmore, P A Johns, M F Long, K A Sutherland, S A Wallace and S M Wards

In Attendance

Ms R Bell - RFB Consulting

Mr B Nicholson - Chief Executive

Ms S Lowe - Group Manager – People, Capability and Customer Experience

Ms J Smith - Legal Counsel and Procurement Manager

Mrs A Dunn - Manager – Democracy Services

2. Apologies

There were no apologies.

3. Reports

3.1 Rates Rebate Direct Debit Error

The Tararua District Council considered the report of the Chief Advisor dated 16 August 2024 that informed the Council about an administration error that had persisted over several years, resulting in the failure to increase or reduce direct debit payments for those receiving rates rebates. The Council noted the significant amount of work that would be required to enact any decision made by the Council, and for that reason Rebecca Bell, of RFB Consulting, would be engaged to assist with this work. The Chief Executive introduced Rebecca Bell, and outlined her extensive experience in local government. Council's Legal

Counsel and Procurement Manager spoke about the complexity of the situation from a legal perspective, and advised that advice had been provided by Simpson Grierson (New Zealand Commercial Law Firm, and specialist in local government law), and incorporated into the report being considered. Options were recommended for Council consideration based on this advice.

With regard to the examples provided of rates remission and postponement policies, it was noted the examples provided were general however if development a rates postponement policy, this could be made specific to the situation faced by Council. Any policy proposed for adoption would be developed subject to feedback provided by the Council, and presented to Council for adoption of a draft for consultation.

The following matters were discussed:

- Whether it was an opportunity to develop a wider policy, and if so, the legal ability for using income as an eligibility criteria under the Local Government Act.
- Concern about implementing a drawn out process that consultation would involve, and empathy needed about the impact on the people involved.
- Impact on workload on officers for administering a postponement policy.
- If a person was unable to pay their arrears now, and owned the property, one of the options would be to pay the balance owing at time of sale of property.
- Whether the system could be changed so that the rates rebate showed on the rates invoice.
- How any material impact from waiving current arrears would be managed, should that option be taken.
- What the cost to administer would be, compared to what would be gained. In response it was advised that if postponing rates option taken, it would not take much additional work, as outstanding rates were always settled on transfer of property.
- The role of Audit New Zealand and whether the error should have been discovered through the year end audits. In response it was noted that the level had only now reached the threshold for recognition, and noted that payments were always applied to the oldest outstanding debts.
- From a risk perspective, the main risks related to the impact on Council's credibility and reputation. There was also discussion of

the legal risks relating to the overpayment of rates, now that Council is aware that it has taken payments that it was not entitled to take. In response it was noted that acknowledging and communicating that error promptly to affected parties, and working through with affected parties on the best solution, whether that be repayment, or crediting their rates account.

The Chief Executive stressed the importance of affected parties being contacted directly prior to any information being made publicly available.

4. Return to open session

That the meeting return to open session.

Crs Gilmore/Peeti-Webber

Carried

The meeting returned to open session at 10:54am and resumed public excluded session at 11:33am.

5. Reports

5.1 Rates Rebate Direct Debit Error – Consideration continued

The Council continued discussion of options. One of the options discussed was the suggestion to keep the solution simple, let everyone have a postponement of the rates arrears that could be settled on sale of property, and for those that wish to enter into a payment plan to clear the arrears could do so if they wished.

Council's Legal Counsel and Procurement Management provided clarification on statute of limitations for settling debt within six years, and how it would apply in these circumstances.

Clarification was also sought on the length of time that people had been in credit, and how long Council had been aware that some ratepayers had overpaid their rates.

In response to a question about whether there was potential for Council to receive a qualified audit from the Auditors relating to the rates rebate direct debit error. The Chief Executive advised that would not be likely through this process, however through the Annual Report it would be highlighted but Audit New Zealand would focus on the processes put in place to remedy the error.

The Council noted that accountability for the error would be sitting heavily on some staff shoulders, and sought advice on what help was being provided to these staff to help with their wellbeing. The Chief Executive noted that this was in process, and there had been a meeting to understand the struggles they were facing. He summarised the error as arising from a combination of human error,

system error and people not speaking up when the problem was noticed.

Assurance was sought that a report providing a summary of the outcome of the investigation be provided to Council, including information on steps that would be taken to ensure that the situation could not happen again. There was also concern expressed that there would need to be accountability taken for the error, and concern about the controls that have allowed this to happen and it was asked that be included in the report to Council.

With regard to the communications plan, it was asked that elected members be included as stakeholders in the plan. The Chief Executive noted that consideration was being given to seeking external expertise for the communications plan.

The meeting adjourned at 12:22pm and reconvened at 3:38pm.

Councillors M F Long and S M Wards left the meeting at 3:38pm.

The meeting discussed option 4 Rates Postponement and option 5 Rates Postponement and Remission as set out in Appendix 6 to the report, with consideration being given to the impact of the error on affected parties.

With regard to option 4 – creation of a rates postponement policy, members considered this would provide a fairer process, as it would provide a way to respond without creating equity issues. It was noted that there was a need for better management going forward, and investment in systems.

The Chief Executive advised that the next steps once Council had adopted its preferred way forward, would be for a project plan to be developed and brought back to Council.

The Council expressed the need for the matter to be fronted by the Mayor and Chief Executive due to the level of importance.

That the report from the Chief Advisor dated 16 August 2024 concerning the Rates Rebate Direct Debit Error be received.

That Council remedies the debts and credits evidenced in the Ratepayer accounts opening balances on 1 July 2024 by:

- ***Applying the Local Government (Rating) Act 2002 process to either refund overpayments/credits or reduce the Direct Debits this Rating year.***
- ***Requiring that current direct debit payments be adjusted to equate to rates for the current year; and***
- ***Addressing the potential financial hardship to ratepayers who receive rates rebates and pay by direct debit caused by the Direct Debit recalculation error; and***

That Council adopts option 4 – Rates Postponement and drafts a Rates Postponement Policy with specific provisions on this matter for consideration by Council.

Crs Johns/Chase

Carried

The meeting returned to open session at 4:10pm.

Report

Date : 4 September 2024
To : Mayor and Councillors
Tararua District Council
From : Peter Wimsett
Chief Advisor
Subject : **Rates Rebate Direct Debit Error**
Item No : **4.1**

1. Recommendation

- 1.1 *That the report from the Chief Advisor dated 16 August 2024 concerning the Rates Rebate Direct Debit Error be received.*
- 1.2 *That Council remedies the debts and credits evidenced in the Ratepayer accounts opening balances on 1 July 2024 by:*
- 1.2.1 *Applying the Local Government (Rating) Act 2002 process to either refund overpayments/credits or reduce the Direct Debits this Rating year.*
- 1.2.2 *Requiring that current direct debit payments are adjusted to equate to rates for the current year; and*
- 1.2.3 *Addressing the potential financial hardship to ratepayers who receive rates rebates and pay by direct debit caused by the Direct Debit recalculation error; and*
- 1.2.3.. *Introducing a Rates Postponement Policy with a specific postponement provision on this matter; and*
- 1.2.3.. *Consider introducing a new Rates Remission to the Rating Remission Policy with a specific provision on this matter; and*
- 1.2.3.. *Directing the Chief Executive to consult on these policies in accordance with the principles in section 82 of the Local Government Act 2002.*

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Executive Summary

A systemic error has occurred over several years due to the failure to recalculate direct debits, impacting a relatively small group of ratepayers who receive rates rebates and pay by direct debit.

This issue affects a relatively small number of ratepayers: 252 ratepayers are in arrears of more than \$1, and 207 have overpaid more than \$1, out of a total of 10,400 ratepayers. This represents approximately 2.4% of the total ratepayer base who owe money to Council and 2.0% we owe, with 96.6% of ratepayers in the Tararua District unaffected.

The debts of \$402,174 and credits of \$147,201* as at 30 June 2024 span six years and have accumulated over a period in which approximately \$183 million in rates have been collected (including GST). (*excludes one intended overpayment by a Ratepayer)

However, this does not lessen the impact on those affected ratepayers, who now face both a debt and a greater-than-expected increase in their direct debit payments to prevent further issues. Others (who are in credit) may wish to have a refund of their credit balances.

The affected ratepayers who are in arrears have retained their funds over these years and benefited from paying lower direct debit payments and not accumulating interest or penalties on unpaid amounts. Those in credit have provided the Council with an advantage in cash flow.

As a result, as of 30 June 2024, there are rates balances either owed to the Council or to the ratepayer. There are two issues which Council must rectify.

- Direct debits need to be corrected for the 2024/25 rating year.
- Opening balances owed (arrears and credits) must be remedied.

The cause of the error is under internal review, and Council officers are developing improved systems and processes. Our internal capacity to manage the error, assist our customers, and provide remedies is also being considered.

We acknowledge the potential damage to the Council's reputation and to the trust in our systems. We apologise to the community for this error and have developed a communications plan to explain and address this issue, which will include working directly with those who have been affected.

Council needs to use the legislative tools available to ensure that the process is robust and for transparency. The ability to write-off rates is constrained by Council's obligations under the Local Government Act 2002 and Local Government (Rating) Act 2002.

We will be recommending to the Council that it directs the Chief Executive to consult with the community on a proposed Rates Postponement Policy and possible Rates Remission that have been developed to respond to this specific situation and address the potential financial

hardship for the affected ratepayers. This will provide an opportunity for the community to provide feedback and make submissions on the policy and the proposed relief.

2. Reason for the Report

- 2.1 To inform the Council and the community of an administrative error that has persisted over several years, resulting in the failure to increase or reduce direct debit payments for those receiving rates rebates.
- 2.2 To acknowledge the systemic and administrative errors made by the Council and to apologise to the community.
- 2.3 To present the Council with options for resolving this error and to seek a resolution.
- 2.4 To address the issue promptly, given that the 2024/2025 rates have been set and rates invoices have been issued to ratepayers.
- 2.5 To address the increasing complaints and inquiries, including requests from lawyers representing individual ratepayers.
- 2.6 To initiate a communications plan as outlined in Appendix 3.
- 2.7 To seek approval for the development of a Rates Postponement Policy and new Rates Remission, and for public consultation on those items.

3. Background

- 3.1 The Direct Debit payment system is a critical function of the Council, enabling the efficient collection of funds. It may be used for customers to repay any debt owed to the Council and is generally used for recurring debts, including rates and water billing. The New Zealand banking system requires approval from the customer, the bank account holder, for another party to withdraw funds from an account. Changes to the amount can only be made with 30 days' written notice.
- 3.2 This system provides peace of mind that payments are made on time in a manner that suits the customer best, such as weekly, fortnightly, monthly, on the due date, or annually, without penalty.
- 3.3 Almost half of all ratepayers in the Tararua district make payments by Direct Debit, reducing the chance of error, which is more common when individuals make payments themselves. Errors can occur when due dates are missed, amounts are incorrect, or bank references are wrong.
- 3.4 For this reason, the Council prefers and actively promotes the use of Direct Debits to pay rates. Council has a remission on rates penalties where the ratepayer has entered a direct debit arrangement with the Council.

3.5 The Department of Internal Affairs (DIA) manages the rates rebate scheme. Under this scheme, low-income homeowners can apply for a partial rebate of their rates each year. The rebate application can be made at any time during the financial year. The rebate is applied to the ratepayer’s account and requires a manual recalculation of the ratepayer’s Direct Debit payments.

3.6 Appendix 2 shows the rates rebate system and eligibility amount/income table.

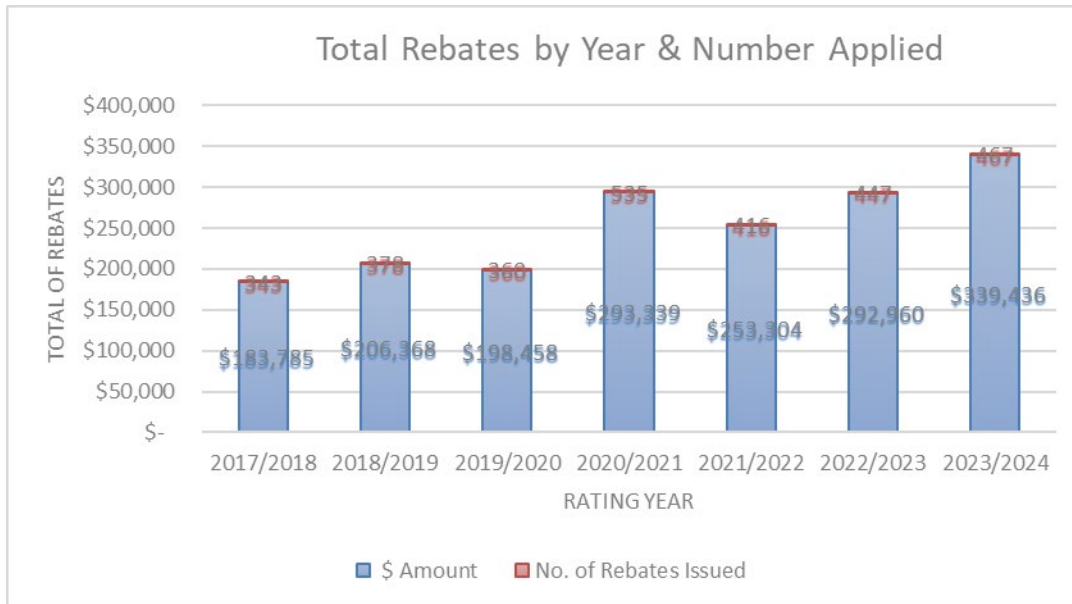
4. Description of the Issue

4.1 An ongoing administrative failure relating to processing and adjusting direct debit payments for ratepayers who receive a rebate under the DIA rebates scheme, has resulted in the following issues:

- Significant arrears have accumulated for 252 ratepayers who have not being paying enough through their direct debits.
- Credit balances have accumulated for 207 ratepayers who have been paying too much through their direct debits.
- A potentially significant increase is now required to the direct debit payment amounts of the affected ratepayers to bring these payments up to cover the 2024/2025 rates assessment amounts.

Rate Direct Debit Balances and Averages

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
\$ Rates Owed to Council	\$ 3,615	\$ 34,969	\$ 85,532	\$ 130,751	\$ 206,413	\$ 401,240
\$ Rates Owed to Ratepayers	-\$ 22,818	-\$ 33,198	-\$ 65,960	-\$ 88,831	-\$ 108,617	-\$ 166,142
Net Balance	-\$ 19,203	\$ 1,771	\$ 19,572	\$ 41,920	\$ 97,796	\$ 235,098
No. of Rates Owed to Council	263	206	216	191	216	252
No. of Rates Owed to Ratepayers	145	120	130	171	185	207
\$ Rates Owed to Council	\$ 14	\$ 170	\$ 396	\$ 685	\$ 956	\$ 1,592
\$ Rates Owed to Ratepayers	-\$ 157	-\$ 277	-\$ 507	-\$ 519	-\$ 587	-\$ 803



Change in Gross Debt (inc GST) as a Proportion of Rates

	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Total
	\$000's	\$000's	\$000's	\$000's	\$000's	\$000's	\$000's
Rates (Annual)	\$25,535	\$26,981	\$27,414	\$ 30,690	\$ 34,206	\$ 38,960	\$183,785
Change in Debt \$000's	\$ 4	\$ 31	\$ 51	\$ 45	\$ 76	\$ 195	\$ 401
% of Rates Revenue	0.01%	0.12%	0.18%	0.15%	0.22%	0.50%	0.22%

Number of Rate Assessments by Range of Amounts Owed to Council

Grouping	No. of Ratepayers	Total Rates per Group	Average Debt	Weekly DD Over 12 Months
\$0 to \$100	14	\$ 663	\$8	\$0
\$100 to \$200	11	\$ 1,799	\$164	\$3
\$200 to \$1000	78	\$42,606	\$546	\$11
\$1000 to \$2000	61	\$95,923	\$1,573	\$30
\$2000 to \$3000	62	\$147,985	\$2,387	\$46
\$3000 to \$6500	26	\$113,199	\$4,354	\$84

Total	252		\$402,174	
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- 4.2 The Direct Debit payments for the affected group have not been recalculated for approximately six years and have therefore not been increased to account for rates increases over this period. This has resulted in rates arrears accumulating for this group.
- 4.3 The administrative errors first arose during the 2018-2019 year and have been cumulative since then. The number of affected rating units is identical in 2018/2019 and 2023/2024 but fluctuated in the intervening years. This may have been due to some ratepayers voluntarily making payments or because of outstanding balances being settled following the death of a ratepayer or at the time of sale or transfer of a rating unit.
- 4.4 Rates have been duly assessed each year at the full amount. The ratepayers have not in any way contributed to the errors occurring.
- 4.5 We have identified a systemic error due to the absence of an automated rating database process. We do not currently have a software application to manage DIA rates rebates for the recalculation of Direct Debits, and these are processed manually when received. The lack of an automated process and an administrative lapse has allowed human error to persist for several years.
- 4.6 The effects of this error have been exacerbated over the past few years due to the more significant increases in Council rates. In the initial few years rates increases were much lower so the error was not as obvious.
- 4.7 We now seek to address the inequity this error has created and apply remedies.
- 4.8 We will also address the systemic failure and fully investigate how this occurred.
- 4.9 As noted above, this issue affects a small, specific group of ratepayers who pay rates by Direct Debit and receive a rebate on their rates each year. The remaining 96% of the ratepayers in Tararua are unaffected.

5. People likely to be affected under LGA S78(1)

- 5.1 There are three distinct groups affected:
 - Current Ratepayers who pay by Direct Debit and receive rates rebates.
 - Previous Ratepayers who paid by Direct Debit and receive rates rebates.
 - All other Ratepayers.

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- 5.2 Current Ratepayers who pay by Direct Debit and receive rates rebates may have accumulated arrears due to their direct debit payments not being increased to account for rates increases or due to them receiving a reduced rebate amount.
- 5.3 Previous Ratepayers who paid by Direct Debit and received rates rebates during this period may have sold their properties or moved, may now pay by other means, or no longer be eligible for rebates, or have passed away, with an estate that may exist or have been settled. If a ratepayer has moved to a new property, the rebate follows them, while the debt remains with the property and is usually part of the settlement. If there were unpaid amounts at year-end and no rebate was received, the normal system direct debit calculation could be run, and the amount recovered the next year.
- 5.4 For all other Ratepayers potential inequity may arise as they may have been treated differently or not had the same remedies presented to them.
- 5.5 The affected ratepayers will require clarification on the extent of the problem, its implications for them, and Council's approach to resolving both the arrears or credit and the adjustment of direct debits. The Council's approach needs to be consistent and clearly communicated.
- 5.6 The wider ratepayer base will also have an interest in this matter, as the proposed options may impact the Council's income or levels of service. The Council's approach needs to be consistent and clearly communicated, with detailed implications of the decision.

6. System Improvements

- 6.1 Officers have identified the problem and put in place controls, specifically:
 - 6.1.1 Automated the entire Direct Debits calculation process (including the manual process for ratepayers on receiving rates rebates); and
 - 6.1.2 Changed process to calculate the appropriate Direct Debit amount based on the rates due for the year and adjust it only after the rates rebates application has been lodged, approved and payments received from DIA; and
 - 6.1.3 A daily process that captures receipts of rates rebates which will trigger the Direct Debit adjustment process; and
 - 6.1.4 Automated reports that highlight exceptions where total Direct Debit amounts do not match the total rates due for the year.

7. Considerations for evaluating options.

- 7.1 The legal implications of this decision are covered below in paragraph 8.

- 7.2 The framework for this decision making is the Local Government Act 2002 (the LGA) and the Local Government (Rating) Act 2002 (the LGRA).
- 7.3 Each of the following considerations are also included in the Options Analysis table attached as Appendix 1 and detailed in paragraph 10.
- 7.3.1 Section 44 of the LGA - defines certain unlawful losses for which elected members may be personally liable (in certain very specific circumstances). “Unlawful losses” include where a local authority has “intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive” (section 44(1)(d)).
- 7.3.2 Section 77(1)(a) of the LGA requires officers to identify all reasonably practicable options to enable decision making. Officers have identified and presented all reasonably practicable options below with relevant considerations, risks and limitations for each option outlined. For completeness, and as part of the legal advice obtained, officers have had the options reviewed to ensure no options have been excluded, and that the implications of all options are captured and brought to Council’s attention in making this decision.
- 7.3.3 Section 78(1) of the LGA requires consideration of the views of people likely to be affected by or have an interest in the matter. We have outlined above the relevant groups affected by this decision and will ensure their interests and views are considered when assessing options.
- 7.3.4 Section 100 of the LGA requires consideration of the impact of any option on the balanced budget requirements for Council.
- 7.3.5 Section 101(1) and 101(3)(b) of the LGA require consideration of Council’s obligation to exercise prudent financial management.
- 7.3.6 Section 41 of the LGRA – deals with the issue of an amended rates notice (invoice) where there is an error in the original invoice, and the ability of Council to recover amounts where the amended rates assessment is more than originally assessed, and to refund where less than originally assessed.
- 7.3.7 Section 65 of the LGRA imposes a limitation period, whereby rates become unrecoverable 6 years after the last instalment payment became due in any year. This must be considered when assessing options.
- 7.3.8 Risk to Council – this situation poses a risk to Council’s reputation and trust within the wider community. There is a risk that other ratepayers will lose trust in direct debit payments and/or the accuracy of their rates invoice. This may cause anxiousness to ratepayers and lead to an increase in rates enquiries.

7.3.9 Cost to administer – consideration must be given to staff costs and resourcing required in resolving this matter, which will likely involve diverting staff from current priorities.

7.3.10 Legal Challenge – given the interest the affected ratepayers and wider community may have in this decision, and the financial impact the decision may have on the affected group, there is the potential for any decision to be legally challenged. Any decision made by Council may be subject to judicial review; hence this report needs to be comprehensive, and the decision-making process followed needs to be robust. The decision and report need to promote equity, transparency, and reflect the considerable public interest in this decision.

Council management have obtained legal advice regarding the remedies available in this situation, risks and limitations associated with each remedy, and the source of the discretionary powers that can be exercised either by the Chief Executive or Council itself. This advice is discussed at paragraph 8 below.

Management have also had this report legally reviewed to ensure that all relevant considerations have been considered in presenting options to Council.

7.3.11 Well-being – consideration must be given to potential financial hardship caused by any decision Council makes, and any decision should be aligned to Council’s affordability principle in the Long-Term Plan 2024-2034. There is a risk that impacted ratepayers will suffer financial stress or other wellbeing impacts.

7.3.12 Equity – the fairness of any decision must be considered, and consideration should be given to impacted ratepayers who have already entered repayment arrangements with Council, have repaid arrears or have sold their property and settled all outstanding rates. In addition, Council should also consider fairness for other ratepayers who are not affected by this issue but have arrears, and who are on payment plans, with a debt collection agency or genuinely struggling with paying rates.

7.4 To mitigate these risks, Council must operate within its legislative framework, ensure open and transparent communication, take accountability for the error, act fairly and equitably, engage directly with impacted ratepayers, and promptly investigate and rectify the underlying problem. Council must be prepared and resourced to assist impacted ratepayers with this process and know where to refer ratepayers who require additional support.

8. Legal advice received and considerations.

Council’s management has sought legal advice, and this advice is discussed below.



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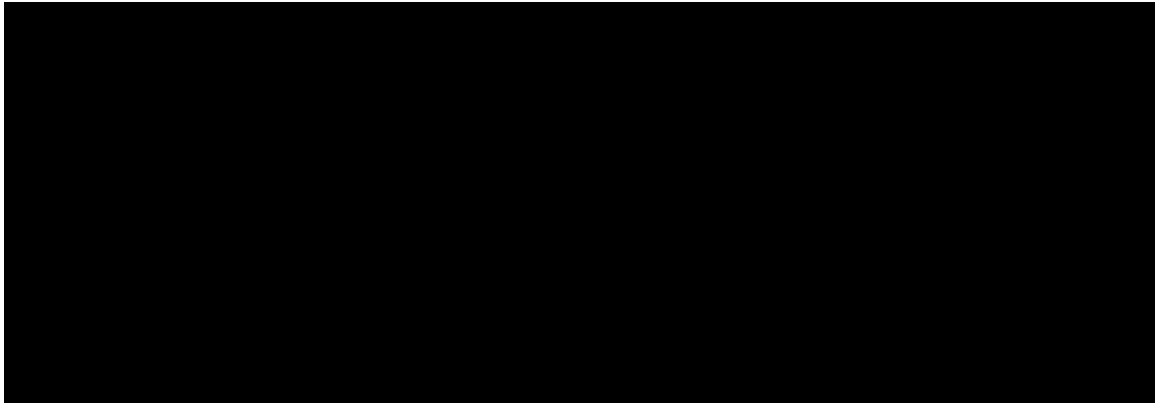
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9. Significance Assessment

- 9.1 This matter is not considered significant when assessed in terms of Council’s policy on significance and engagement. It directly affects a relatively small number of Ratepayers whilst the financial effect on the remaining ratepayers is minor.
- 9.2 Any option selected to remedy this issue will need to be considered alongside this policy.

10. Resolving the Problem – Options Analysis

- 10.1 Refer to Appendix 6 for the summary of analysis of the 5 options against the considerations in Paragraph 7 and 8.
- 10.2 The options explored below and in Appendix 1 are for resolving the issue for those affected ratepayers who have outstanding arrears owed to Council due to the direct debit error.
- 10.3 Council will manage those ratepayers with a credit amount as we normally would and present options to them for resolution, i.e. either providing a refund, or providing the option to have these amounts paid towards current rates.
- 10.4 Five options for resolving this error have been identified by officers and are detailed below. It should be noted:
 - 10.4.1 While the direct debit amounts have not been adjusted for this group, the rates invoices and rates assessments issued during this period have been correctly issued and there has been no error made in assessing and setting the rates.
 - 10.4.2 The rates arrears assessed for each year for this period are therefore legally able to be recovered by Council in full.

10.4.3 Officers have considered Council's current remissions policy adopted in the 2024/34 LTP and note that it does not respond to the situation. Council does not have a rates postponement policy.

10.5 **Option 1 – Full write-off of arrears.**

10.5.1 A write-off rates was initially considered as it would acknowledge that the error is on Council's part, and the potential financial hardship or stress for this group caused by Council's systemic error, and the significant increase some will be facing with their direct debit amounts being brought up to today's rates.

10.5.2 However, this fails to acknowledge the interest of other ratepayers in this matter i.e. affecting level of service and fairness considerations.

10.5.3 Under section 90A of the LGRA, the chief executive **must** write off any outstanding rates that, in the chief executive's opinion, cannot reasonably be recovered.

10.5.4 It is not considered that a blanket decision to write-off rates under this section is appropriate or that it would be reasonable, as there are several options for recovering the arrears that would be reasonable in the situation.

10.5.5 Another mechanism for write off could be provided by Council exercising its broad powers under section 12 of the LGA to decide to write off the arrears. However, consideration should be given to section 44 of the LGA where elected members can be personally liable and particularly 44(1)(d) "intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive".

10.6 **Option 2 – Partial write off arrears.**

10.6.1 As with Option 1 above, need to consider section 44 of the LGA. A partial write-off would have similar considerations as Option 1 but provides further options to consider matters of equity.

10.6.2 Interest and penalties will not be applied on the balance owing.

10.6.3 Acknowledges the interest of other ratepayers i.e. affecting level of service and fairness.

10.7 **Option 3 – Payment plan**

10.7.1 The LGRA provides several tools for Council to collect rates, one of which is to enter payment plans with ratepayers.

10.7.2 Council can consider longer term payment plans (up to 5 years) to ease the burden on ratepayers, acknowledging this is Council's error and there may already be

significant increases for this group with their direct debit amounts being brought up to today's rates.

10.8 Interest and penalties will not be applied on these amounts owing.

10.8.1 This option acknowledges the interest the broader ratepayers have in this matter as well as Council's obligation to collect rates that have been duly and legally set.

10.9 **Option 4 – Rates postponement**

10.9.1 Council has specific powers under LGRA section 87 to postpone rates if it has adopted a postponement policy under LGA section 110. This may allow Council to postpone all or part of the rates on application by the individual Ratepayer.

10.9.2 This option acknowledges the error is on Council's part and occurred over several years and consequently it is not fair to expect the rates arrears to be paid urgently. The only exception might be for any pre-existing balances, which the policy will be able to limit.

10.9.3 It acknowledges the potential financial hardship or stress for this group caused by Council's systemic error, and the significant increase some will be facing with their direct debit amounts being brought up to today's rates.

10.9.4 Interest and penalties will not be applied on these amounts owing.

10.9.5 For this option, as Council does not have a postponement policy, a policy must be developed, and this would require public consultation in line with the requirements under s82 LGA. This is a transparent way to resolve the issue and would allow for the community to provide feedback and make submissions on the policy as well as the proposed remedies.

10.9.6 We consider this option is, on balance., the safest, most transparent, and most equitable option. It ensures a robust process is followed and the community can be heard on the proposed policy and remedies.

10.9.7 The effective date of the postponement can be specifically determined by Council either the closing balance as of 30 June 2024 or a later date.

10.9.8 Council can delegate its powers to the Chief Executive or delegate, to set the postponement period, to a date or event in the future, such as to a date in the future (example, + 25 years) or when the property ownership transfers. We will seek Council's direction on this. A draft Postponement Policy is attached in Appendix 5 for Council consideration prior to a final legal review.

10.10 **Option 5 – Rates postponement and remission.**

- 10.10.1 Council has specific powers under LGRA section 85 to also remit rates if it has adopted a remission policy.
- 10.10.2 This option is similar to Option 4 but allows for Council to set an amount to remit before postponing the remaining balance. It has an element of goodwill acknowledging Council's error.
- 10.10.3 There are also some administrative considerations - it has been identified that there are several small amounts of arrears that can be remitted, thereby reducing the need to administer many individual postponements.
- 10.10.4 The additional remission would also need consultation, and this will allow more detailed consideration of this option. It would provide general Ratepayers to make submissions on the fairness of this remission.
- 10.10.5 A draft Remission is attached in Appendix 5 for Council consideration prior to a final legal review.
- 10.10.6 The application for either postponement or remission remains optional, and Ratepayer may still choose to repay the outstanding balance in full or enter a payment plan.

11. Consultation and engagement

- 11.1 A Draft Communication Plan has been prepared and is in Appendix 3. This suggests the following key matters be considered:
 - Targeted engagement with the affected ratepayers.
 - Support / drop-in clinics.
 - Engaging with individuals to determine next steps depending on outcome here.
 - Clear communication with rest of ratepayers / community
- 11.2 If Council elects Option 4 or Option 5 (development of rates postponement and remissions policy and partial remission, and postponement of balance), then consultation would be required to meet the requirements of section 82 LGA. This would likely be a consultation for 30 days, and submitters would have the option to present their view at a hearing.

12. Cost of Options

- 12.1 The risk of legal challenge will reduce with the robust process set out in the recommendation. However, these risks may extend to:

- Risk of Judicial Review of process to effect remedies
- Rate setting process.
- Risk of general legal challenge

12.2 Administrative Cost

Every option requires individual assessment: The requirement to meet with individual Ratepayers will need special management and co-ordination. Existing rating staff will not likely be able to handle the level of enquiry on top of normal duties without support. This is now being considered by the Executive Leadership Team.

- Administrative effort for managing payment plans (Option 3) and development, consultation, and administration of remission policy (Option 4 & 5).

There is also risk of wider impacts from:

- Cancellation by customers of their Direct Debits in favour of other less efficient collection methods

Communication requirements and effect on the wider organisation will place additional strain on Council and staff. Legal support has already been sought to produce this report.

13. Conclusion

13.1 This situation is unusual. Although rates have been correctly set and invoiced, and rate rebates accurately calculated and applied, several ratepayers have, through no fault of their own, underpaid their rates over several years. Additionally, their payments have not been adjusted for rate increases, and they have not incurred any penalties.

13.2 These ratepayers are among the most financially constrained, as they are eligible for rebates and have limited financial capacity to address the outstanding balance and rate adjustments.

13.3 We must carefully consider their well-being, ensuring fairness and transparency with the tools available to us.

13.4 Our primary focus should be on managing this situation effectively from now on, while also ensuring that such issues do not recur in the future.

Attachments

1. Appendix 1 How to Pay Rates - Direct Debit Report 1 September 2024

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2. Appendix 2 The Rates Rebate System - Direct Debit Report 1 September 2024
3. Appendix 3 Draft Communications Plan - Direct Debit Report 1 September 2024
4. Appendix 4 Liability for Rates - Direct Debit Report 1 September 2024
5. Appendix 5 Draft Postponement Policy and New Remission - Direct Debit Report 1 September 2024
6. Appendix 6 Option Analysis for Direct Debit Rates Rebate issue

Appendix 1 How to Pay Rates

1. How Rates are paid

1.1 Customers can pay rates using several different methods. Direct Debits are considered the best method, as we can adjust the amount and control the data input.

1.2 Payment Systems

- Direct Debit
- Internet Banking, including Automatic Payments.
- In Person
- Online Credit/Debit Card
- Phone Banking

1.3 Alternative methods of payment and their merits

1.3.1 Direct Debit:

Direct debits provide peace of mind that payments will be made on time without the need for intervention or incurring penalties. Once set up, it is administratively straightforward, with a notice period required to effect changes. Debit batches can be pre-run and set up to occur on the required day. The various options offer flexibility to customers, allowing them to time their payments to their preferred day of the week.

1.3.2 Internet Banking, including Automatic Payments:

This option provides customers with full flexibility to schedule and vary payments as needed. Customers must be confident in using internet banking or can seek bank assistance to set up an automatic payment (AP). They need to initiate the information, make changes, and ensure their reference details are correct.

1.3.3 In Person:

A social change is occurring with fewer people using service centres due to online systems. However, those needing support for other reasons, such as completing rebate income means testing, require confidential support, and tend to visit in person. This creates periods of high demand for customer service staff during invoicing periods.

1.3.4 Online Credit/Debit Card:

Most people now use EFTPOS when paying, while online credit cards suit some despite a fee surcharge. For example, when a person is overseas, it avoids large bank fees and offers a form of credit that is lower in cost than incurring rates penalties.

1.3.5 Phone Banking:

This is a variation of internet banking, initiated over the phone through a banking online chatbot.

2. Council Website

<https://www.tararua.govt.nz/property/rates/how-to-pay-your-rates>

How To Pay Your Rates

You can pay your rates using a number of different methods, click one of the options below to find out more.

Note: payments made after the due date will incur a 10% penalty.

- [Direct Debit](#)
- [Internet Banking](#)
- [In Person](#)
- [Online Credit/Debit Card](#)
- [Phone Banking](#)

Direct Debit

Setting up a direct debit with your bank means you'll never forget to pay. A direct debit will automatically deduct the amount required to clear the rates up until the end of the rating year, at the specified frequency of either:

- Tuesday, Wednesday or Thursday for weekly or fortnightly payments;
- monthly payments on the 20th;
- quarterly payments on the due date; or
- annually on 31 August of each year.

Direct debit is the Council's preferred payment method. Please contact us for a form to be mailed to you or download below:

[Direct Debit Authority Form \(PDF file, 94.6 KB\)](#)

You will still receive a rates notice for each instalment regardless of how often your direct debit is paid for GST purposes. Your rates notice will advise you that payments are made by direct debit.

Please note: We are unable to accept faxed copies of printed direct debit forms. They need to be mailed into our office (see mailing address below) or brought in to one of our Council Service Centres.

If you wish to cancel or change the details of your direct debit, you can supply us with the details in writing or phone the Revenue Department on [06 374 4080](tel:063744080). We must have this notification at least one day before the direct debit is due to be actioned.

If you need to change your bank account details, you will need to complete a new direct debit form and return it to Council.

3. Direct Debit Legal Requirements

- The Acceptor of a Direct Debit is the Bank Customer, our Ratepayer.
- The Initiator is Council who may set up a Direct Debit with ten-days notice; and 30-days notice for variations.
- Notice may be electronic or in writing
- The Ratepayer can cancel the Direct Debit at any time.

CONDITIONS OF THIS AUTHORITY TO ACCEPT DIRECT DEBITS

1. The Initiator:

- (a) Undertakes to give notice to the Acceptor of the commencement date, frequency and amount at least 10 calendar days before the first Direct Debit is drawn (but no more than 2 calendar months). This notice will be provided either:

- (i) in writing; or
- (ii) by electronic mail where the Customer has provided prior written consent to the Initiator

Where the Direct Debit system is used for the collection of payments which are regular as to frequency, but variable as to amounts. The initiator undertakes to provide the Acceptor with a schedule detailing each payment amount and each payment date.

In the event of any subsequent change to the frequency or amount of the Direct Debits, the initiator has agreed to give advance notice of AT LEAST 30 DAYS BEFORE changes come into effect. This notice must be provided either:

- (i) in writing; or
- (ii) by electronic mail where the Customer has provided prior written consent to the Initiator

OR

- (a) Has agreed to give written advance notice to the Acceptor of the net amount of each Direct Debit and the due date of the debiting AT LEAST 10 CALENDAR DAYS BEFORE (but not more than 2 calendar months) the date when the Direct Debit will be initiated. This advance notice must be provided either:

- (i) in writing; or
- (ii) by electronic mail where the Customer has provided prior written consent to the Initiator

The advance notice will include the following message:-

"Unless advice to the contrary is received from you by (date*), the amount of \$....., will be direct debited to your Bank account on (initiating date)."

* This date will be at least two (2) days prior to the initiating date to allow for amendment of Direct Debits.

- (b) May, upon the relationship which gave rise to this Authority being terminated, give notice to the Bank that no further Direct Debits are to be initiated under the Authority. Upon receipt of such notice the Bank may terminate this Authority as to future payments by notice in writing to me/us.

2. The Customer may:-

- (a) At any time, terminate this Authority as to future payments by giving written notice of termination to the Bank and to the Initiator.
- (b) Stop payment of any Direct Debit to be initiated under this authority by the Initiator by giving written notice to the Bank prior to the Direct Debit being paid by the Bank.
- (c) Where a variation to the amount agreed between the Initiator and the Customer from time to time to be direct debited has been made without notice being given in terms of 1(a) above, request the Bank to reverse or alter any such Direct Debit initiated by the Initiator by debiting the amount of the reversal or alteration of the Direct Debit back to the Initiator through the Initiator's Bank, PROVIDED such request is made not more than 120 days from the date when the Direct Debit was debited to my/our account.

3. The Customer acknowledges that:-

- (a) This authority will remain in full force and effect in respect of all Direct Debits passed to my/our account in good faith notwithstanding my/our death, bankruptcy or other revocation of this authority until actual notice of such event is received by the Bank.
- (b) In any event this authority is subject to any arrangement now or hereafter existing between me/us and the Bank in relation to my/our account.
- (c) Any dispute as to the correctness or validity of an amount debited to my/our account shall not be the concern of the Bank except in so far as the Direct Debit has not been paid in accordance with this authority. Any other disputes lies between me/us and the Initiator.
- (d) Where the Bank has used reasonable care and skill in acting in accordance with this authority, the Bank accepts no responsibility or liability in respect of:
- the accuracy of information about Direct Debits on Bank statements
 - any variations between notices given by the Initiator and the amounts of Direct Debits
- (e) The Bank is not responsible for, or under any liability in respect of the Initiator's failure to give written advance notice correctly nor for the non receipt or late receipt of notice by me/us for any reason whatsoever. In any such situation the dispute lies between me/us and the Initiator.
- (f) Notice given by the Initiator in terms of clause 1(a) to the debtor responsible for the payment shall be effective. Any communication necessary because the debtor responsible for payment is a person other than me/us is a matter between me/us and the debtor concerned.

4. The Bank may:-

- (a) In its absolute discretion conclusively determine the order of priority payment by it of any monies pursuant to this or any other authority, cheque or draft properly executed by me/us and given to or drawn on the Bank.
- (b) At any time terminate this authority as to future payments by notice in writing to me/us.
- (c) Charge its current fees for this service in force from time-to-time.

Appendix 2 The Rates Rebate System

Notes to the Ratepayer

What are rates rebates

A rates rebate is a partial discount on a rates bill — you pay less for your rates.

If you own your home and are on a low income, you may be eligible for a rates rebate.

How the rebate is calculated

Eligibility and how much will be paid depends on:

- the total amount of rates to pay
- how many dependants live with the Ratepayer
- total household income before tax
- the ownership of your property
- the living situation.

Councils look after the rates rebate programme

Rates rebate applications are assessed and approved by councils around New Zealand.

If your application is successful, you will get a rebate.

Council will:

tell you how much your rebate is

deduct this amount off your rates bill, or

contact you about your rebate if you've already paid your rates in full.

How much you get

The maximum rebate you can get is in 2024/25 is \$790. You may be eligible for all or only part of this amount.

How much you get depends on what you're entitled to. The council works this out when they assess your application.

Communication to Ratepayers

- Find out what a rates rebate is if you qualify and how much you might get off your rates. See how and when to apply and download the application form.
- [What is a rates rebate](#)
- Learn what a rates rebate is, how much it is and how you get it.
- [Who is eligible to get a rates rebate](#)
- Find out what the eligibility requirements are and work out if you can get a rebate.
- [Rates rebate calculator](#)
- Use the calculator to work out how much you might get as a rates rebate. This is an estimate only — your council will assess the actual amount when you apply.
- [Apply for a rates rebate: application forms](#)
- Once you receive your rates bill, you can apply for a rebate for the current rating year period 1 July 2024 to 30 June 2025. You must return your application to the council by 30 June 2025.

Want an estimate?

[Rates rebate calculator](#)

How to get the rebate every year

The rebate is not given automatically. You need to apply every year and your application will be fully assessed each time you apply.

As long as you're eligible, you apply before the deadline and you include the required information, you should get a rebate.

Find out if you're eligible for a rebate

The rates rebate application may take you some time to complete. Check if you're eligible before you decide to apply.

Who is eligible to get a rates rebate

There proof of your income must be included.

- Total Rates Including GST
- Number of Dependents

To work out your total household income before tax, you need to add up all the money you earned, before tax, from 1 April 2023 to 31 March 2024. Summaries from Inland Revenue and your pay slips often call this amount your 'gross amount'.

If you live with a joint homeowner, partner, or spouse, include what they earned during the same time period. Do not include their income if they do not live with you and do not include dependants' income.

Your household income may come from, for example:

- wages
- salary
- government benefits and payments
- pensions
- self-employed income
- bonuses
- overseas income
- interest or dividends.

Example of Income Bands, assuming rates of \$4,000 for 2024/25 and no dependents

Household income (Gross before Tax)	Rebate
\$45,677 or less	\$790
\$47,255	\$592
\$48,833	\$395
\$50,411	\$198
\$51,990 or more	\$ 0

Where you live

To be eligible for a rates rebate:

- the property you pay rates for must be your usual place of residence
- you must be living in your own home on 1 July 2024

- you're listed as your property's ratepayer on your local council's rating information database (RID) — or one of the other types of property ownership and living situations applies to you.
- But you cannot get a rates rebate if you do not usually live at your property.

Other types of ownership and living situations

If you live in a retirement village: If you live in an owner-occupier flat or a company-share flat or apartment;

If your name is not on the rates bill but you live in an 'owner-occupier' flat, such as a company-share flat or apartment, you may still be able to get a rebate.

Company-share apartment residents: If you live in a trust-owned property

You need to be a named trustee and listed in the council's Rating Information Database (RID) to be able to get a rebate.

Appendix 3 Draft Communications Plan - Direct Debit Report August 2024

Communications Plan for Rates Overpayment or Underpayment

Name of Campaign	Rates overpayment and underpayment
Key Contact Person	To be Determined
Duration on Plan	To be determined
Key Comms Advisor	Karsten van der Oord

1. Embargoed

Any further Media Communications on this matter are embargoed until this Communication Plan can be agreed or by special authority in conjunction with the Mayor and Chief Executive.

Individual Ratepayer communication is ongoing and will be focussed on the messages:

- The new Direct Debit Amount for the 2024/25 Rating Year
- Council is considering options for money owed or over-collected for those Ratepayers on direct debits and receivers of rates rebates, where there are balances carried forward from 30 June 2024 as a result of Council error.

2. Purpose

- Objective: Define the main goal of this communications plan:

To maintain trust and transparency with all ratepayers while effectively conveying the necessary information and support to help ratepayers that have been affected.

“Council must operate within its legislative framework, ensure open and transparent communication, take accountability for the error, act fairly and equitably, engage directly with impacted ratepayers, and promptly investigate and rectify the underlying problem. Council must be prepared and resourced to assist impacted ratepayers with this process and know where to refer ratepayers who require additional support.”

Key objectives to consider:

- **Clear Communication:** Ensure that the message is clear, concise, and easy to understand. Avoid jargon and be straightforward about the situation.
- **Empathy and Support:** Show empathy towards the ratepayers' situation and offer support or solutions to help them manage the repayment.
- **Transparency:** Be transparent about how the error occurred and what steps are being taken to prevent it from happening again.
- **Reputation Management:** Protect the council's reputation by demonstrating accountability and a commitment to resolving the issue fairly.
- **Engagement:** Encourage open communication and provide channels for ratepayers to ask questions or express concerns.

Audience: Identify the target audience(s) for your communications:

- **Affected Ratepayers:** The individuals directly impacted by the underpayment issue. (clear, empathetic, and supportive communication).
- **General Ratepayers:** Other ratepayers (important to maintain their trust and reassure them that the council is handling the situation responsibly).
- **Council Staff:** Relevant staff (customer services, rates team) need to know how to handle inquiries and provide consistent information.
- **Media:** Media outlets that might report on the issue. Proactive media management can help control the narrative and minimize negative coverage.
- **Community groups:** Individuals or groups within the community who can help disseminate accurate information and support the council's efforts.

3. Key Messages

Key Messages:

- **Acknowledgment of the Issue:** "We have made an error in the automated direct debit payments for a small number of ratepayers that have rates rebates, resulting in an underpayment for some and overpayment for others. We wish to minimise any worry that people will have. We have a number of options we will be working through".
- **Apology and Accountability:** "We sincerely apologise for any inconvenience this may cause and take full responsibility for the error. We confirm that no penalties will arise on rates from our error. Our team is ready to help those affected with flexible repayment options to make this process as manageable as possible."
- **Explanation of the Error:** The underpayment occurred due to a lack of system supporting rebates being applied to those that pay by direct debit. We have now taken steps to ensure this does not happen again.
- **Reassurance for all ratepayers:** Only a small number of ratepayers, i.e. those that have a rates rebate and pay rates by direct debit, are affected. The vast majority of ratepayers is not affected. If you have not been contacted directly by mail (phone?), you are not affected.
- **Reassurance for affected ratepayers:** We want to work with you to resolve this; we provide flexible repayment options to ensure this process is as easy and manageable for you as possible. These include long term payback options with no interest, or payback options when the affected people sell-up their property.
- **Support and Assistance:** "We are here to support you. If you have any questions or need assistance, please contact our friendly team at xxx or email us at xxx. We encourage you to speak to a trusted advisor family member about this. (do we give examples of organisations that may be contacted here...)"
- **Preventive Measures:** "We are implementing new measures to prevent similar errors in the future, including new computer systems and processes to re-calculate direct debits as required.
- **Commitment to Transparency:** "We are committed to maintaining transparency and will keep you informed of any further developments."
- **Open Communication:** "We value your feedback and encourage you to share any concerns or suggestions with us."

4. Stakeholder Analysis

Stakeholder Identification: List all stakeholders involved.

- **Affected Ratepayers**
- **General Ratepayers**
- **Council & Staff**
- **Media**
- **Relevant community organisations (Iwi partners, Greypower)**
- **Community boards & committees**
- **Work and Income New Zealand.**
- **Department of Internal Affairs**
- **The Office of the Auditor General and Audit New Zealand**
- **The Office of the Ombudsman**
- **Local Government New Zealand and Taituara**

Stakeholder Needs and Expectations: Understand what each stakeholder needs and expects.

- **Affected Ratepayers:** The individuals directly impacted by the underpayment issue. They need clear, empathetic, and supportive communication.
- **General Ratepayers:** Other ratepayers who might hear about the issue through word of mouth or media. It's important to maintain their trust and reassure them that the council is handling the situation responsibly.
- **Council Staff:** All staff needs to be informed and specific staff need to be informed/trained on how to handle inquiries and provide consistent information.
- **Media:** Local media outlets that might report on the issue. Proactive media management can help control the narrative and minimise negative coverage.
- **Relevant community organisations:** Individuals or groups within the community who can help disseminate accurate information and support the council's efforts.
- **Local community boards** that represent the interests of residents. Keeping them informed can help in managing community sentiment and ensuring consistent messaging.
- **Work and Income NZ**

5. Communication Methods

Channels: Identify the channels you will use (e.g., email, social media, press releases).

	Social Media
x	Website (tararua.govt.nz)
	Radio
x	Bush Telegraph
	Antenna
	Posters
	Letter Drop
x	Other (please specify): Affected people will be sent letters
x	Personal assistance, information sessions throughout the district
x	All staff email (internal)

Tools: Specify the tools and platforms (e.g. paid Facebook ads, geotargeting, paid radio).

Due to the specific and sensitive nature of this issue and the relatively small amount of ratepayers affected, social media will not be used for this particular topic.

6. Timeline

Schedule: Create a timeline for your communications activities.

Milestones: Identify key milestones and deadlines.

- Letter is sent out to affected people
- FAQs are developed for affected ratepayers
- FAQs are developed for internal staff
- FAQs are developed for the media
- Bush Telegraph article
 - (but would also depend on when the letter to affected ratepayers will be sent out).
- Internal communications
- Media release (but would also depend on when the letter to affected ratepayers will be sent out).
- Dates, times of Information sessions publicised (we need to have this information included in the letter that is sent out to affected ratepayers).
- Information sessions are held throughout the district.

7. Budget

Costs: Depending on the timing of the letter which is sent out to affected ratepayers there could be a cost involved for an quarter page advert in the Bush Telegraph. (The regular council page comes out on fortnightly basis, if the timing falls within its publication schedule, we will publish it here, if not we will pay for a quarter page advert). That costs would be \$249.

Resources: Identify the resources needed (e.g., personnel, software).

The whole communications team will be involved in this. Close collaboration between the communications team and the relevant council teams is crucial.

8. Evaluation

Metrics: Define how you will measure the success of your communications plan:

- Number of inquiries and complaints received
- Media coverage sentiment (positive, neutral, negative)
- Rate of repayment compliance
- Number of attendees at information sessions.

Feedback: Plan for collecting and incorporating feedback.

To be determined.

9. Risk Management

a. National media interest:

- a. Long standing issue
- b. Not addressed sooner
- c. Impact on low-income persons
- d. Period and process to remedy

b. Potential Risks:

- **Financial Hardship:** Some ratepayers might struggle to repay the outstanding amounts, causing financial stress and dissatisfaction.
- **Negative Public Perception:** Ratepayers and the public might view the council as incompetent or untrustworthy due to the error.
- **Media Scrutiny:** Affected ratepayers could contact the media which could attract negative media attention, potentially escalating the situation and damaging the council's reputation further.
- **Ratepayer Dissatisfaction:** Affected ratepayers might feel frustrated or unfairly treated, leading to complaints or even legal action.
- **Internal Morale:** Staff morale could be affected if they face increased inquiries and complaints from ratepayers.

c. Mitigation Strategies: Develop strategies to mitigate these risks:

- **Effective Communication:** Ensuring that the message is clear, empathetic, and reaches affected ratepayers, and all affected ratepayers in a timely manner.

- **Consistency:** Maintaining consistent messaging across all communication channels to avoid confusion and misinformation.
- **Managing Inquiries:** Handling a potential large of amount of inquiries and assistance to ratepayers efficiently.
- **Providing Support:** Offering adequate support and flexible repayment options to ease the financial burden on affected ratepayers.
- **Preventing Recurrence:** Implementing effective measures to prevent similar errors in the future and communicating these measures to regain trust.
- **Balancing Transparency and Reassurance:** Being transparent about the error while also reassuring ratepayers that the council will work with affected ratepayers to implement manageable repayment options, and reassurance that Council is taking steps to rectify the situation and prevent future issues.

10. Approval and Review

Approval Process: All external communication regarding this is approved by Executive Leadership Team.

Mayor Tracey Collis is kept up to date by the communications team and will seek additional Communications Advice to further support the Elected Members.

Appendix 4 Liability for Rates

Local Government (Rating) Act 2002 Who must pay rates?

Section 12 Liability for rates

(1) The ratepayer for a rating unit is liable to pay the rates that are due on the unit.

(1A) The ratepayer for a separate rating area is liable to pay the rates that are due on the separate rating area.

(2) However, a person other than the ratepayer may become liable to pay the rates in the following circumstances:

Recovery from persons other than owner

Section 61 Default by person other than owner

(1) If a ratepayer other than the owner, as described in section 11(2), defaults in paying the rates on the rating unit, the local authority may recover the rates from the owner of the rating unit.

(2) An owner who pays the unpaid rates under subsection (1) may—

(a) recover that amount from the ratepayer as a debt; or

(b) retain that amount from any money that the owner owes to the ratepayer.

Section 62 Recovery of rates if owner in default

(1) If an owner defaults in paying the rates, the local authority may—

(a) notify persons with an interest in the rating unit for which the rates are payable (including an interest as first mortgagee) of—

(i) the fact of the default; and

(ii) the provisions of this section; and

(b) accept payment of the rates from the persons referred to in paragraph (a); or

(c) recover, as a debt from the first mortgagee of a rating unit, the rates payable in respect of the rating unit that remain unpaid on a date that is—

(i) not less than 3 months after notice has been given to that person under paragraph (a); and

(ii) not earlier than 1 November in the financial year following the year in which the rates were first assessed.

(2) A person (other than a mortgagee) who pays the unpaid rates under subsection (1) may—

(a) recover that amount from the owner as a debt; or

(b) retain that amount from any money that that person pays to the owner in respect of a debt other than that relating to unpaid rates.

(3) If a mortgagee pays the unpaid rates under subsection (1), the amount paid must be treated as part of the money secured by the mortgage until it is repaid to the mortgagee, and the provisions of the mortgage apply to that amount.

(4) This section does not affect any agreement between persons about their liability as between themselves to pay the rates for a rating unit.

Policy Additions

Rates Postponement for ratepayers who receive rates rebates and pay by direct debit

Objective

1. To assist ratepayers experiencing extreme financial hardship due to a systemic error that had occurred over several years where the failure to recalculate direct debits, impacted ratepayers who receive rates rebates and pay by direct debit.

Conditions and criteria

2. For the rates owed as of 30 June 2024 where the following apply:
3. A written confirmation of the ratepayer's financial situation must be provided from the ratepayer's budget advisor. Additionally, Council reserves the full right to have the question of hardship addressed by any outside agency with relevant expertise e.g. budget advisors or similar.
4. Each application for postponement due to extreme financial hardship will be considered on its own merits. Applications for postponement of rates (in full or part) may be made by a ratepayer, or their authorised representative and time during the year.
5. The ratepayer must meet the following criteria to be considered for a rates postponement:
 - a) the rating unit to which the application relates is the primary private residence owned and occupied by the ratepayer. Companies, trusts and other similar ownership structures of these properties do not qualify for this postponement.
 - b) the property is used solely for residential purposes.
 - c) the ratepayer does not own (or have an interest in) any other rating units, including investment properties (whether in the district or elsewhere) or have a significant interest in a business or shares.
 - d) the ratepayer has no assets except a low value property upon which rates are owed.
 - e) the ratepayer has taken all steps necessary to claim any central government benefits or allowances the ratepayer is entitled to receive to assist with the payment of rates (including the government rates rebate scheme)
 - f) the ratepayer does not have the financial capacity to pay their rates arrears, or the instalment would create extreme financial hardship for the ratepayer
 - g) The amount owed has been directly caused by Council error in setting the Direct Debit amount where the Ratepayer has been eligible for a Rates Rebate in any given year:
 - h) The Ratepayer is in receipt or was eligible to receive rates rebate under the Rates Rebate Act 1973 for the period 2018/19 to 2023/24.
 - i) The ratepayer Authorised Council to apply Direct Debits against their bank account.
 - j) The Ratepayer's direct debit was not adjusted correctly within these dates.

- k) The Ratepayer has an outstanding balance as of 30 June 2024 of \$200 or more (inclusive of GST).
6. All or part of the postponed rates may be paid at any time. The applicant may also elect to postpone the payment of a lesser sum than that which they would be entitled to have postponed pursuant to this scheme.
 7. All postponed rates will be registered as a statutory land charge on the rating unit title. This means that the Council will have first call on the proceeds of any revenue from the sale or lease of the rating unit.
 8. Any postponed rates will be postponed until:
 - a) the death of the ratepayer(s); or
 - b) the ratepayer/s cease/s to be the owner or occupier of the Rating Unit; or
 - c) the ratepayer/s cease/s to use the property solely as his/her residence; or
 - d) the postponed rates are 80% of the available equity in the property; or
 - e) a date specified by Council.
 9. When an application for postponement is approved, the following provisions will apply:
 - a) postponement will first apply in the year a completed application is received.
 - b) the amount of rates postponed will not incur additional charges
 - c) instead of Council requiring payment of the full annual rates bill in the year in which it falls due, the ratepayer will be required to pay to Council an appropriate minimum amount determined by staff in line with Council's Delegations Manual.
 - d) any rates postponed shall be registered as a charge on the land.
 10. Not less than once annually every ratepayer whose rates have been postponed under this policy, will be provided with a statement showing the total annual rates currently due. This will be itemised to show year by year the total amount of the postponed rates and postponement fees.

Remission of rates for financial hardship for ratepayers on who receive rates rebates and pay by direct debit

Objective

1. To assist ratepayers experiencing extreme financial hardship which affects their ability to pay rates due to a systemic error that had occurred over several years where the failure to recalculate direct debits, impacted ratepayers on who receive rates rebates and pay by direct debit.

Conditions and criteria

2. Each application for remission due to extreme financial hardship will be considered on its own merits. Information showing the ratepayer's financial records and commitments along with a statutory declaration from the ratepayer of their financial position (total household income and total financial position).
3. For the rates to be remitted, the ratepayer's financial situation must be such that the ratepayer is eligible for, and has applied for, the Government rates rebate scheme. Council may also seek independent verification from a budget advisor or other agency working with the ratepayer in considering the ratepayers position.
4. Council may also consider whether postponement of rates is a more suitable option.
5. Applications for the remission of rates (in full or part) may be made by a ratepayer, or their authorised representative anytime during the year.
6. The ratepayer must meet the following criteria to be considered for a rates remission for financial hardship
 - a) the rating unit to which the application relates is the primary private residence owned and occupied by the ratepayer. Companies, trusts and other similar ownership structures of these properties do not qualify for this remission
 - b) the property is used solely for residential purposes
 - c) the ratepayer does not own (or have an interest in) any other rating units, including investment properties (whether in the district or elsewhere)
 - d) the ratepayer has no assets except a low value property upon which rates are owed
 - e) the ratepayer has taken all steps necessary to claim any central government benefits or allowances the ratepayer is entitled to receive to assist with the payment of rates (including the government rates rebate scheme)
 - f) the ratepayer does not have the financial capacity to pay their rates or the rates would create extreme financial hardship for the ratepayer.
 - g) The amount owed has been directly caused by Council error in setting the Direct Debit amount where the Ratepayer has been eligible for a Rates Rebate in any given year:
 - h) The Ratepayer is in receipt or was eligible to receive a rates rebate under the Rates Rebate Act 1973 for the period 2018/19 to 2023/24.
 - i) The ratepayer Authorised Council to apply Direct Debits against their bank account.
 - j) The Ratepayer's direct debit was not adjusted correctly within these dates.
 - k) The Ratepayer has an outstanding balance as at 30 June 2024 is less than \$200 (inclusive of GST).

7. For the rates to be remitted, the Council will require a statutory declaration that the ratepayer does not own any other property or have significant interest in a business or shares.
8. The remission will apply from the beginning of the rating year in which the application is made, although the Council may consider backdating to before the rating year in which the application is made depending on the circumstances.

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Option Analysis

	S12 LGA	S90A LGRA	S44 of LGA	S101 LGA and S100	S65 LGRA	Judicial Challenge	Equity	Financial Hardship	Reputational damage	Administrative Burden	Impact on LOS
<p>Option 1 – Full Write</p> <p>This would mean writing off \$359,776 of rates owed.</p>	✓	✗ Does not meet the requirement of “cannot be reasonably recovered”. Statutory discretion be exercised reasonably. Rates were duly assessed and Council full weight of the LGRA to recover rates due.	✗ Applicable section is 44(1)(d) – “a local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive”	✗ S101(1) – “A local authority must manage its revenues, expenses, assets, liabilities, investments, and general financial dealings prudently”. S100 – balanced budget requirements and compliance with Council policies	✓	Possible	✗ Write off of rates for this group of ratepayers due to Council error would create unfairness for other vulnerable ratepayers who may also be in financial hardship and/or benefit from a similar relief.	✓	✓ Could argue that it does not exacerbate the issue. But a judicial review could negate this	✓	Possible Would see an impact on Council operations but can argue that there is no impact on LOS
Option 2 – Partial Write off	✓	✗ Does not meet as applying a blanket amount.	Possible	✗ As above	✓	Possible	✗ As above but less so given it is a partial write off.	✓	✓ Could argue that it does not exacerbate the issue. But a judicial review could negate this.	Possible Administration of the payment plan for the remaining amount.	✓ Impact would be minimal
Option 3 – Payment plan	✓	✓ not needed	✓	✓	Possible Unless a charge on property	Less likely Even if challenged we have the strength of the LGRA	✓	✗ Affected ratepayers will need to factor in rates increases in subsequent years	✗ No	✗ Administration of the payment plan.	Possible Could argue that the administrative burden will impact LOS
Option 4 – rates postponement	✓	✓ not needed	✓	✓	✓	Less likely Even if challenged we have the strength of the LGRA	✓	✓	Possible The consultation on the remission policy will highlight the error that has caused this issue and confidence in Council’s process (DD as preferred method) will be impacted.	✗ More effort required for policy consultation and administration	Possible Could argue that the administrative burden will impact LOS
Option 5 – Rates postponement and Rates remission	✓	not needed	✓	✓ The write off amount might impact the balance budget requirement but will be minor	✓	Less likely Even if challenged we have the strength of the LGRA	Less likely The write off portion but Council will have consulted with the community	✓	Possible As above.	✗ As above	Possible Could argue that the administrative burden will impact LOS



Report

Date : 20 September 2024
To : Mayor and Councillors
Tararua District Council
From : Rebecca Bell
Contractor
Subject : **Draft Rates Postponement Policy - Adoption for Consultation**
Item No : **9.3**

1. Recommendation

- 1.1 *That the report from the Contractor dated 16 September 2024 concerning the Draft Rates Postponement Policy - Adoption for Consultation be received.*
- 1.2 *That Council adopts the draft Rates Postponement Policy and Statement of Proposal for public consultation.*

Executive Summary

- 1.3 Council management has discovered it has been following a faulty process for recalculating direct debit payments for some of its ratepayers.
- 1.4 Council has considered options to address the issue resulting from this fault.
- 1.5 Council agreed that the preparation of a Rate Postponement Policy was one appropriate course of action to address the issue.
- 1.6 This report presents the draft Rate Postponement Policy and Statement of Proposal for public consultation.

2. Reason for the Report

- 2.1 At a meeting held on 4 September 2024, Council resolved to introduce a Rates Postponement Policy with specific provisions to address the direct debit error that resulted from a faulty process used in recalculations.

2.2 This report presents to Council the draft Rates Postponement Policy for adoption for public consultation.

3. Background

3.1 Council management has discovered it has been following a faulty process for recalculating direct debit payments for some of its ratepayers.

3.2 The error impacts 602 households from across the district. Those impacted are those who are:

- a) eligible for a rates rebate, and
- b) pay their rates using direct debit.

3.3 281 impacted households have paid more rates than required, and 321 impacted households have not been charged enough and have paid less than required.

3.4 This is a faulty process that has occurred over the last six years, since 2018. The total amount Council needs to reimburse those who have over-paid is \$146,758. The total amount of rates payments in arrears is \$400,340.

3.5 Council's ability to write off rates is constrained by its obligations under the Local Government (Rating) Act 2002 (the LGRA) and Local Government Act 2002 (the LGA), and Council must recover the arrears, however Council also wants to ensure that it limits any financial hardship to impacted households directly caused by Council's error.

3.6 Council management has obtained legal advice regarding the remedies available, risks and limitations associated with each remedy and the source of the discretionary powers that can be exercised either by the Chief Executive or Council.

3.7 An extraordinary meeting of Council meeting was held on 4 September 2024, where management presented to Council, in a public excluded session, the legal advice received and a range of options to address the outstanding amounts, both for those in credit and those in arrears.

3.7.1 These options included:

- a) A full write-off of the arrears;
- b) A partial write-off of the arrears;
- c) A payment plan for impacted households to pay off their arrears over time;
- d) The ability for impacted households to postpone the payment of their arrears to a defined point in the future;

- e) An update to Council's existing Rates Remission Policy to include a remission related to this matter and an option to postpone the payment of their arrears to a defined point in the future.
- 3.7.2 Management sought legal advice to determine if there were any other options they not yet considered or were not aware of. The advice received was that the options presented were the reasonably practicable options open to Council in this situation.
- 3.8 The analysis of the options also presented a range of factors for Council to consider in relation to each of the options. These were:
- a) Sections 12, 44, 100, and 101 of the LGA;
 - b) Sections 65, and 90A of the LG(R)A;
 - c) The likelihood of judicial challenge to any Council decision;
 - d) Equity for all ratepayers across the district;
 - e) What effect the treatment option might have on households impacted by Council's error in terms of financial hardship;
 - f) The reputational damage that may occur as a result of the treatment option;
 - g) The impact of the treatment option on Council's levels of service.
- 3.9 Council resolved to introduce a Rates Postponement Policy with a specific postponement provision on this matter, to assist households impacted by Council's error.
- 3.10 It should be noted that, regardless of whether Council proceeds with public consultation, and/or Council's final decision regarding the adoption of this policy post consultation, impacted households also have two other options for addressing their arrears:
- a) paying off the arrears amount in full at this time, or
 - b) setting up a payment plan with Council to pay off their arrears over time.
- 1.2 Council will work with impacted households to agree on tailored solutions for repayment, which may include a combination of the available options.

4. Description

- 4.1 During its discussion of the matter and consideration of the options, Council was concerned to:
- a) minimise the impact on impacted households of this error as much as possible;

- b) ensure equity and fairness to all ratepayers;
- c) act with integrity and transparency; and
- d) remain within the legal framework referred to in 3.5 above.

4.2 Council decided that, on balance, the most equitable option was to prepare a Rates Postponement Policy that responds specifically to this issue.

4.3 Management has prepared a draft policy which reflects the discussion and decision of Council on 4 September 2024. The draft policy is presented for adoption for public consultation.

5. Significance Assessment

5.1 Based on the criteria set out in section 7 of Council’s Significance and Engagement Policy, adoption of the draft policy is not considered to be a significant decision.

5.2 However, as Council does not currently have a Rates Postponement Policy, public consultation is required by section 102 of the LGA prior to adopting this policy, and this consultation must give effect to the principles of section 82 of the LGA.

5.3 Council acknowledges that the wider issue of the recalculation error will have a significant impact on those ratepayers whose direct debit payments were not correctly recalculated, as well as on the district’s confidence in Council’s processes. Council is committed to transparency, and has a plan in place to:

- a) find a tailored solution for each impacted household that works best for their circumstances;
- b) investigate the root cause of the problem and correct all faulty processes so that this cannot happen again; and
- c) provide regular updates to our impacted households and the wider community on our progress towards full resolution.

6. Options

6.1 Council has three options in relation to the purpose of this report:

- a) Adopt the draft policy for public consultation as presented.
- b) Adopt the draft policy for public consultation with amendments.
- c) Not adopt the draft policy for public consultation.

7. Assessment of Options

Options	Advantages	Disadvantages
a) Adopt the draft policy	Consultation will proceed	None identified.

for consultation as presented	as planned. Council will have public feedback to consider when deliberating on the policy.	
b) Adopt the draft policy for consultation with amendments	Consultation will proceed as planned. Council will have public feedback to consider when deliberating on the policy.	Further work required to update the policy prior to scheduled consultation dates. May require further legal advice.
c) Not adopt the draft policy for consultation	None identified.	Council will not have this option to offer impacted households to repay their arrears.

8. Consultation

8.1 Section 102(4)(a) of the LGA requires that Council consults on a draft Rates Postponement Policy in a manner that gives effect to section 82 of the Act. Section 82 sets out the principles of consultation.

8.2 If Council proceeds with the adoption of the draft policy for consultation, the consultation timeline would be as follows:

- **Public consultation period** – 27 September – 20 October. A three week consultation is recommended. This amount of time will enable the community to provide feedback while also enabling Council to progress resolving the issue with the impacted households as quickly and efficiently as possible.
- **Hearings** – 4 and 5 November
- **Deliberations** – 11 November
- **Adoption** – 15 November

9. Conclusion

9.1 Management recommends that Council adopts the policy as drafted for public consultation.

Attachments

1↓. FINAL DRAFT Policy - Rates Postponement Policy

2↓. Draft Postponement Policy Statement of Proposal FINAL DRAFT



Rates Postponement Policy



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1 Purpose

This Policy sets out the eligibility criteria for applications by ratepayers to postpone the payment of rates arrears in specific circumstances. It has been developed in response to an administrative error by Council in its recalculation of direct debit payments for ratepayers who typically are in receipt of rates rebates. The purpose of this Policy is to provide a remedy for those impacted ratepayers to reduce potential financial hardship directly caused by Council's error.

The Policy's specific eligibility criteria, objectives and administrative details are set out below.

2 Alignment

Tararua District Council's principle in establishing remission or postponement policies is to provide rates relief in certain situations, to support either the fairness and equity of the rating system or the overall wellbeing of the community.

Tararua District Council is committed to transparency and integrity in its dealings with its ratepayers and communities.

This Policy sets out our commitment to the impacted ratepayers to support their wellbeing by providing a remedy to reduce potential financial hardship.

Our aim is to improve our community's confidence in Council being guided by our values of Pono, Whanake and Whanaungatanga, and encourage our community to engage with us. We want to do this by:

Our Values:

Pono – integrity through transparency, trust and accountability. Integrity through standing up for what is right.

Whanake – continue to evolve.

Whanaungatanga – relationship, kinship, working together.

3 Scope and criteria

This Policy has limited application. It applies to a limited group of impacted ratepayers, who:

- Were typically in receipt of or were eligible to receive a rates rebate under the Rates Rebate Act 1973 at any time during the rating years 2018/2019 to 2023/2024; and
- Authorised Council to apply Direct Debits against their bank account at any time during this period; and
- Relied on Council to adjust their direct debit payment amounts during this period; and
- Did not have their direct debit amount adjusted correctly during this period; and
- As a direct result of Council error in setting the direct debit amount, have an outstanding rates arrears balance as of 30 June 2024.

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Ratepayers who meet all of the criteria above will be eligible to apply for full or partial postponement of rates arrears which are a direct result of Council's error.

This Policy does not provide for postponement of rates more generally, and ratepayers who do not meet all of the criteria above will not be eligible to apply for postponement of their rates or rates arrears.

4 Objectives

The objectives of developing this Policy are to:

- provide assistance to ratepayers impacted by a systemic Council error in failing to recalculate the direct debits over several years which has resulted in rates arrears as at 1 July 2024.
- provide a remedy for the impacted ratepayers to enter an agreement to fully or partially postpone their rates arrears to a specified date or event.
- reduce potential financial hardship caused by Council's error in recalculating direct debits for the impacted ratepayers, in providing an alternative payment option.
- provide Council with a further tool to allow Council to work with individuals on a one on one basis to reduce their immediate financial concerns.
- provide that no interest or penalties will be charged on the arrears postponed.

5 Background

Tararua District Council has discovered an error in its process for calculating rates for some of its ratepayers. The impacted ratepayers are typically those who were eligible for a rates rebate, paid their rates using direct debit between 2018 and 2024, and Council did not correctly adjust their direct debit payment amounts during this period.

This error has led to a small group of impacted ratepayers accumulating rates arrears through no fault of their own.

The arrears amounts do not include any penalties or interest, as this has not been charged during this period.

After careful consideration, Council has resolved to develop this Rates Postponement Policy in response to its error, to provide impacted ratepayers with another option for addressing their arrears.

Postponement is just one of the tools that Council can use within the framework of the Local Government Act 2002 and Local Government (Rating) Act 2002 to assist the impacted ratepayers.

This Policy allows impacted ratepayers to apply to Council to have part or all of their rates arrears postponed to a future date or event, without any penalties or interest accumulating.

6 Implementation/Administration

1. Ratepayers who meet all of the eligibility criteria set out at paragraph 3 may apply to Council for postponement of their rates arrears at any time after this Policy is adopted.

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2. On application by an impacted ratepayer ("the applicant"), Council must work with the applicant to prepare and sign an individual agreement setting out the amount of arrears postponed. Council will advise the applicant of their right to get legal or other advice prior to signing this agreement.
3. The applicant may elect to postpone the payment of a lesser sum than that which they would be entitled to have postponed pursuant to this scheme.
4. Any postponed rates will remain a charge on the property and will become payable on the occurrence of the following (whichever comes soonest):
 - a) the ratepayer/s cease/s to be the owner or occupier of the Rating Unit; or
 - b) the ratepayer/s cease/s to use the property solely as his/her residence; or
 - c) the postponed rates are 80% of the available equity in the property; or
 - d) the death of the ratepayer(s);
5. When an application for postponement is approved, the following provisions will apply:
 - a) postponement will first apply in the year a completed application is received.
 - b) the amount of rates postponed will not incur interest or penalty charges during the period of postponement.
6. All or part of the postponed rates may be paid at any time.

7 Roles and Responsibilities

The Mayor and Councillors will be responsible for approval of this Policy.

Administration of this Policy will be the responsibility of the Revenue team, with appropriate escalation for approvals.

- Applications on prescribed form are to be made to the Revenue team.
- Applications will be reviewed and negotiated by the Revenue team.

Approval of individual postponement agreements will be given by the Chief Executive or Group Manager Corporate and Regulatory Services.

8 Related Internal Policies, Processes, and documents

Revenue and Financing Policy 2024

9 References

This Policy is adopted under sections 102(3)(b) and 110 of the Local Government Act 2002.

10 Definitions

1. **Rates arrears** – outstanding or unpaid amounts of rates that are owing or overdue. In this instance, this refers to rates arrears accumulated in the period 2018/2019 to 2023/2024.
2. **Rates Rebate** – a partial discount on a rates bill made under the Rates Rebate Act 1973.

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3. **Direct Debit** – a regular payment that is approved by the bank account holder but set up and controlled by the business or organisation being paid (in this case, Council).
4. **Postponement** – deferring payment of rates arrears by agreement with Council until a specified event.
5. **Rating unit** - the land comprised in the record of title.

11 Policy Review

This Policy will be reviewed internally on an annual basis.

At least once every six (6) years, this Policy will be reviewed using a consultation process that gives effect to the requirements of section 82 of the Local Government Act 2002, as required by section 110 (2A) Local Government Act 2002. The Policy may be revoked following this review if no longer required.

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Statement of Proposal

Rates Postponement Policy (draft)

Introduction

Tararua District Council has discovered it has been following a faulty process for recalculating direct debit payments for some of its ratepayers.

The error impacts 602 households from across the district. Those impacted are those who are:

1. eligible for a rates rebate, **and**
2. pay their rates using direct debit.

There are 281 impacted households have paid more rates than is required, and 321 impacted households have not been charged enough and have paid less than is required.

This is a faulty process that has occurred over the last six years, since 2018. The total amount Council needs to reimburse those who have over paid is \$146,758. The total amount of rates payments in arrears is \$400,340.

Now that Council is aware of the problem, we will be:

1. Completing a full and thorough investigation to find out how this faulty process went on undetected and to put a robust process in place to make sure the error will never happen again in the future.
2. Working with the impacted households to reimburse those who have been overpaying, and recoup the rates that are now in arrears.

By law, Council needs to recoup the money that is now in arrears and is committed to delivering a fair and equitable process for all ratepayers. No penalties or interest will be charged to rates that are in arrears because of our error.

Council takes full responsibility and acknowledges that this faulty process will cause a lot of stress for impacted households for their rates arrears they were not aware of. We are deeply sorry for the error and we will be working with these households to find a tailored solution that works best for their circumstances.

Part of addressing the problem is Council's proposal to allow the directly and negatively impacted people options to postpone the payment of their outstanding rates. This would be done through the adoption of a Rates Postponement Policy. This document gives the background and reasons for this proposal.

How did this happen and how will we correct it?

DESCRIPTION OF THE PROBLEM

The problem has occurred because our automated system for direct debits and our manual system for applying rebates have been out of sync. The two systems were not “talking to each other” very well.

It is important to note that the rates have been correctly calculated each year for all ratepayers, including those impacted by this error. The error occurred for some ratepayers when their direct debit was not recalculated each year when Council rates were set.

How does direct debit work?

Council gives ratepayers the option of paying their rates by direct debit. These payments are automated and make paying rates easy and efficient for both the ratepayer and Council.

Once Council sets the rates for the coming year, the system calculates how much each ratepayer needs to pay and their direct debit payments are automatically adjusted. Each ratepayer will be sent a letter indicating the new Direct Debit amount and the effective date. Council and the ratepayer don't have to do anything manual to make the adjustment, and the rates due for the year will be paid automatically from their bank account, as agreed when they set up the direct debit payment.

1358 ratepayers in the district use direct debit to pay their rates. Most of them have not had any problems.

How do rates rebates work?

Rates rebates are not automated. People have to apply each year and their eligibility for a rebate is assessed, when their application is received. If they are eligible, the rebate is applied to their rates and the amount they need to pay is adjusted. Depending on when the application is received during the year, the adjustment can occur after some direct debits have been made for the year. Because of the way the rates rebate application is set up, it cannot be automated.

The error relates only to ratepayers who have set up a direct debit for their rates and are eligible for a rates rebate.

This faulty process has been happening since 2018. For most of those years, the amounts were small, and we now realise that our processes were not tight enough to notice. In the last couple of years, as the increase in rates has been higher, the amounts have become more noticeable. The problem is made worse because the amounts have been accumulating over the years.

WHEN DID WE LEARN OF THE PROBLEM AND WHY HAS IT TAKEN THIS LONG TO ADDRESS IT?

The Chief Executive was alerted to the problem by a legal representative of one ratepayer in November 2023. The issue was considered to be a one-off incident.

Then from February to April 2024, a handful of ratepayers raised a similar issue with their direct debits with elected members and the team dealt with them on an ad hoc basis, without understanding the scale of the problem.

The Mayor, Chief Executive and Councillors played a vital role in helping the team to understand there was a pattern forming and, in May 2024, a dedicated staff member began leading a project to investigate the issue.

From May to August 2024, which included large rates increase during this time, the scale and extent of the issue started to become apparent.

From August to September 2024, Council worked to understand their options to fix the problem and to minimise the financial burden for impacted households before making a public announcement.

WHAT IS COUNCIL'S PLAN FOR FIXING THIS?

Council is committed to being open and honest about what went wrong and our plan to address it. We will keep impacted households and the wider community informed every step of the way.

Here's our plan:

- Reimburse the ratepayers who have paid too much (either a refund or a credit on future rates).
- Meet with those who are now in arrears and find a tailored solution that works best for their personal circumstances. This includes developing a plan that works best for them for catching up on current and outstanding rates.

Possible options for repayment

1. Repay outstanding amount in full, and/or
 2. Payment plan to spread outstanding amount over a timeframe that suits the individual, and/or
 3. Postpone their payments - **that's where this policy proposal comes in.**
- Investigate what led to this problem and how we will fix it.
 - By the end of February 2025, we will report back to those directly impacted, and the wider community, on what we have learned and how we have fixed the problem.

WHY DOESN'T COUNCIL JUST WRITE OFF THE MONEY FOR THE RATEPAYERS WHO ARE IN ARREARS?

After all, it was Council's fault!

At first glance, this seems like the easiest and most logical solution. However, there are three constraints to this process:

- **Local Government (Rating) Act 2022 (LG(R)A):** This requires the Chief Executive of Council to write off outstanding rates that "cannot reasonably be recovered". It is not possible at this early stage to confirm that the total amount of the arrears cannot reasonably be recovered, as Council has not had an opportunity to consider individual circumstances of ratepayers, their ability to repay the rates arrears, and whether the number of tools available to Council could assist ratepayers in paying these amounts.
- **Fairness:** Rates are tough on everybody. Council needs to keep other ratepayers in mind who have paid their rates in full over the last few years, and those who will do so in this financial year.
- **The impact on how Council delivers its activities:** The rest of the community should not have to experience a lower level of service than planned because the money to provide those services will not be collected.

WHAT OPTIONS ARE AVAILABLE TO COUNCIL?

POP OUT BOX for designer to work in.

WHAT IS THE DIFFERENCE BETWEEN RATES REMISSION AND RATES POSTPONEMENT?

Rates Remissions are where a set amount is deducted (remitted) from the rates invoice. This is done according to Council's Rates Remissions Policy. Council must consult with the community when preparing or reviewing this policy.

Rates Postponement is when a future date is set, or a specific future event is named by Council (eg. the sale of the property), that triggers the date by which the rates owing must be paid in full. These dates or triggering events must be stated in a policy and Council must consult with the community when preparing or reviewing this policy.

Council considered a range of options for addressing the rates arrears and the likely impacts of those options, as summarised in the table below.¹ Council decided that Option 3 was the best balance of all the considerations.

LIKELY IMPACTS OPTIONS	Fairness/ equity for all ratepayers?	Financial hardship for those worst affected?	Impact on levels of service?	Additional ongoing administrative resourcing required?	Reaches the “cannot reasonably be recovered” threshold?
1. A full and/or partial write-off for impacted households	No	No (for full write-off) Possible (for partial write-off)	Possible	No	No
2. A mandatory payment plan for impacted households	Yes	Exacerbates	Possible	Yes	N/A
3. Rates postponement options for impacted households	Yes	Seeks to lessen inevitable impact	Possible	In short term, yes. Related to policy development + consultation	N/A
4. Rates postponement and Rates remission options for impacted households.	Yes (for postponement) No (for remissions)	Seeks to lessen inevitable impact	Possible	In short term, yes. Related to policy development + consultation	N/A

Proposal: That Council adopts a Rates Postponement Policy to provide a remedy for those impacted households to reduce potential financial hardship directly caused by Council’s error.

¹ Council sought legal advice to see if there were any other options we hadn’t considered or didn’t know about. The legal advice received was that the options listed in the table were the reasonably practicable options open to Council in this situation. All the options listed in the table were presented to Council with their related risks and benefits.

Reason for proposal

As mentioned above, Council thinks this proposal strikes the best balance between overall fairness for all ratepayers and seeking to lessen the inevitable financial hardship for those worst affected.

Details of the proposed Rates Postponement Policy:

1. The draft Policy sets out the eligibility criteria for applications to postpone the payment of rates arrears by the impacted ratepayers. It has been developed to respond specifically to this Council error and provide a remedy for these impacted households.
2. The policy applies to those impacted households, who:
 - a) Were typically in receipt of or eligible to receive a rates rebate during the period of 2018 to 2024; and
 - b) Authorised Council to apply direct debits against their bank accounts at any time during this period; and
 - c) Relied on Council to adjust their direct debit payment amounts during this period; and
 - d) Didn't have their direct debit payment amounts adjusted correctly during this period; and
 - e) As a direct result of Council error in setting the direct debit amount, have an outstanding rates arrears balance as of 30 June 2024.
3. Impacted households who meet these criteria will be able to apply for a full or partial postponement of rates arrears which are a direct result of Council error.
4. The policy, if adopted, will provide an additional option for impacted households. The options available to the impacted households will be:
 - a) Full postponement of rates arrears
 - b) Partial postponement of rates arrears
 - c) Entering into a payment plan, spreading the repayments over a number of years;
 - d) Repaying the arrears in full.
5. Impacted households will have all of these options available to them at any time.
6. They may choose to repay in part or full at any time.
7. They may choose to postpone at any time.

What do you think?

Council would like public feedback on the draft Rates Postponement Policy.

1. Do you agree with Council's proposal to adopt a Rates Postponement Policy to provide a remedy for those impacted ratepayers to reduce potential financial hardship directly caused by Council's error.
2. Do you agree with the postponement options Council has proposed?

A feedback form is attached to this Statement of Proposal, or can be filled out online [here](#) (link).
More information on the consultation process is included below.

Consultation process

Council wants to know what you think about the draft Rates Postponement Policy.

Steps in the process	Dates
<p>1. Feedback period</p> <p>The feedback period will be 3 weeks, During this time, you can give us your feedback via mail, email, or the online submission form (see link below).</p> <p>If you would prefer to talk to someone at Council who can help you with giving your feedback, please contact us on the number provided below.</p>	27 September – 20 October 2024
<p>2. Hearings</p> <p>Council will be holding a special meeting, called hearings, for people who would like to come and speak to Councillors in person (or by Teams) about your feedback.</p> <p>This will happen before Council makes any final decisions about updating the Rates Postponement Policy.</p> <p>If you would like to come and speak to Council at hearings, please tick the box in the feedback form and we will be in touch.</p>	<p>Monday 4 November 2024 – Pahiatua Council Chambers, 136 Main Street, Pahiatua</p> <p>Tuesday 5 November – Business Hub Training Room, 40 Denmark Street, Dannevirke</p> <p>1:00pm – 8:00pm (with a break for dinner) on both days.</p> <p>Meetings open to the public - afternoon and evening.</p>
<p>3. Deliberations</p> <p>Once Council has received all the written and spoken feedback it will consider all the points raised and discuss how it wants to proceed with the draft policy.</p> <p>Staff will then update and finalise the draft according to Councillor’s decisions.</p>	<p>Monday 11 November 2024, 2:00pm</p> <p>Pahiatua Council Chambers, 136 Main Street, Pahiatua.</p> <p>Meeting open to the public</p>
<p>4. Adoption</p> <p>Once the policy is finalised, Council will adopt it. (Or it could choose not to.)</p>	<p>15 November 2024 (Extraordinary meeting) 9:30am</p> <p>Pahiatua Council Chambers, 136 Main Street, Pahiatua</p> <p>Meeting open to the public</p>
<p>5. Implementation (if the policy is adopted)</p> <p>Council staff will work with the affected people who would like to postpone payment to help them with arranging repayment according to the options in the policy.</p>	From 15 November 2024

If you have any questions about the consultation process, please contact Allie Dunn, Manager - Democracy Services on 06 3744080 or allie.dunn@tararua.govt.nz.

How to get your feedback to us

You need to get your feedback to us by 20 October 2024. If using the postal service, please bear in mind that delivery of posted items can take over a week

Mail to: Draft Rates Postponement Policy Consultation, Tararua District Council PO Box 115 Dannevirke 4942

Email to: submissions@tararua.govt.nz

Deliver to: Council offices in Eketāhuna, Pahiatua, Woodville or Dannevirke

Online: <https://www.tararua.govt.nz/publications/consultation/current-consultation>

This Statement of Proposal is issued pursuant to section 83 of the LGA and in compliance with sections 82, 83, 87, 102 and 110 of the Local Government Act 2002, and section 87 of the Local Government (Rating) Act 2002.

Attachments to this Statement of Proposal

1. Draft Rates Postponement Policy
2. Submission form (if possible, please use the [online version of the form](#))

Signatures of Chief Executive and Mayor



Tararua
Community Law
Te Whare Ture Hapori o Tararua

17 Gordon Street Dannevirke | | 06 356 7952 | tararua@mancomlaw.org.nz

08 October 2024

Bryan Nicholson
C/O Tararua District Council
26 Gordon Street
Dannevirke 4930

Tēnā koe Mr Nicholson,

I write regarding the matter of the faulty process for recalculating direct debits of rates for Tararua District Council residents who receive rates rebates and pay by direct debit and which you are currently consulting on.

<https://www.tararuadc.govt.nz/news/2024/september/direct-debit-apology>

Under the Local Government Official Information and Meetings Act 1987, I request:

- Any documents, file notes, reports, briefings, memoranda, letters, emails and meeting minutes relating to the above and in addition any and all drafts of these documents.
- Text messages or messages sent through social mediums such as (but not limited to) Whatsapp, Microsoft Teams etc.
- Also, as detailed in the Ombudsman's guidance, information which is known to you, but which has not yet been recorded in writing or otherwise.

We have particular interest in your deliberations on Section 90(A) (Chief executive may write off rates that cannot be recovered) of the Local Government (Rating) Act 2002 and whether this was considered and if not, why not, given the error is the Council's and impacts vulnerable members of the Tararua community.

If you have any queries or require clarification please contact me. As consultation on the postponement policy closes on 20 October we would appreciate it if this request was expediated. Thank you for your cooperation.

Ngā manaakitanga,

A handwritten signature in blue ink, appearing to be 'M. R. i.' or similar, written in a cursive style.

Nā Maria Rāhui
Legal Case Worker



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