

Central Hawke's Bay District Council – Report

TO: Council
FROM: Corporate Services Manager
DATE: 24 June 2010
FILE REF: Rates FIN1-1000
SUBJECT: RATES PENALTIES

1.0 SUMMARY

If a local authority wishes to impose penalty charges or additional charges on rates that are not paid by the due date, the penalties must be authorised by resolution by the local authority. This report presents the penalties on unpaid rates for the 2009/2010 year for Council's review and adoption.

2.0 RECOMMENDATION

THAT

Council adopt the following penalty charges on unpaid rates:

- Pursuant to Section 58(1)(a) of the Local Government (Rating) Act 2002, an additional charge of 10% will be added to all rates remaining unpaid for each instalment after the last day of payment, shown below:

Instalment number	Due Date	Last day of payment without additional charge	Additional charges added
1	1 July 2010	20 August 2010	21 August 2010
2	1 October 2010	19 November 2010	20 November 2010
3	1 January 2011	18 February 2011	19 February 2011
4	1 April 2011	20 May 2011	21 May 2011

- Pursuant to Section 58(1)(b) of the Local Government (Rating) Act 2002, a further additional charge of 10% will be added on 1 July 2010 to the amount of rates levied in previous financial years and remaining unpaid as at 30 June 2010

REASON

In order to apply a disincentive for late payment of rates instalments which represent Council's main revenue source and to satisfy the requirements of Section 58(1) of the Local Government (Rating) Act 2002.

3.0 BACKGROUND

Under the Local Government (Rating) Act 2002, there are three types of rates penalties that may be added to unpaid rates:

- A penalty on rates assessed within the year and unpaid after the due date (ie. those rates instalments not paid by the quarterly due dates).
- A penalty on rates assessed in the previous year that remain unpaid.

3. A penalty on rates assessed in the previous year that remain unpaid after six months.

Traditionally this Council has only applied penalties to the rates unpaid on each quarterly instalment and on those rates unpaid from previous years. We have not levied additional penalties on those rates unpaid in previous years again after six months. Napier City Council and both Hastings and Tararua District Councils do so but it is not proposed that this Council begins doing so.

The resolution adopting the penalties must be made no later than the date when the rates are set for the financial year; and state how the penalty is calculated and the date that the penalty is to be added to the amount of the unpaid rates.

Any penalty may not be more than 10% of the amount of the unpaid rates on the date when the penalty is added nor can penalties be added to postponed rates until they become payable.

Council collects rates within each year in four quarterly instalments. The total amount of unpaid rates on each instalment are approximately \$18,000 per quarter, with several thousand more added throughout the year. In the 2009/2010 year, total rates penalties exceeded \$100,000. The total amount of rates outstanding from previous years currently amounts to approximately 1.8% (equivalent period 2009 – 1.6%).

Penalties are applied as additional charges on rates, and are recovered through the rating system. Where rates become outstanding, that is, remaining unpaid for four months from the due date, Council may take Court action to collect outstanding rates.

Council normally enters into arrangements with rate debtors and providing such arrangements are satisfactorily maintained, no legal action is initiated. In those cases where legal action reaches the point of rating sale it is referred to Council for authorisation.

4.0 OPTIONS

Option 1

Apply the full level of penalty charges

That Council adopt the following penalty charges on unpaid rates:

1. Pursuant to Section 58(1)(a) of the Local Government (Rating) Act 2002, an additional charge of 10% will be added to all rates remaining unpaid for each instalment after the last day of payment, shown below:

Instalment number	Due Date	Last day of payment without additional charge	Additional charges added
1	1 July 2010	20 August 2010	21 August 2010
2	1 October 2010	19 November 2010	20 November 2010
3	1 January 2011	18 February 2011	19 February 2011
4	1 April 2011	20 May 2011	21 May 2011

2. Pursuant to Section 58(1)(b) of the Local Government (Rating) Act 2002, a further additional charge of 10% will be added on 1 July 2010 to the amount of rates levied in previous financial years and remaining unpaid as at 30 June 2010.

This is the recommended option.

Option 2

Do not apply penalties to unpaid rates.

The application of penalties to unpaid rates is voluntary. The rating legislation does not compel local authorities to have a rates penalty scheme in place.

The penalty charges applied to unpaid rates are considered as income and budgeted for each year. If penalty charges were to be ceased, additional income would have to be obtained from rates income or user charges. In addition, the imposition of penalties provides a disincentive for ratepayers to be tardy with their payment. The quarterly rates instalments provide Council with a steady regular revenue stream and the lack of a disincentive for late payment may threaten this important income source. This option is not recommended for this reason.

In addition, it should be remembered that Council also provides an incentive scheme for the early payment of rates by way of the discount policy for ratepayers to pay their rates in full before the last day of payment of the first instalment. The discount policy was adopted as part of the 2009 – 2019 LTCCP.

Option 3

Apply a lower percentage of penalty charges

According to the Local Government (Rating) Act 2002, any level of penalty may be applied up to a maximum of 10%. However, 10% seems to be the standard level of penalty on unpaid rates applied by other local authorities around New Zealand. Tararua, Hastings, Napier, Wairoa and the Hawke's Bay Regional Councils all apply a 10% penalty on unpaid rates.

Any reduction will result in the corresponding reduction in Council's income. This option is not recommended for this reason.

5.0 STATUTORY IMPLICATIONS

Rates penalties must not be adopted later than the rates themselves are adopted. In addition, the penalty to be applied to rates remaining unpaid from previous years under section 58(1)(b) may only be added on 1 July or five working days after the resolution is made, whichever is the later.

6.0 CONSULTATION

Elected Members
Council staff

7.0 FINANCIAL

Penalties are regarded as income for Council.

8.0 STRATEGIC LINKS

Details of the rate penalties can be found in the Funding Impact Statement contained in the 2009/2019 Long Term Council Community Plan.

Kevin Brown
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