

From: [Information Management Team](#)
To: [REDACTED]
Subject: RE: Further explanation required
Date: Tuesday, 23 February 2021 2:36:00 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image003.jpg](#)
[1\) LGOIA LETTER TO HCC.DOC](#)
[2\) LGOIA HCC contacts.pdf](#)
[3\) RUBBISH LAWS.DOCX](#)

18/02/2021

[REDACTED]

Dear [REDACTED]

Request for Information – Local Government Official Information and Meetings Act 1987

We refer to your official information request dated 25 January 2021 for information regarding the Proposed rubbish collection and recycling rate.

All of the legislation is publically available and we have directed you to the appropriate sections. We can confirm that rates (even targeted rates) do need to be paid. If you want to try not paying a targeted rate because there is no section that says you can't opt out of a targeted rate, then we would strongly advise you to seek your own legal advice.

In responding to a request for official information an agency is not required to form an opinion or create new information. Nor are they obliged to provide information that is already publicly available. We note that a number of your questions either seek, or would require us to form, an opinion to answer them. As we have also indicated earlier, aspects of the information you seek are already publicly available. While we appreciate that you may not agree with the substance of much of the information we have released to you, the LGOIMA is not intended to be used as a mechanism to debate the content of information following proper release.

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.

Yours sincerely,

Hutt City Council

Senior Advisor, Official Information and Privacy

Hutt City Council, 30 Laings Road, Private Bag 31912, Lower Hutt 5040, New Zealand
T 04 570 6702 W www.huttcity.govt.nz

To: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Gavin Bird <Gavin.Bird@huttcity.govt.nz>

Sent: Wednesday, January 20, 2021 11:42 AM

To: [REDACTED]

Cc: binchanges <binchanges@huttcity.govt.nz>

Subject: FW: Further explanation required

Kia ora [REDACTED]

In reply to your extra questions.

1. We don't have criteria. If people need assistance they can tick this on the form and we will be in touch with them to help assess their needs and work out what service will meet their needs.
2. The sections provided are the sections that allow Council to require a targeted rate for services. At the moment Council does this for Water Supply, Waste Water and Recycling. The targeted rates are levied based on the characteristics of a property (eg. Where that property is) and not on whether the owner of the property wants or doesn't want the service.
3. There is the ability to create and impose a rate. There is no ability for an owner to opt out if your property meets the criteria for that rate.
There is nothing that says you can't opt out of a service in the same way as there is nothing that says you can't opt out of a portion of the general rate as you don't use pools, libraries and other services provided with that general rate.
4. I have spoken to a number of our long serving staff. It has been a user pays system for over 20 years.

Ngā mihi,

Gavin

From: [REDACTED]

Sent: Tuesday, 19 January 2021 1:03 PM

To: Gavin Bird

Subject: Further explanation required

Dear Gavin,

Thank you for the final Council report. Please answer the below more fully.

1. What are the disability criteria? You don't set that out in the final report.

2. As a lay person, I'm not going to read the Local Government Act. Your legal team should know this without research. Please supply the precise provisions where it states Council can provide a service that a rate payer doesn't want, and can still charge for it.
3. Please supply a precise reference in the Local Government Act stating where residents can't opt out of a service (that they don't want).
4. I look forward to your explanation of where the rubbish collection was allocated to after HCC went to "user pays".

Regards,

[REDACTED]

From: Gavin Bird <Gavin.Bird@huttcity.govt.nz>

Sent: Tuesday, January 19, 2021 12:04 PM

To: [REDACTED]

Subject: Re: Email sent December 3rd

Kia ora Grant,

Thank you for your contact regarding our proposed bin changes and apologies for the delay in getting you a response.

The general feedback in your points listed below have been forwarded to the project teams to be noted for the review that will take place after the first 12 months.

I have attached the paper that informed Council's decisions, which has a more detailed overview on the justification of the decisions made. This includes statistics relating to community feedback during consultation in 2020.

Links to the relevant sections of the Local Government (Rating) Act 2002 are as follows:

<https://www.legislation.govt.nz/act/public/2002/0006/latest/DLM132224.html>

<https://www.legislation.govt.nz/act/public/2002/0006/latest/DLM132227.html>

<https://www.legislation.govt.nz/act/public/2002/0006/latest/DLM132229.html>

You can find all relevant information about rates remissions on our website via the following link:

<http://www.huttcity.govt.nz/Services/Rates-and-property/rates-payment-plans-and-postponements/>

And if you would like to look into the rates rebate process, you can find those details here:

<http://www.huttcity.govt.nz/Services/Rates-and-property/rates-rebates/>

In regards to your question about when the rubbish collection switched to user pays. The people that I have been needing to talk to are unavailable today, I will follow up with them and respond to you in due course.

If you have any further questions, please reply to this email or call us on 04-5706666 and ask for the bin change team.

Regards,
Gavin

From: [REDACTED]
Sent: Monday, 18 January 2021 6:36 PM
To: Gavin Bird
Subject: RE: Email sent December 3rd

Hello,

I went to HCC website. Then "contact us". A blue envelope appeared, followed by a template with my name and "contact@huttcity.govt.nz"

I completed the template with my message, then pressed send ,with the "dart" image. I noted the time that it was sent.

It's not in my "sent box" as it's your system, not mine.

1. **The original message was:**

- Please send me a copy of the relevant section of the LG Act which says I cant opt out of the rubbish collection.
- The second comment was the moral right of HCC charging for a service that I don't need or want. I likened it to theft / fraud. That's defined in law as something you pay for that you don't receive, or want

2. **Three follow up questions after speaking to the manager of "contact us":**

- He said the citizens wanted the new system. Please send me a copy of the "yes" and "no" replies, and the total number of submitters,out of the total number of ratepayers.
- He said that rubbish collection has been user pays for some time. This is one of the core responsibilities of the Council, and surely it should come out of rated. When it switched to "user pays" where did the proportion rates that used to pay for rubbish collection go to?
- Please supply a list of "rate remissions". And the process that I might apply for a remission from my rates of the \$260.00 I will be charged, for a service I don't need the Council to interfere with. I'm quite capable of taking care of my own rubbish and recycling.

Regards,

Grant Birkinshaw

From: Gavin Bird <Gavin.Bird@huttcity.govt.nz>
Sent: Monday, January 18, 2021 3:38 PM
To: [REDACTED]
Subject: Email sent December 3rd

Good Afternoon [REDACTED]

Thank you for your phone call this afternoon.

I have searched our system and also spoken with the Mayor's Office and we are not able to locate your email.

Can you please kindly forward it again from your sent items and I will ensure that you get a reply by end of business day tomorrow.

Thank you

[REDACTED]

25th January 2021

LGOIA
HUTT CITY COUNCIL

Dear Sir,

Proposed rubbish collection and recycling rate.

Attached is correspondence of exchanges between the writer and HCC.

I have been forced to go through the Local Government Rating Act 2002, as a lay person, due to lack of clarity from answers to my requests.

Please answer in detail.

- The procedure followed when HCC converted from a rate-based rubbish collection to user pays (some 20 years ago).
- The actual statute where HCC altered from user-pay to a targeted rate. I couldn't find rubbish collection or recycling listed as a "targeted" rate.
- The exact statute where if a citizen can't opt out of a SERVICE which has been altered from USER PAYS to TARGETED RATE. This is not the same as Libraries and pools as has been cited before.
- Comment on each aspect of items 1 – 5 in the attached setting rates procedure.
- I have no need for the Council collecting my rubbish or recycled materials, yet I'm told the NON-SERVICE will still cost me \$260 per annum. Coerced payment for no service is simply fraud, in civil law.
- I was told there was no opportunity for rates remission. Please clarify, when the LGA provides for remission (if there is HCC policy).

Sincerely,

[REDACTED]

Local Government (Rating) Act 2002

Targeted rates are designed to fund a function or group of functions. The funding can be from a specified group of ratepayers, and can be set on all rating units or on particular categories. They are very flexible tools. Factors which can be used for calculating targeted rates are -

- Land value.
- Improvement value.
- Capital value.
- Annual value.
- Total land area.
- Area of land, paved, sealed or built on.
- Area of land protected.
- Area of floor space of buildings.
- Number of connections.
- Number of water closets and urinals.
- Number of separately used/inhabited parts.
- Extent of provision of services.

There is special provision for targeted rates for water supply based on metered consumption.

16 Targeted rate

(1)

A local authority may set a targeted rate for 1 or more activities or groups of activities if those activities or groups of activities are identified in its funding impact statement as the activities or groups of activities for which the targeted rate is to be set.

(2)

[Repealed]

(3)

A targeted rate may be set in relation to—

(a)

all rateable land within the local authority's district; or

(b)

1 or more categories of rateable land under [section 17](#).

(4)

A targeted rate may be set—

(a)

on a uniform basis for all rateable land in respect of which the rate is set; or

(b)

differentially for different categories of rateable land under [section 17](#).

Remissions and postponements can be on any property, to any extent, and for any reason - provided the local authority has adopted policies following consultation. A rates remission policy, under the LGA, must state the objectives to be achieved and the conditions and criteria for remissions. There is a clear link between processes for assessing and invoicing rates, with the objective of *transparency and accountability* - particularly the need for ratepayers to understand their liability for rates.

85 Remission of rates

(1)

A local authority may remit all or part of the rates on a rating unit (including penalties for unpaid rates) if—

(a)

the local authority has adopted a rates remission policy under [section 109](#) of the Local Government Act 2002; and

(b)

the local authority is satisfied that the conditions and criteria in the policy are met.

(2)

The local authority must give notice to the ratepayer identifying the remitted rates.

23 Procedure for setting rates

(1)

Rates must be set by a resolution of the local authority.

(2)

Rates set by a local authority must—

(a)

relate to a financial year or part of a financial year; and

(b)

be set in accordance with the relevant provisions of the local authority's long-term plan and funding impact statement for that financial year.

(3)

A local authority may set a rate that is not provided for in its long-term plan and funding impact statement only if—

(a)

the local authority is satisfied that the rate is required to meet an unforeseen and urgent need for revenue that cannot reasonably be met by any other means, having regard to the manner in which it has, in its long-term plan and funding impact statement allocated the costs of the activities or groups of activities to which the need for revenue relates; and

(b)

the local authority has given at least 14 days' public notice of its intention to set the rate.

(4)

Notice under subsection (3)(b) must include—

(a) the information in relation to the rate that would otherwise have been required to be included in the local authority's funding impact statement; and

(b) a statement of the nature of the unforeseen and urgent need for revenue and the reasons why that need cannot reasonably be met by any other means, having regard to the manner in which the local authority has, in its long-term plan, allocated the costs of the activities or groups of activities to which the need for revenue relates.

(5) A local authority must, within 20 working days after making a resolution, make the resolution publicly available on an Internet site maintained by it or on its behalf to which the public has free access.

From: [Information Management Team](#)
To: [REDACTED]
Subject: RE: A non-reply
Date: Wednesday, 24 February 2021 12:38:00 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image003.jpg](#)

24/02/2021

[REDACTED]
[REDACTED]

Dear [REDACTED],

Request for Information – Local Government Official Information and Meetings Act 1987

Apologies for the delay in responding to your request, there were various reasons for the delay but it is unacceptable and we will do better in the future.

In regards to your other comment “You have deliberately side-stepped the main thrust of my enquiry. *That is, for you to prove that you have followed the correct statutory procedure.*”. The purpose of the LGOIMA is not to prove anything. It is to supply official information or point you in the direction of the publically available information and we have done that. The LGOIMA cannot be used to provide legal advice to the public and we strongly suggest you seek your own legal advice when it comes to these matters. We would also suggest contacting the Citizens Advice Bureau or you can find more helpful information on their website here <https://www.cab.org.nz/>.

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.

Yours sincerely,

Hutt City Council

Senior Advisor, Official Information and Privacy

Hutt City Council, 30 Laings Road, Private Bag 31912, Lower Hutt 5040, New Zealand
T 04 570 6702 W www.huttcity.govt.nz

From: [REDACTED]
Sent: Tuesday, 23 February 2021 3:00 PM
To: Information Management Team
Subject: A non-reply

Dear IMT,

You have deliberately side-stepped the main thrust of my enquiry. *That is, for you to prove that you have followed the correct statutory procedure.*

This information should not have been hard to supply.

So we go on to the ombudsman at more rate payer cost due to your obfuscation.

One further question,(under the OIA if you wish). Why did it take 20 working days to write a brief email and return my correspondence ?