

Better Local Government Reform Proposals: Improving or Diminishing Local Government?

In March 2012 the then minister of local government, Nick Smith, announced a new, eight-point plan for reforming local government. The so-called Better Local Government proposals include:

- refocusing the purpose of local government;
- introducing fiscal responsibility requirements;
- strengthening council governance provisions;
- streamlining council reorganisation procedures;
- establishing a local government efficiency taskforce;
- developing a framework for central/local government regulatory roles;
- investigating the efficiency of local government infrastructure provision; and
- reviewing the use of development contributions.

The government's intention is to address the first four points in legislation to be introduced into Parliament in May 2012 and passed by September, to enable the Local Government Commission to consider council reorganisation proposals in time for the October 2013 local

government elections. The remaining four points are intended to be encompassed in reform legislation in 2013.

Within a week of the announcement of the Better Local Government reforms the minister had resigned all his portfolios and an interim minister, Gerry Brownlee, had taken over the reins. He has since been replaced by a new minister of local government, David Carter. As well as the loss of the minister who championed the reforms, key information in the appendix to the Better Local Government proposals had been removed from the Department of Internal Affairs (though not the Beehive) website copies of the document.¹ Thus, what is possibly a significant policy reform programme has had a somewhat inauspicious beginning.

The minister in the foreword to Better Local Government asserts that 'The Government recognises the importance of local democracy and the key role mayors, regional chairs, councillors and board members play in their communities.' Referring to provisions for Local Government New Zealand to have a role in designing new fiscal responsibility

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requirements and involvement in the efficiency taskforce, in work on infrastructure, the regulatory framework and the development levies, the minister claims that the proposed changes are 'about central and local government working together in challenging financial times to secure a brighter future for New Zealand' (Department of Internal Affairs, 2008, p.3).

To test whether this claim is more than wishful thinking (or, worse, a cynical manipulation of the leadership of local government) it is important to scrutinise whether and how the reforms might improve local government as opposed to diminishing it.

Shifting local–central relations

The reform proposals have significant implications for the relationship between the two spheres of government. While it is pleasing to see that Local Government New Zealand has been given some scope to represent the local government sector in the reform process, this appears to be fairly limited and on terms dictated by central government. If reforms are imposed from outside (above), the current perception that central government is acting as 'Big Brother' will be difficult to escape, and the risks accompanying greater centralisation will be magnified. In a comparative look at New Zealand and recent reforms of local government in the United Kingdom, Reid (2011) has drawn attention to the increasing centralisation that was apparent in local government reform initiatives of former minister Nick Smith's predecessor, Rodney Hide:

Where the coalition government in Britain appears committed to reversing the country's centralised approach to decision making by empowering councils and communities, there are reasonable arguments to say that the opposite is occurring in New Zealand ... (Reid, 2011, p. 57)

The president of Local Government New Zealand has expressed his organisation's broad support for the proposals, saying that 'LGNZ supports transparency and everyone knowing where their powers and responsibilities end'. However, he cautioned that 'the

devil is in the details'. Thus far, details are somewhat scant.

Some significant areas of difference between local and central government representatives are already apparent. For example, local government rightly considers that its primary accountability is to communities. Therefore, central government's proposals for new fiscal responsibility arrangements may become a source of tension. It is salient to note advice in December 2011 in the briefing to the incoming minister of local government by the Department of Internal Affairs:

While local government was given a power to promote the four well-beings, this is not a prescription; indeed, the 2002 Act sought to avoid prescription and instead be permissive.

Within the Local Government portfolio, local authorities operate autonomously of central government and are empowered to choose which activities to undertake and how to pay for them. They make these decisions in consultation with the local communities that supply much of their funding. They are accountable to these communities, not Ministers – including the Minister of Local Government. (Department of Internal Affairs, 2011, p.3)

As well as tensions between local and central government politicians, there is disagreement within local government as to the merits of the reforms. For example, the proposal to strengthen the power of mayors has been objected to by some elected members concerned that

an outcome of this will be the 'desexing' of other councillors. Similarly, divergent ideological positions and institutional locations (for example, whether in regional councils or territorial authorities) of those in local government are reflected in differing degrees of support among elected members for proposals for streamlining council reorganisation procedures.

The importance of an autonomous sphere of local government

The *Better Local Government* proposals tend to indicate that central government overlooks or misunderstands the accountability mechanisms (for example, consultation and auditing) incorporated in existing local government legislation. These are grounded in recognition of local government's relative degree of independence from central government. It has its own financial base and electoral mandate, supplemented by strong requirements for consultation. Moreover, the proposals reflect a poor appreciation of the vital contribution of community leadership and the diversity of communities and environments. A fundamental feature of New Zealand's environmental administration, since 1991 in particular, is its significantly devolved nature. While there is undoubtedly centralisation occurring, with, for example, the recent establishment of the Environmental Protection Authority, and a desire for streamlined planning, there is no plan to alter fundamentally the devolution of environmental planning.

Refocusing the role of local government and introducing fiscal responsibility

Much concern has been expressed by central government about the enlargement of local government's role in the decade since the passage of the Local Government Act 2002. However, this concern is often misplaced. While local government was given a power to promote the four well-beings, this is not a prescription; indeed, the 2002 Act sought to avoid *prescription* and instead be permissive.

Consistent with the sustainable development principle of the Local Government Act and the sustainable management purpose of the Resource

Management Act 1991, local government has a role in enabling people and communities to provide for their social, economic, environmental and cultural well-being. This does not mean that local government must undertake the full array of tasks associated with promoting the four well-beings, but it does provide councils with discretion about how to promote sustainability. Refocusing the purpose of local government and introducing a fiscal responsibility requirement are likely to become a further source of tension in reform deliberations if these prevent local government from responding to community aspirations and needs.

Refocusing and fiscal responsibility requirements must, instead, be consistent with the sustainability mandate of the Resource Management Act, Local Government Act and other statutes. Greater efficiency and effectiveness in local government expenditure decisions can be achieved instead through stronger accountability provisions. Local Government New Zealand has expressed support for transparency and clear parameters about powers and responsibilities, but this places a duty on central government also to exercise its responsibilities. For example, in the area of climate change, international networks of local governments have been formed to respond to community concerns about lack of responsiveness by central governments to climate change obligations (see, for example, Betsill and Bulkeley, 2006; Bulkeley and Newell, 2010).

Short-term so-called fiscal responsibility has, in fact, been demonstrated to produce deferred maintenance and a backlog of infrastructure spending. Data are provided in *Better Local Government* to support an argument that, in contrast with the decade 1992–2002, in which rates increases were only slightly above the rate of inflation, in the following decade they increased by an average of 6.8% per annum, more than double the rate of inflation. This appears to be ideologically driven, with the minimal rates increase associated with the previous National government, and the much higher rates increases linked to the Local Government Act 2002 passed by the Labour government. However, as

Local Government New Zealand has been at pains to explain, and as demonstrated by the independent Local Government Rates Inquiry (2007, p.2), increased local authority expenditure has been ‘driven by expenditure on infrastructure renewal, expansion and upgrading’.

The Local Government Rates Inquiry’s independent research also indicated that ‘local authority operating expenditure is forecast to stabilise in real terms (after adjustment for inflation) and decline as a percentage of GDP as capital expenditure and rate of growth in the associated operating costs decline’.

Allowing a suitable level of discretion can maintain a balance that recognises local government as a sphere of government essential for constitutional reasons, namely to act as a check on the power of central government.

(Local Government Rates Inquiry, 2007, p.2). The inquiry panel recommended that councils give better consideration to the affordability of rates and reassess forecast infrastructure expenditures in long-term council community plans (LTCCPs), but also recommended some additional sources of funding to replace rates (not increase expenditures). As well, the auditor-general’s report on the 2006 LTCCPs indicated that by 2016, despite record levels of capital expenditure, local authorities as a whole would have low debt and would have accumulated significant reserves brought about by the funding of depreciation (Controller and Auditor-General, 2007, p.29).

Better Local Government and earlier ministerial comment (as well as some

media and public comment) express dissatisfaction with council spending priorities and debt in what central government considers should be an era of austerity. As referred to above (and in note 1), numerical errors in data on council debt arising from the method used to calculate the average rate increase for territorial authorities for the period 2002–10 led to removal of data from at least one website version of *Better Local Government*. In addition, considerable caution needs to be exercised when drawing conclusions about forecast debt. Data used for the claim that debt is forecast to rise from \$7.016 million in 2010 to \$10,996 million in 2015 is drawn from council spending plans in 2009–19 LTCCPs. These plans must be reviewed every three years and when the 2012 LTCCPs are adopted in June 2012 it is likely that significant reprioritisation of spending will have occurred in response to recent and current challenging economic conditions. Importantly, there is widespread misunderstanding of the drivers of debt and a continuing failure to address in a systematic manner the recommendations resulting from the extensive and rigorous analysis undertaken by the Local Government Rates Inquiry.²

The suggestion by central government that expenditure growth be restricted to ‘no faster than inflation and population growth, except in extraordinary events’ risks generating many unintended negative impacts, as has often occurred with rates-capping, especially if there is little scope for local government discretion and punitive measures are imposed where expenditure exceeds what is allowed. A collaborative approach taken towards managing local government expenditure increases, with full involvement by local government in determining criteria for exemptions, defining extraordinary events and identifying other unanticipated burdens (such as regulatory requirements), could reduce the likelihood of unintended negative impacts. However, even a so-called collaborative approach of this nature is predicated on the notion that central government has a mandate to intervene in local government, and on a lack of constitutional recognition of the autonomy of local government.

Improving efficiency, defining regulatory roles

As noted above, four of the eight proposals announced in March are for work that will be encompassed in a later reform bill. They focus on the regulatory role of local government and efficiency of infrastructure provision. Details are sketchy and depend on further review and investigation. It is somewhat worrying that central government is narrowly concerned with provision of infrastructure at least cost rather than best price, which internationally is regarded as industry best practice. The expert advisory group to be appointed to investigate efficiency of infrastructure provision will ideally draw on national and, in particular, international best practice, such as that developed in the construction industry.³

Better and stronger local government: discretion not diminution

A significant test of the reform proposals is the extent to which they alter the balance of power between local and central government. Allowing a suitable level of discretion can maintain a balance that recognises local government as a sphere of government essential for constitutional reasons, namely to act as a check on the power of central government. A diminution of the health and autonomy of local government weakens not just local democracy but democratic institutional arrangements and processes.

The prime minister's reported comments suggest that the government

recognises that it is inappropriate for central government to seek to demarcate too strictly the role and responsibilities of local government:

What we're saying is, here's the demarcation line – it's a little narrower than it was in the past, but there's still plenty of scope. Now there can easily be a public good in hosting an event like Volvo round-the-world yacht race. There's clearly a public good for Auckland – it'll bring tourist dollars in.⁴

While he proposes the use of a public good test, it would seem that such a test needs to be applied broadly rather than narrowly.

Conclusion

Local government reformers in New Zealand would do well to look beyond these shores to consider processes and institutional innovations adopted elsewhere. In the United Kingdom the Coalition government recently announced the establishment of a new Mayors Cabinet that will ensure that directly elected mayors have a voice at the heart of government.⁵ In New Zealand, a central-local government forum was established in the first term of Helen Clark's Labour-led government in the early 2000s, but its role has not been significantly strengthened and expanded as it could have been in the last decade.

Closer to home, the New South Wales local government minister has set up an independent expert panel to investigate ways to create stronger and

better councils in the future.⁶ It has just over a year to report to the minister and will consult widely with communities and local government stakeholders. This kind of independent inquiry suggests a much more robust and collaborative process than the New Zealand government's reform proposals, which have been decided by Cabinet with no opportunity for public input and, unless Local Government New Zealand was consulted on the draft Cabinet paper, none even from the local government sector.

Local government, like central government, is far from perfect and requires continuous improvement. However, New Zealand's communities, local government and democratic arrangements are not well served by ad hoc and fragmented reviews that lack a strong and clear vision for local government as a sphere of government which plays a vital constitutional role.

1 Local authority financial statistics have been deleted from the Department of Internal Affairs website copy of *Better Local Government* because there are numerical errors resulting from the methods used by the Department to calculate the average rate increase for territorial authorities for the period 2002–10.

2 The analysis of the Local Government Rates Inquiry has been endorsed more recently in the December 2011 draft report on housing affordability by the Productivity Commission, which notes, 'annual rates are low, and have been falling, relative to house prices' (New Zealand Productivity Commission, 2011, p. 79).

3 See, for example, <http://www.constructingexcellence.org.uk/> and its New Zealand counterpart.

4 See <http://www.stuff.co.nz/dominion-post/news/politics/6609436/Key-Council-core-functions-to-be-narrower>.

5 See <http://www.communities.gov.uk/news/localgovernment/2115512>.

6 See media release, 20 March 2012, at <http://www.dlg.nsw.gov.au>.

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