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Local Councils and Public Consultation extending the reach of democracy

Introduction

This article considers public consultation in the context of New Zealand local government. Although by international standards New Zealand possesses a rich culture of citizen engagement and public consultation (OECD, 2015), the quality of consultation presents itself as a problem to local government, as their efforts have often been perceived as

unsatisfactory (Asquith, 2012; Barrett, 2011; Barrett and Scott, 2008; Bond, 2007; Cheyne, 2015; Woodward, 2016). New Zealand's consultation environment is particular too, in that local government engagement with Māori, including with iwi organisations such as rūnanga, with mātāwaka (Māori living outside the rohe of their iwi affiliations)

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and via central government, is integral to decision-making processes (Ryks, Pearson and Waa, 2016). We begin by sketching some theoretical underpinnings of consultation, and the legislative requirements for consultation in New Zealand. We then consider two examples – Loomio in Wellington and Share an Idea in Christchurch – before signalling some areas in which public consultation could be improved and local government can increase its democratic efficacy.

Participation, democracy and consultation

Public consultation is premised on the democratic integrity of a political system and on varied assumptions and ideologies about democratic governance. Representative liberal theory proposes that most decisions should be made by accountable elected representatives with expertise (Ferree et al., 2002). More ‘participatory’ approaches hold that an enriched democratic form of government facilitates an active and engaged citizenship, and are suspicious of claims to expertise over and above the knowledge of those affected (Ferree et al., 2002). More ‘emancipatory’ approaches propose that the accumulation of power and expertise within a governing elite promotes the continued disempowerment of certain social groups. Improving participation is part of an effort to empower those who are not otherwise enabled. (Arnstein, 1969; Ferree et al., 2002; Palacios, 2015).

A key reference in this debate is Arnstein’s ‘A ladder of citizen participation’ (Arnstein, 1969), still widely discussed by more contemporary theorists (Cheyne, 2015; Connor, 1988; Flinders and Dommett, 2013; Renn, Weblar and Wiedemann, 1995). This ‘ladder’ consists of eight steps, ranging from ‘manipulation’ to ‘citizen control’. Arnstein was adamant that many forms of practised ‘participation’ are tokenistic at best, and oppressive at worst. Her typology describes the ‘levels of discrimination’ particular citizens are subject to throughout consultative processes and measures, and the roles that power, racism and sexism play. According to this framework, people of lower socio-economic status are more likely to be subject to ‘sham’ consultation, and are

less likely to be listened to or taken into account in policy making. Further, any gains in power must be wrested by the populace, as, in her view, the powerful will not willingly relinquish power.

More recent international literature on the nature of ‘public engagement’ distinguishes between forms of participation. For example, Nabatchi and Amsler distinguish between approaches to public consultation depending on ‘who’ is engaged and ‘how’ the process is done (Nabatchi and Amsler, 2014). The ‘who’ may refer to the ‘public’, ‘citizens’, ‘residents’, ‘communities’ or ‘stakeholders’, each of these pertaining to a particular yet difficult-to-define grouping. This may refer to the target of consultation, and/or to the organiser (for example, a gathering

a ‘five-point spectrum’ of public participation: inform; consult; involve; collaborate; and empower (International Association for Public Participation, 2014). ‘Inform’ corresponds only to the provision of ‘balanced’ and ‘objective’ information, whereas ‘empower’ places the process into public hands, the primary role of the governing body being reduced to implementation (of both the process and the decision). In summary, whereas Nabatchi and Amsler differentiate by target and process, IAP2’s distinctions align more with Arnstein’s in that they both convey a shift in power relations.

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of ideas might be initiated by a political interest or professional group: see Howden-Chapman et al., 2011). The ‘how’ denotes differing levels of engagement, with ‘consultation’ and ‘involvement’ being at the lesser end of the spectrum and ‘collaboration’ and ‘participation’ as degrees of co-production that range from the submission of ideas to decentralised, population-wide direct decision-making processes. A decentralised process relinquishes control over policy entirely to a public process. A participatory budgeting process, for example, as used in parts of Tuscany and Latin America, is a process where citizens decide directly on parts of public expenditure (Bassoli, 2012; Lewanski, 2013; McNulty, 2013). For others (e.g. Flinders and Dommett, 2013), ‘participatory’ refers to processes that increase voice, while ‘deliberative’ processes refer to more decentralised decision making.

Another model is offered by the International Association for Public Participation (IAP2), who have proposed

Yet there are still many issues around engagement with Māori (Controller and Auditor General, 2012, pp.49-55; Drage, McNeill and Cheyne, 2011; Meredith, 2000; Sharp, 2003), and engagement is too often limited to cultural aspects, when Māori have significant economic and other interests (Early et al, 2015). There is also little formal attention paid to engagement with other sections of society: for example, those living in greater social deprivation (who are often more resource- and time-poor) and population groups like the young and old, women and the gender-diverse, as well as landed immigrants and refugees (see Bloomberg, 2012; ChangeMakers Refugee Forum, 2008). A closer consideration of the idea of ‘partnership’ (Arnstein, 1969) would seek to ensure that people within these communities are not only invited to participate, but are also adequately resourced in order to do so meaningfully.

At the same time, greater distribution of decision-making power must not undermine processes of engagement

with Māori. New Zealand's democratic expression is different from the assumptions of the models discussed here, which assume a power dynamic between the citizenry on the one hand and decision makers on the other. Arnstein's typology and IAP2's model both derive from this assumption, and attempt to shift the power balance towards those who would otherwise be powerless. When considered in light of the findings of the Waitangi Tribunal's *Te Paparahi o te Raki Inquiry*, principally that Māori did not cede sovereignty to the British Crown in 1840 (Waitangi Tribunal, 2014), a

the principles of consultation in section 82:

- people affected by a local authority decision should be given 'reasonable access to relevant information' (s82(1)(a)) and be 'encouraged to present their views' (s82(1)(b));
- such people should be clearly informed about the 'purpose of the consultation and the scope of the decisions' to be made (s82(1)(c)) and have a 'reasonable opportunity' to present their views (s82(1)(d));
- the local authority should receive such views with 'an open mind' and

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simple shift (i.e. from local government to residents) does not adequately meet expectations for engagement. In particular, a blanket shift of decision-making power that treats Māori as simply another interest group rather than holders of sovereign *kāwanatanga* (governance), *tino rangatiratanga* (control and self-determination) and *ritetanga* (equity) will not fulfil the principles of partnership, participation and active protection (Health Promotion Forum of New Zealand – Runanga Whakapiki Ake i te Hauora o Aotearoa, 2002). International models of greater participation, if adopted, will need adaptation to better fit New Zealand's specific bicultural context.

Consultation requirements and practice

In New Zealand, public consultation by local authorities – regional, city and district councils and the unitary authority of Auckland – is prescribed in the Local Government Act 2002. In addition to a requirement to provide 'opportunities for Māori to contribute to the decision-making processes' (s81) and the 'special consultative procedure' (s83), the act lists

give them 'due consideration' (s82(1)(e));

- people who express their views 'should have access to a clear record' and explanatory material about relevant decisions (s82(1)(f)).

Observance of these principles is at the discretion of the local authority, subject to various conditions, and open to challenge in the courts (Knight, 2010), but the underlying requirement is that 'a local authority must, in the course of its decision-making process in relation to a matter, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter' (s78). Nevertheless, according to Cheyne, changes in the legislative requirements and local government over recent decades imply more concern for councils' flexibility than for citizen engagement (Cheyne, 2015).

Written submissions to councils come from 'a relatively narrow section of the community (generally well-educated, New Zealand European, and over the age of 45)' (Local Government Commission, 2008, pp.69-71) and predominantly male (Bloomberg, 2012). A 2008 Local

Government Commission review found that while 30% of submitters felt that the public consultation process was either 'excellent' or 'very good', 38% found it 'fair' or 'poor', but these views were 'coloured by the outcome of the process' of the matters being consulted on (Local Government Commission, 2008, pp.69-71). The review presented six key findings: consultation requirements were 'often not properly understood' by councils; councils needed processes to identify how far 'community views' were already known; there was a risk of 'over-consultation' and 'low response rates'; good practice guidelines were needed on 'effective consultation and engagement mechanisms'; while among items requiring special attention were the effectiveness of councils' practices and engagement with Māori (Local Government Commission, 2008, pp.69-71, 4).

Ultimately, under this legal framework the level of influence that consultative processes have depends on how elected representatives listen, structure governance (Asquith, 2012) and form policy. Elected representatives must reconcile diverse submissions, expert advice, special interests and budget considerations. This part of the process is often less transparent and accountable, and may result in a policy that does not reflect the initial public process. As Local Government New Zealand has pointed out, consultation is part of a process of best judgement, by which representatives must make the best decision in light of all available information and with cognisance of the effect on future generations (Local Government New Zealand, 2012). As the majority opinion of submissions may not be reflected in final decisions, respondents in a consultative process may feel disheartened and 'unheard'. This, in turn, feeds a culture of apathy and diminishes popular 'buy-in' of outcomes. For elected representatives, the demand to satisfy often diverse public opinion, combined with other less visible factors, leads to a conundrum of balancing best practice, interests and accountability.

Case studies

New approaches using digital engagement or innovative online platforms have been

used by local government along with 'visioning' tools in an effort to reach more people and facilitate more constructive discussions. These platforms support a dynamic and user-friendly process for both the participating public and officials organising the information for council use. While these platforms are promising, their use does not guarantee an outcome that reflects the public's input. Below we present two examples: Wellington City Council's alcohol management strategy and Christchurch City Council's Share an Idea.

Loomio and Wellington City Council's alcohol management strategy online discussion

When Wellington City Council consulted on its proposed alcohol management strategy in 2013 it used traditional consultation practices (written and oral submissions), and, as an innovation, engaged Loomio, a Wellington-based initiative, to run a Wellington online collaboration. Loomio is an online tool which facilitates bringing 'people together to talk things through, share ideas, address any concerns and determine a clear course of action that works for everyone' (Siegfried, 2014). It emerged from a group of social activists involved in the Occupy movement in Wellington in 2011–12 and uses some of Occupy's discussion and decision-making approaches (Rushkoff, 2014; Siegfried, 2014).

The council proposed a broad strategy and invited residents to attend community workshops, to join an online discussion forum or to write a submission. Over 250 submissions were received, and 150 people participated in the Loomio online discussion. The process itself was well received, with a diverse range of participants working collaboratively to discuss issues and offer ideas and solutions. Council staff were 'delighted with the depth of many of the discussions', said council officer Jaime Dyhrberg (Loomio, n.d.). A participant commented:

The value of Loomio has been in providing a neutral space for productive dialogue, without needing to go to a public meeting. You've got really diverse viewpoints coming

together, which could be quite challenging in an in-person setting. Online, everyone can speak at the same time but it's still easy for every voice to be heard. (Loomio, 2013)

However, after the council released its final strategy, criticism emerged that the consultation process had been merely for show rather than substance, that areas of clear consensus were ignored and that the outcomes were predetermined (Strathmore Park, 2013). This perception may be the 'sour grapes' of those whose ideas were excluded from the strategy, but it also suggests that the transparency inherent in the Loomio online engagement process was not maintained

often overwhelmed at public meetings by vociferous 'frequent flyers'.

Share an Idea

Following the February 2011 earthquake, Christchurch City Council introduced Share an Idea, a community engagement programme utilising online tools (alongside other, more traditional methods) developed by a New Zealand company, NV Interactive. Share an Idea gathered some 106,000 community-driven ideas, and around 21% of Christchurch residents participated (Carlton, 2013; Christchurch City Council, 2011). The ideas were compiled by the council, and formed the basis for the initial draft central city plan (2011).

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through to the final decision making by councillors.

The retrospective comments of one of the facilitators, Loomio co-founder Ben Knight, are of interest. Knight was struck by the behaviour of participants in the council Loomio group compared to people at public meetings. In the Loomio discussion there was no competition for limited 'air time' for participants to convey their views because Loomio 'opens up space where all views can be considered and everyone can still be heard'. The public meetings were difficult because of the polarised views of anti-alcohol campaigners on one side, and liquor-store owners on the other: 'everyone else just got squeezed out' and attendances were low. Knight noticed that extreme views became more moderate and 'reasonable' during the online discussion (Knight, 2015), making the approach more attractive to residents, councillors and staff, who are

Overall, the Share an Idea process was seen as a great success, not only in terms of the participation rate, but also as a visionary way for the residents of Christchurch to feel hopeful in the immediate aftermath of one of the country's most devastating natural disasters:

That particular engagement campaign, was one of the few examples in the last few years in Christchurch where we've actually reached out to our community and actually asked for their views ahead of doing planning. ... It was framed in a very enabling way so that people could engage directly with that conversation and other conversations [that] were happening. It was actually all played out on the internet, so the use of IT communications was very, very important. Having Facebook, having posts, blogs ... People's comments were blogged and posted.

Having moving clips of people saying things [and] all that stuff, putting it out there. 'This is what you're seeing and this is what you're telling us.' It engaged the community in the conversation. We haven't done that since. (Rivera-Muñoz, 2016)

The ideas gleaned from Share an Idea then entered a decision-making process that lacked the transparency of the initial process, particularly due to the overarching powers of the Christchurch Earthquake Recovery Act 2011 (without which many of the ideas would have been very difficult to implement, according to some: see Sheppard, 2014). The outcome document, the Christchurch City Blueprint (2012), compiled by the Christchurch Earthquake Recovery

that's sort of like what I suggested'. (Sutton, 2014, p.55)

Others too supported the process and the outcome document. Architect David Sheppard wrote: 'Since its publication in July 2012, there has been a lot of support for the Blueprint and the ideas contained in it. This support has come from many in the business community as well as from the residents of Christchurch' (Sheppard, 2014, p.62). Yet there was a discord between this notion and a thread of discontent that 'the ideas generated by community participation in Share an Idea had been sidelined in the progression away from community ownership towards national government ownership' (Carlton, 2013, p.10; Press, 2012). Some argued that the process by

Nesta, who insist that 'impact' of the consultative process must be broader, and include more difficult measures, than the rate of participation (Simon and Bass, 2016).

Moreover, while most appear to believe that Share an Idea was successful, there has been little independent analysis of how the community has perceived the outcomes and ongoing process, and to what extent the initial process was able to shape the eventual *Blueprint*. It may be that the outcomes will not be able to be properly understood for some years, although interim analysis is important. A 2013 analysis of a participatory democracy process in Sheffield, England, found that rhetoric surrounding the consultative process consistently over-promised on how much citizens could influence policy and that exuberance about the potential for new systems and processes, promoted by local government officials and politicians, raised public expectations above what was realistic in the policy and decision-making context (Flinders and Dommett, 2013). While the rhetoric of hopefulness that surrounded Share an Idea was important in terms of kick-starting the recovery that was beginning to take shape, particularly psychologically, it may be that the enthusiasm of the process set up expectations beyond what was possible in this particular legislative context.

Evaluation and measurement

Evaluation has often been absent in online consultations. Finding common standards for evaluation of digital democracy initiatives, such as defining what the 'impact' is, can be challenging, and in most cases the number of participants and contributions is used as the only measure or indicator (Simon and Bass, 2016). But even around 'metrics', an 'honest discussion' may prove difficult:

[Practitioners] want to encourage the piloting and adoption of these types of projects within an already resistant political or legal system; therefore, frank discussion around failures seems less enticing. However, learning about what doesn't work

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Authority's Christchurch Central Development Unit, was perceived by some Share an Idea participants to reflect a top-down approach from central government, rather than a faithful expression of the participatory and highly democratic process itself (Carlton, 2013; Hayward, 2016).

The then chief executive of the Christchurch Earthquake Recovery Authority, Roger Sutton, described the *Blueprint* as directly reflecting the Share an Idea consultation process:

The creation of the new inner city, its smaller, greener and more accessible space, can be directly linked to the ideas and concepts put forward by the community. This may not have been a consultation process in itself, but the 106,000 individual ideas were on tap and available. I believe there will be many a resident across the city who can now look at the *Blueprint* for the city and say 'hey,

which Share an Idea was turned into the *Blueprint* was a 'step-by-step process of removing control and ownership from Christchurch's communities' (Carlton, 2013, p.10). Similarly, Sheppard noted that a criticism could be levelled at those implementing the plan that ongoing consultation was not as good as it should or could be (Sheppard, 2014, p.66).

Across this range of viewpoints is a degree of consensus that the initial Share an Idea process was extremely successful, and an international exemplar of 'co-creation' (Christchurch City Council, 2011; Mathewson, 2013). However, the measure of success appears to be largely based on the volume of input, and the initial buy-in from the community, with the number of ideas (106,000) being cited as proof of success. Yet, as Arnstein would insist, the success of a programme depends not only on levels of participation in the process but also on outcomes. This sentiment is echoed by the UK innovation network

and why can promote successes and best practices going forward, so the conversation is a critical one to have. (govlab, 2014)

The type of qualitative reflection by Knight on the tone of the debate that emerged in the Wellington City Council Loomio collaboration is important to record, along with counts of people engaged and numbers of interactions. But beyond metrics and participant perceptions,

Other, more difficult questions need to be asked, such as: did the process improve the quality or legitimacy of decision-making? Did it help to improve the quality of debate and inform citizens about important political issues? Did it succeed in improving public trust? (Simon and Bass, 2016)

Advice on systematic evaluation of online consultations is emerging: for example, in *Evaluating Digital Citizen Engagement* (International Bank for Reconstruction and Development/World Bank, 2016). Equally, though, the more traditional consultation approaches have been little evaluated, at least in ways that are publicly visible. This is partly because evaluating outcomes is hard, as 'the quality of the output of any participation

exercise is difficult to determine' (Rowe and Frewer, 2000), leading to reliance on process evaluation. Further advice is that planning the evaluation or, less formally, the review of a consultation in advance is important, and should include at least a 'basic description of what took place' (Involve, 2005, p.48). Generally, 'formal evaluation is emerging as an integral part of good public participation management' (ibid.). One advantage of undertaking an evaluation is that 'a robust review process can be an effective form of risk management' for local councils (ibid., p.49).

Conclusion

Despite efforts to improve public consultation in New Zealand, and promising examples of increased engagement, there is more that can be done to improve the quality and the outcomes of consultative processes. To enable effective evaluation, a consensus must first be reached as to the nature, scope (Cheyne, 2015) and purpose of consultation. Many participatory and deliberative democracy theorists would urge greater decentralisation of decision making, leading to greater empowerment, in a manner that particularly seeks to include those whose voices would otherwise remain unheard. Importantly, engagement with diverse Māori groups, including but not limited to iwi

organisations, is something that New Zealand is still grappling with, and must pay close attention to in the context of improving public consultation generally.

The examples of Loomio and Share an Idea show that there is significant potential for improving public consultation in New Zealand through the use of innovative methods and means of engagement. However, to meet the expectations that increased engagement might engender, more thorough attention must be paid to the process throughout, including management of expectations, increasing transparency, and multiple points of engagement at every step, from conceptualisation to the final outcome. Further, more robust and far-reaching evaluation must be supported and implemented, at all stages of the consultative process, in order to better understand the processes, impacts and outcomes of consultation, and to better construct and refine the ultimate aim of a consultative process – to enhance the democratic character of our political system.

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Building Auckland's policy and management capability

2017 School of Government Victoria University courses in Auckland

GOVT 522 Policy Analysis and Advising:
14-15 March and 9-10 May

GOVT 531 Local Government:
4-5 April and 23-24 May

GOVT 523 Policy Methods and Practice:
27-28 July and 31 August-1 September

Courses are held at Victoria University's **Auckland Campus on Level 4, The Chancery, 50 Kitchener Street, Auckland**. Each course requires attendance at two modules – each module is 1.5 days: **Day 1** 9.30am to 5.00pm, **Day 2** 9.30am to 1.00pm, **Day 3** 9.30am to 5.00pm and **Day 4** 9.30am to 1.00pm.

GOVT 522: Policy Analysis and Advising

This course extends your knowledge, skills, competencies and behaviours that are required to craft quality policy analysis and advice for organisations, government and other sectors. Topics include problem definition, policy option design, evaluative criteria, policy implementation and strategies and practice to enhance quality, capability and performance.

The course is taught by **Professor Claudia Scott** in two 1.5 day modules: 9.30-5.00pm on 14 March and 9.30-1.00pm on 15 March, with similar timings for 9-10 May.

GOVT 531 Local Government

The course is designed for individuals working in local and central government and others who wish to learn more about current policy, management and governance challenges in the sector. Emphasis is given to both New Zealand and international experiences surrounding the functions, structures and financing arrangements, strategic planning practices, the challenges associated with growth and decline and the roles and relationships between local and central government, Māori, and the private and community sectors.

This course is taught by **Dr Mike Reid** and **Professor Claudia Scott** in two 1.5 day modules: 9.30-5.00pm on 4 April and 9.30-1.00pm on 5 April, with similar timings for 23-24 May.

GOVT 523 Policy Methods and Practice

You will learn the quantitative and qualitative techniques for collecting, analysing, interpreting and applying information and evidence to advance policy objectives, particularly under conditions of complexity and uncertainty and in light of given task requirements.

This course is taught by **Dr Amanda Wolf** in two 1.5 day modules: 9.30-5.00pm on 27 July and 9.30-1.00pm on 28 July, with similar timings for 31 August-1 September.



Professor Claudia Scott is Professor of Public Policy at VUW and has taught at Auckland University, the Australia and New Zealand School of Government and Victoria University. She has teaching and research interests in policy analysis and advising, strategic management, local government policy and planning and regulatory policy. She has delivered policy courses for academic credit and professional development in New Zealand and Australia



Dr Mike Reid, Principal Policy Adviser at Local Government New Zealand, will contribute to the course as will other experienced practitioners drawn from the public and private sectors. Mike holds an MPP and a PhD from Victoria University, contributes to seminars, workshops and conferences and has published research on various governance and policy issues.

Email: Mike.Reid@lgnz.co.nz



Dr Amanda Wolf is a Senior Lecturer in public policy. Amanda leads in public policy and research design and methodology at Victoria and ANZSOG. She researches and publishes on the ways that innovative uses of social science inform the selection and application of policy methods and the role of information and evidence in enhancing policy knowledge and practices.

Email: Amanda.Wolf@vuw.ac.nz

You can take one or more courses to build your skills in Public Policy or Public Management. The courses provide stepping stones to a Post-Graduate Certificate (4 courses), a Diploma (8 courses) and Master's (12 courses) in Public Policy or Public Management.

Enrolment enquiries: Robyn.McCallum@vuw.ac.nz

Academic enquiries: Claudia.Scott@vuw.ac.nz

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