

Mike Reid

# Collaboration in a Time of Covid-19

## will it reset the local–central relationship?

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### Abstract

The social and economic impact of a pandemic like Covid-19 was always going to require a multi-government response, and so it was in New Zealand. Despite the complexity that has historically characterised intergovernmental relationships, the impact of Covid-19 saw institutional arrangements quickly put in place that enabled a joined-up response from both local and central government. This article looks at how these arrangements worked and how they contributed to the provision of essential services through all levels of the lockdown.

**Keywords** collaboration, response unit, partnership, response, recovery

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The local and central government relationship has characteristics of what policy buffs call a 'wicked problem'. These are issues which involve multiple players, where cause and effect relationships are unclear, and where no single party can be held accountable for their resolution. In short, there is no independent umpire, there are no agreed rules of engagement, and power is asymmetric, resulting in what can best be described as a 'parent-child' game theoretic. Despite this, governance works.

New Zealand is consistently ranked as one of the best-governed countries in the world (Legatum Institute, 2019); trust in government is comparatively high and citizen participation is more than respectable compared to in many other countries. Day-to-day tensions can characterise central–local governmental relations, typically involving politicians

and officials in the centre expressing frustration at the failure of councils to pay sufficient attention to national objectives, and politicians and officials at the periphery sniping at unfunded mandates and loss of autonomy. Despite this, there are sufficient shared values that, when it matters, people work together for the good of the whole. And so it was, in large measure, as New Zealand faced its first pandemic for 100 years.

Unlike a number of countries, where the official response to the pandemic has been inconsistent and lacked clarity, New Zealand's response has been generally judged to have been quick and decisive, with all parts of government contributing according to their roles and responsibilities. While the international spotlight has, not surprisingly, been focused on the prime minister's national leadership, the test of how well government programmes are joined up occurs at the level of communities.

The public service has needed strengthening and in this crisis it performed well. Two defects that have persisted for years were overcome in an instant: the silos and the absence of science. The silo effect of departments doing their own thing and not being part of a joined-up government ceased. From the beginning of the Covid-19 crisis there has been a whole of government approach. (Palmer, 2020)

Given the public policy risk created by departmental silos and fragmentation, it is not surprising that commentators, like Sir Geoffrey, should note, with approval, the degree to which public agencies responded to the pandemic in a coordinated and aligned manner. Just as important, given its role in communities, is local government, for multiple reasons. Local government runs many of the services, classified as essential, that communities need for their ongoing wellbeing, not to mention survival, such as drinking and waste water, some environmental health services and the safe operation of public spaces. It was critical, then, that the joined-up government 'public bubble' was extended to local government as well.

Central–local governmental relationships are seldom easy, even in those

countries that provide strong constitutional protection for their local governments; and, in New Zealand, given a lack of institutional structures for managing the interface, much depends on the preferences of the incumbent minister of local government. It is a question that the Productivity Commission put its mind to in its report *Towards Better Local Regulations* (Productivity Commission, 2013). While that report focused primarily on shortcomings in the regulatory system, its observations and recommendations deserve wide consideration; namely:

- Current institutional arrangements can shield central government from the full fiscal and political cost of assigning regulatory functions to local government. This can have the effect of reducing the quality of regulations.

## ... in the face of a potentially existential threat, both spheres of government came together and worked seamlessly through the first stages of the pandemic response

- There is often limited analysis of local government's capability or capacity to implement regulations prior to the allocation of additional regulatory functions (or changes to existing functions).
- Central government agencies with oversight responsibility for regulations do not have knowledge of the local government sector commensurate with the importance of the sector in implementing these regulations.
- Engagement with local government during the design of new regulations is generally poor, resulting in a missed opportunity to improve the quality of policy advice from central government agencies and the resulting quality of regulation.

In short, local government is frequently out of mind and out of sight. Yet, in the face of a potentially existential threat, both spheres of government came together and

worked seamlessly through the first stages of the pandemic response. Critical was the establishment of the Covid-19 Local Government Response Unit.<sup>1</sup> The Response Unit was part of the supply chain and infrastructure pillar, led by the Ministry of Business, Innovation and Employment. It was tasked with ensuring that councils were able to meet their legislative and regulatory requirements and continue to carry out essential services.<sup>2</sup> The unit comprised senior members drawn from the Department of Internal Affairs' central local government partnerships team, local government policy and operations teams, the Society of Local Government Managers, Local Government New Zealand (LGNZ) and the National Emergency Management Agency (NEMA). The role included:

- coordinating and uniting with local government to ensure the continued delivery of essential services to communities;
- integrating the Department of Internal Affairs' response functions with LGNZ, the Society of Local Government Managers, NEMA, other agencies and national command structures;
- ensuring effective two-way communications between central and local government to enable provision of nationally consistent guidance, including on-the-ground information to assist councils to understand and comply with statutory requirements;
- providing guidance to encourage the constant delivery of council services through the alert levels;
- keeping the minister of local government informed of urgent issues and providing advice on legislative 'fixes'; and

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- providing guidance and assistance to enable and support a rapid recovery post-lockdown by councils and their communities.

The Response Unit managed the day-to-day engagement with councils and established a series of workstreams. Each workstream comprised local and central government officials and other key stakeholders:

- **Essential Services:** responsible for supporting local government so that it can continue to provide essential

ability to provide essential services, and raising them with decision makers in central government to resolve through temporary legislative and regulatory fixes. Both roles are discussed below.

### Government's lockdown regulations

A primary task of the Response Unit was to translate the rules and regulations characterising each of the lockdown levels into specific operational guidelines for councils, which it did through the publication of regular bulletins. These

wastewater essential services are to be reinstated for level 3:

- Maintenance practices on linear assets (pipes etc)
  - Planned maintenance and connections work on the retail network
  - Pump station cleaning where required
  - Maintenance of valves and equipment
  - All non-essential work continues to be deferred. (24 April)
- The Covid-19 Response (Further Management Measures) Legislation Bill contains amendments to the Rating Valuations Act to allow councils to apply to the Valuer-General to have the triennial revaluation due to occur in 2020/21 deferred for one year. (13 May)<sup>3</sup>

As the examples show, the Response Unit had a strong 'on the ground' focus, with guidance designed to be read by operational managers and staff. Guidance on council services was prepared by a group of senior local government officials drawing on subject matter experts brought together in regular video-linked meetings.

Most councils took last-minute steps to delegate a broad range of decision-making powers to their chief executive, a committee or a small number of individual members, but, given the uncertain duration of the lockdown, this was never going to be a sustainable response.

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services such as drinking and waste water, solid waste, public transport, roading, crematoriums and cemeteries;

- **Governance:** responsible for providing advice to enable councils to continue to make decisions and meet their legislative requirements through the Covid-19 response and recovery;
- **Finance and Recovery:** responsible for monitoring and assessing the short- and medium-term effects of Covid-19 on local government financial planning and viability and how councils might support regional and local recovery;
- **Social Wellbeing:** responsible for supporting local authorities to promote the social wellbeing of their communities, as well as work with iwi/Māori organisations active in this policy area.

In large part the Response Unit's work can be described as: (1) delivering guidance to local authorities on how to operationalise the requirements associated with each lockdown level; and (2) identifying issues that might be impacting on councils'

bulletins were published online most afternoons and included updates and advice on current and evolving issues, including key messages from the all-of-government daily update and the National Crisis Management Centre. The bulletins were hosted on the Department of Internal Affairs website, where they were placed on the landing page for easy access. Examples of the advice provided to councils included:

- The Response Unit continues to work as a matter of urgency on the important matter of council and council entity eligibility (individual or collective) for the Government Covid-19 wage subsidy. (9 April)
- Last week a modification to the Local Government Act 2002 was made to enable new members of council to make their statutory declaration (oath of office) at a meeting that is being conducted by audio or audiovisual link. (14 April)
- The operation and maintenance of the following drinking water and

### Councils' ability to deliver essential services

Given their essential nature, many council services were required to be provided through the various lockdown levels, so it was important that both the service delivery and governance arms of the local authorities could operate. This was a particular challenge for governance, as lockdown rules meant that governing bodies and committees were unable to meet and make the decisions necessary to enable essential services to continue. This was one of the first issues raised with central government, literally on the eve of the lockdown.

Most councils took last-minute steps to delegate a broad range of decision-making powers to their chief executive, a committee or a small number of individual members, but, given the uncertain duration of the lockdown, this was never going to be a sustainable response. Democracy calls for more, particularly the ability to debate policy and decision making in an environment that allows public and media scrutiny. The obvious

solution was to allow councils to have virtual online meetings.

The Local Government Act 2002 provided for elected members to attend meetings by audio or audiovisual means, but there was a catch. Following a request from LGNZ, the act had been amended in 2012 to allow members to participate in meetings by audio or audio-visual means so that those who lived significant distances from council offices could participate more easily. However, the amendment retained the need for a quorum that was 'physically present' (at least 50% of members), a requirement that could not be met under lockdown rules. Once this was raised with officials, the government moved quickly to address the problem through an order-in-council that suspended the physically present quorum provisions and also made complementary changes to allow agendas and minutes to be posted online.<sup>4</sup> These changes will remain in place until the Epidemic Preparedness (Covid-19) Notice expires or is relaxed. Within days of the notice, councils were holding full governing body meetings online.

A second set of issues concerned the difficulties in properly consulting on annual and long-term plans under the restrictions of lockdown, including re-consulting (for those councils that had prepared draft plans and consulted prior to the pandemic). Consultation time frames were not the only issues councils faced, and a survey of councils was commissioned to identify what other legislative time frames may be causing problems. The result, proving how local government is buried under a mountain of imposed regulations, was a list of more than 50 legislative obstacles, which ranged from the substantive and immediate to relatively minor. The most urgent and substantive were quickly addressed through an omnibus bill, the Covid-19 Response (Further Management Measures) Legislation Bill, which had its third reading on 13 May 2020. The significant provisions for local government in this bill were:

- a new order-in-council mechanism to allow dates for future by-elections to be adjusted in certain circumstances;
- a discretion for chief executives to delay the commencement of an election time frame (i.e. the call for nominations);

- the ability to publish, prior to 1 August 2020, a draft long-term plan amendment without an opinion from the Office of the Auditor-General;
- an extension of the time limit in which by-laws must be reviewed before being revoked;
- a shortened consultation process, until 1 October 2020, for annual and long-term plans.

As of the time of writing, the Response Unit had collaboratively and effectively facilitated executive and parliamentary

rebuilding the economy in the absence of major industries, such as tourism, requires significant public investment. Ensuring investment achieves its maximum impact means taking a disaggregated approach and being informed by local and regional opportunities. Rather than the style of leadership that saw us through the crisis, in which all aspects of the public sector sang from the same song sheet, the recovery needs to embrace difference and to work with multiple agencies, in different ways and with different accountabilities.

Despite strong endorsement by central and local government leaders, this collaboration did not represent a formal alignment of New Zealand's two spheres of government, but there is a good case for saying it may have prepared the ground for deeper collaboration.

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actions to resolve issues that councils themselves had identified as problematic due to the constraints created by the Covid-19 lockdown. It had ensured that essential local services continued through the lockdown and it had set up a potential model for post-pandemic collaboration.

#### **The recovery**

By the end of May and the winding up of the response phase, the original objectives of the Response Unit had largely been met and consideration was being given to the recovery. There was speculation that joint committees, consisting of local and central government officials, may be established for each region.<sup>5</sup> These may not be as successful, however.

The success of the Response Unit was partly due to the clarity of its task. It was to operate for a defined period, and its role was to help local authorities to implement the requirements set out under the Epidemic Preparedness Act 2006. Its tasks applied with little variation to all areas of Aotearoa New Zealand. The same approach cannot in practice apply to the recovery phrase. As the 2020 Budget signalled,

It is difficult to imagine a situation in which councils are not competing with each other for resources, and in which central government plays the role of broker, making trade-offs between competing bids, rather than constructive partner. Although officials may collaborate in the information-gathering and analysis processes, the recovery itself happens in communities that are facing very different challenges, have very different capabilities, and have very different values, not only from each other, but also from central government.

Unlike the role of the Response Unit, with its predominantly technical responsibilities coordinated by the Department of Internal Affairs (such as translating national policies and regulations into activity-specific guidelines), the recovery will largely be political. Local coalitions, consisting of councils, businesses and iwi/Māori organisations, will lobby national decision makers for their share of the available pie. The government's challenge will be how to coordinate these interactions. The City Deal framework in the United Kingdom



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could serve as an example of how to address this problem (KPMG, 2014).

### Conclusion

In the face of a national threat such as a pandemic, it is appropriate for governments to act quickly and ensure immediate threats to life and well-being are minimised. This is a critical role for the state. The New Zealand government is universally regarded as having done well, despite the fact that it was not well prepared for the pandemic.<sup>6</sup> One factor in the success of the collaboration was the degree to which it was initiated and led by officials. Despite strong endorsement by central and local government leaders, this collaboration did not represent a formal alignment of New Zealand's two spheres of government, but there is a good case for

saying it may have prepared the ground for deeper collaboration.

The success of the collaboration came down to the effectiveness of policy and operational networks in which officials from both local and central government participated, got to know each other and built up a level of trust.<sup>7</sup>

Whether the success of the collaboration signals a new paradigm, or not, is uncertain at the time of writing. At one level, the institutional architecture that has historically governed the interface between central and local government remains unchanged, despite the success of the Response Unit, which was only temporary. At another level, however, the relationships that have been developed between officials will have not only created an appreciation of the value of working collaboratively, but

also made future collaboration much more likely.

- 1 At the time of writing the Covid-19 Local Government Response Unit was still operating and was expected to continue through to at least level 1.
- 2 An additional collaboration that was parallel to the work of the Response Unit involved regional civil defence and emergency committees that were brought together by the national emergency declaration. Their success or otherwise is outside the scope of this article, although, at some point, the question of why they were seen as the best mechanism for distributing food parcels should probably be answered.
- 3 All bulletins can be found at found at <https://www.dia.govt.nz/Local-Government-Covid-19-Response>.
- 4 Citizens could still request hard copies of an agenda.
- 5 The issue was on the agenda of the annual Central Local Government Forum, a heads of government meeting between the prime minister and Cabinet and the national council of LGNZ, scheduled for 28 May by video link.
- 6 New Zealand was number 35 in the world when ranked on its pandemic preparedness as recently as late 2019. Citizens have every right to expect that preparedness for national emergencies, a core function of the national state, should be taken more seriously by government.
- 7 One of the disappointments of the Public Services Legislation Bill 2020, at the time of writing awaiting its second reading, is the failure to even acknowledge the existence of the local public services and the potential value of operational central–local governmental networks.

Table 1

Legislation	Effect	Revocation date
COVID-19 Response (Urgent Management Measures) Legislation Act 2020	Local Government Act 2002 <ul style="list-style-type: none"> <li>Modified Cl. 25A Sch. 7 to remove requirement for quorums to be physically present.</li> </ul>	Until the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked
Immediate Modification Order	Local Government Act 2002 <ul style="list-style-type: none"> <li>Enabled a newly elected member to make a written instead of an oral declaration.</li> </ul>	Until the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked
	Local Government Official Information and Meetings Act 1987 (LGOIMA) <ul style="list-style-type: none"> <li>Amended s. 46B to allow reports and papers to be published on an internet site instead of hard copy</li> <li>Modified s.47 to allow video recordings to take place of written minutes</li> <li>New section 51AA to allow minutes to be posted on an internet site rather than hard copy (unless requested)</li> </ul>	All expire when the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked
COVID-19 Response (Further Management Measures) Legislation Act 2020	Review of bylaws extended to two years after date on which they should have been reviewed, or by 30 June 2021. Applies to: <ul style="list-style-type: none"> <li>Freedom Camping Act 2011</li> <li>Local Government Act</li> <li>Waste Minimisation Act 2008</li> </ul>	All expire 1 July 2021
	Local Electoral Act 2001 <ul style="list-style-type: none"> <li>Public notices on internet sites (instead of newspaper)</li> <li>Gov. General power to specify a later date for a by-election</li> <li>CEO power to defer giving notice of vacancy to electoral officer</li> </ul>	Expires 1 November 2020 Until Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked. Until Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked.

Legislation	Effect	Revocation date
COVID-19 Response (Further Management Measures) Legislation Act 2020 (Con't)	Local Government Act 2002	
	<ul style="list-style-type: none"> <li>Public notices on internet sites (instead of newspaper)</li> <li>Modified special consultative procedure (7 days);</li> <li>LTP amendment without a report from the OAG, but with an explanation of why not</li> <li>SCP commenced after May 17 2020 may use modified procedure</li> </ul>	<p>Expires 1 November 2020</p> <p>Expires 1 October 2020</p> <p>Expires 1 August 2020</p> <p>Expires 1 October 2020</p>
	Local Government Official Information and Meetings Act 1987	
	<ul style="list-style-type: none"> <li>Public notices on internet sites (instead of newspaper)</li> </ul>	Expires 1 November 2020
	Local Government (Rating) Act 2002	
	Public notices on internet sites (instead of newspaper)	Expires 1 November 2020
	Triennial revaluation deferrals – Rating Valuations Act	
	<ul style="list-style-type: none"> <li>Councils may apply to the Valuer-General to have the triennial revaluation due to occur in 2020/21 deferred for one year</li> <li>The Valuer-General must be satisfied that the council is unlikely or not reasonably able to produce a credible revaluation due to the practicality of carrying out physical inspections or availability/reliability of market evidence</li> </ul>	All expire 30 June 2021

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