



Local Government New Zealand

te pūtahi matakōkiri

Improving Local Government Transparency, Accountability and Fiscal Management (TAFM): A Critique

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Background

On 20 April 2009, Cabinet confirmed a programme of work to review aspects of the Local Government Act (LGA) 2002. The scope of the review is described in a paper entitled Improving Local Government Transparency, Accountability and Fiscal Management (TAFM), which was agreed by the Cabinet Economic Growth and Infrastructure, earlier in the month.

The scope of the review, (excluding additional “minor” matters) is intended to focus on:

1. simplifying LTCCPs and giving them a more strategic focus
2. considering requiring councils to publish a pre-election fiscal update and local fiscal strategy
3. additional plain-English financial disclosures
4. the exploration of a local government cost index for benchmarking purposes
5. a review of the community outcomes process
6. a more focused and less costly service performance reporting system
7. disclosure of infrastructure asset management information to ratepayers and citizens
8. the consideration of the circumstances in which polls and referenda could be required for decisions
9. the mechanisms for developing comparisons between councils

The paper also signalled a future project to examine local government roles and suggested that councils’ core roles should include transport services (roading, footpaths, public transport); water services (water supply, sewage treatment, stormwater and flood protection); and public health and safety services (refuse collection and regulation of nuisances). It also agreed to include other minor changes to the LGA 2002 that will advance the Government’s agenda to reduce compliance costs.

In the TAFM paper, the Minister of Local Government suggests that public consultation is not required as “public views are well known” and indicates his desire to have legislative proposals in parliament for a first reading by December this year.

Local Government New Zealand Critique

We are disappointed by the contents and the quality of this paper. While it provides a mandate for officials to investigate options, related to the nine areas identified above, it fails to provide the requisite evidence we would expect to see in order to justify such a substantial review. Instead of facts and data, the paper relies on anecdote and unsubstantiated opinion.

The paper argues that it is necessary to review local authority transparency, accountability and fiscal management mechanisms in order to align “local government direction setting mechanisms with the Government’s priority areas outlined in the Speech from the Throne”. The Government’s priority areas were defined as:

- reducing regulatory and compliance demands
- reducing government bureaucracy in favour of frontline services
- opportunities to make decisions without government interference
- achieving value for money.

This creates our first problem with the paper; how are these related to local government transparency, accountability and financial management? The TAFM paper fails to explain the link. In fact, going on past experience, strengthening transparency and accountability in local government is unlikely to reduce compliance and the cost of regulations; it is more likely to increase it. Neither is it obvious how the three TAFM objectives will reduce government interference or improve value for money. Possibly an argument can be made that existing transparency and accountability arrangements are unduly complex and that streamlining them will achieve better value for money, but this is a long bow and is contradicted by the paper’s proposals to consider the introduction of additional compliance mechanisms such as referenda and additional reporting tools.

The existing local government framework is criticised on the grounds that it is “questionable whether the tools in the Act have allowed for the most effective implementation of these principles” (of transparency and accountability). Unfortunately, no evidence is provided to justify or explain why it is questionable, other than to say “there has been widespread concern at the recent growth in local authority rates and the choices some councils have made in funding decisions”.

We would like to know, which choices and were the rises created by the decisions of councils or the government? Better asset management and improved infrastructure, combined with increased Government-required standards and mandates, higher construction costs and local expectations for services, have all contributed to increased rates (albeit often from a low base).

Examples of the poor choices are not provided. We have no idea whether “poor choices” are being made by one council or by all eighty five, or whether their failure is one of process or outcome? We are meant to take the Minister’s word. Apparently the Auditor General and the Local Government Commission and the Rates Inquiry have identified “issues of local government practice” in applying the legislation. Again, what the issues alluded to are and whether or not they are significant or systemic, are questions we can only guess at, and we note that... (both Office of the Auditor General (OAG) and the Inquiry have made some pretty supportive statements). The only attempt made to substantiate these apparently significant failures is a graph drawn from Statistics’ New Zealand Consumers’ Price Index (CPI) showing growth in residential rates greater than CPI.

Unfortunately information drawn from the graph is only partial. Firstly, it is based on only a sample of local authorities and the assumption cannot be made, despite what the officials’ state, that business rates have moved at the same rate as residential rates. Movement in residential rates is highly sensitive to changes in property revaluations, as the value of the business sector may not necessarily move at the same rate as the residential sector. In addition it is also sensitive to council decisions about business differentials, such as Auckland City Council’s decision to cut the business differential in 2006/7, resulting in a significant swing in the level of rates paid by residential properties. Secondly, the graph fails to make any allowance for costs forced on councils by government policy, such as the effect of drinking water standards which, by themselves, resulted in double digit rates increases in a number of rural councils over recent years. Nor does it account for changes in the quality or quantity of council services. Thirdly, it ignores the fact that cost drivers for the CPI are different to those for council services, which in themselves vary between large and small councils, due to factors like the proportion of spending on roads.

The graph is of no value unless we can explain what the drivers behind increasing rates are. Are they a reflection of:

- a reduction in other council income sources?
- new activities?
- enhanced levels of service for existing activities?
- a need to make-up for deferred maintenance or renew infrastructure?
- growing inefficiency?
- cost pressures outside council control?
- government demands?

Clarifying these questions is surely the challenge for policy makers, and officials could have done worse than to utilise the data prepared by the Inquiry into Rates. Only by proper analysis can we understand the nature of the problem and the range of possible solutions.

Policy context

In this section of the paper the Minister does in fact acknowledge the cost to ratepayers of past governments' propensities to impose regulatory responsibilities on local authorities. We are pleased that the paper proposes that a set of principles should be developed in order to reduce the future likelihood of such impositions. However it is not clear why officials failed to mention their own guidelines, developed in partnership with the local government sector, which were explicitly designed to ensure departments considered the implications on councils of any regulatory proposals. Those guidelines sit on the Department of Internal Affairs' (DIA) website and now would be a great time to promote them across the bureaucracy.

The Minister's primary concern in this part of the paper reflects the "numerous complaints about excessive rates rises" that he has received and he suggests that local government might need a framework similar to the Fiscal Responsibility Act, which requires governments to prioritise within established expenditure limits. (The paper fails to explain how, if the central government process so desirable, councils manage to operate with balanced budgets while central government has made a habit of producing substantial annual surpluses - so much for its fiscal envelope.)

Whether the Minister's undefined complainants are self-selected respondents to his own public views is another matter, as what constitutes an excessive rate rise is worthy of discussion.

The paper also notes that while the current framework seeks to promote transparency and results in a "lot of information" the accountability is retrospective and the information is not useful to ratepayers. As a result, the Minister instructs officials to investigate requiring councils to operate within a fiscal envelope, focus on core activities and make decision-making clear and transparent. The paper makes the assumption that if councils focused on core services, better fiscal management might result. It is an interesting observation given that the Minister's own department noted that the significant rise in capital expenditure planned for the 2009/2019 years, is largely committed to expenditure on activities that align with activities the Minister considers core.

We are also told in this section of the paper that "councils can be pressured to expand their services by providing services that benefit a limited number of people". This is a rather problematic observation Does this mean that services benefiting or used by fewer than half a community's residents, such as libraries, soccer fields or recreation classes for pregnant women or the elderly at council pools, are less than equitable and unfair? Once again no evidence is provided.

Review priorities: transparency, accountability and fiscal management

This section of the paper once again draws on the apparently excessive rate rises that Minister has been told about. (Do these come from the same council area or are they evenly spread?) Other problems raised by various groups are identified, but who these groups are and how widespread their concerns might be is unspecified. There is also no analysis of whether the councils with high increases in rates are doing so from a low or high rates base.

The first shortcoming concerns the transparency principle. One of the first points made in the paper concerns the considerable amounts of information required by the provisions of the LGA 2002 (the Minister has the sector's sympathy on this point), but "arguably without sufficient attention being paid to its relevance and usefulness".

In response to this somewhat vague statement, we would agree that relevant and useful information is being provided, but that some groups may be failing to give the information the attention it deserves - whether that is the public, the media or government analysts.

Other concerns raised by “various” groups are:

- the cost of preparing the LTCCPs
- over-consultation that is causing consultation fatigue for ratepayers
- the way the community-outcomes process is being used to extend councils’ roles beyond core services
- the way consultation processes are unduly increasing the influence of pressure groups (presumably those ones who have not succumbed to fatigue).

It is these unquantified concerns (no attempt is made to examine their validity; facts continue to be unnecessary) which seem to justify the proposed work programme that Cabinet has set the Department. Do they stack up?

The cost of long term council community plans (LTCCP)

Suggesting that various groups have highlighted concerns about the cost of the LTCCP process is consistent with local government opinion as well. The cost of the LTCCP and the audit process has been highlighted at the last three *Local Government New Zealand* annual general meetings. The demands on staff and elected members involved in preparing the LTCCP are such, that it is a wonder that smaller councils manage to keep the water flowing and the roads clear.

Over-consultation

It might be surprising to suggest this but “over -consultation” has not yet been recognised in mainstream academic theory as far as we know. It does not yet appear to have been recognised as some form of psycho-social syndrome.

The notion of over-consultation can be viewed from two perspectives, the consumer and the producer. From the consumer’s perspective it is the “oh no not another request for our opinion, why don’t they just get on and do what we elected them for” feeling.

From the producers end over-consultation describes those elected members who delay making difficult decisions unless they are confident they have the support of the majority of voters - it is the “let’s do a survey” syndrome. While such sentiments are probably expressed frequently by council staff and citizens, if these represented “systemic problems” we might expect to see some consequential decline in the number of people taking part in the obviously ubiquitous consultation processes run by councils.

As it turns out councils’ consultation processes still seem to attract interest, and growing interest at that. If the over-consultation thesis was correct, we might expect to see a decline or at least flattening out of submissions, certainly in the most recent 2009-2019 LTCCP process. This has not been the case. Unfortunately for the writers of the TAFM paper, the 2009 LTCCP has seen a dramatic resurgence of interest in the LTCCP, initial findings revealing up to 50% more submissions than the 2006 LTCCP, with politicians complaining about the number of days taken to hear submissions. In fact one council, Manukau City, received almost 20,000, although most of these were of the post card variety and focused on a single issue (a proposed whitewater canoe course), which the council declined (so much for the argument also promoted in this paper that councils are easily influenced by interest groups).

Community outcomes and council roles

The TAFM paper suggests that the requirement to identify community outcomes, introduced in 2002, has caused councils to expand their range of activities. Community outcomes are one of the least understood parts of the LGA 2002, not only by citizens but also by many in councils and the government itself. When the LGA 2002 was being considered by the Local Government and Environment Select Committee, the members of the committee were so concerned at this prospect, that they added a review mechanism to the Bill, which required the Local Government Commission, after five years or so, to assess whether or not the LGA 2002 has resulted in any expansion of role.

The Commission undertook its review into council activities, and other issues, and reported to the Minister of Local Government in 2008. Importantly it found no evidence that councils had expanded into new areas of activity as a result of the LGA 2002. The Inquiry into Local Government Rates, which also examined this issue the previous year, came to the same conclusion.

David Shand, writing in the Public Sector Magazine, recently addressed this issue when he stated; "A lot of people in New Zealand are saying that local government has expanded too broadly and should stick to road, rates and rubbish, but that's not a practice we found anywhere internationally, where people accept the view that local government is inherently involved in social issues. We suggest that local government has an absolutely key role in working with central government on the social issues agenda, though not to pay for it."

Indeed our own research suggests rather than expanding services into new areas councils have been putting more resources into asset management planning and renewals. The exceptions, however, are some regional councils which have contributed to activities like regional facilities. Given their ability to spread the cost of such facilities over regional populations, these interventions are highly rational from an economic point of view and better match funding and benefit.

The expanding influence of pressure groups

According to officials who drafted the paper, consultation processes are dominated by a small number of interest groups which have gained an undue degree of influence on council decision-making processes, and that this is bad. Economists sometimes refer to this phenomenon as "iron triangles" in which groups form alliances with councillors and acquire an undue influence on the allocation of public resources. However in the New Zealand context such theory is yet to be tested. A significant difference in the New Zealand local government system is the absence of party politics at the local level, making it more difficult for iron triangles to develop.

It is tempting to be cynical in the face of these sorts of unsubstantiated claims. History tells us that such sorts of complaints inevitably reflect the inability of the groups making the complaint to get the influence they feel they deserve! However interest groups play a critical role in mediating between public authorities and individual citizens and the Minister's criticism is at best naïve. In fact the most active interest groups are probably Grey Power and Federated Farmers, and they should be encouraged. Society is generally a better place for the efforts of voluntary associations, whether we go back to the campaigns to end slavery or give women the vote. These changes would not have happened without interest groups articulating the needs of marginalised populations. Is it not the essence of a strong democracy?

Weaknesses in the present system of control

Continuing its pattern of making broad conclusions on unsubstantiated claims, the paper identifies five additional problems with the current local government framework. The first states that **“local authority elections rarely focus on spending issues”** (text emphasised for effect); the second suggests that “media scrutiny of local government is weak compared to central government”; the third refers to the incomprehensible nature of local government financial information; the fourth refers to the difficulty of making comparative judgments about council performance; and the fifth concerns the lack of any mandatory requirements for seeking ratepayer approval of major projects and high rate increases. These require some examination:

1. Lack of focus on council spending during council elections

It is difficult to comprehend how anyone could compose a sentence that had such little correlation with the reality that it was trying to describe, particularly given the experience of the 2007 local authority elections which were held immediately after the release of the report of the Rates Inquiry.

A cursory look at almost any local election contest will find that incumbents' performance over the level of council rates would be uppermost in the electoral discourse, and well highlighted in all local, suburban and even national papers.

The 2007 elections saw the emergence of teams of candidates, for example “pick six” in Tauranga and the “tight five” in Waikato Region, standing on explicit rates reduction tickets. Rates, and their relation to inflation, are almost inevitably, the headline item, however, that does not mean it is the only concern of voters in all districts.

It is also interesting to note, that with a few project-specific exceptions, generally where people stand on these types of ticket they then find when they become more familiar with what a council achieves that it is well run and there are few areas where savings can be made without damaging current or future service delivery.

In 2007 council expenditure turned out to be a major issue in the top half of the north Island and a large number of incumbent mayors lost their seats over expenditure issues. However it was a minor issue over the rest of the country, where issues unique to localities tended to dominate.

2. Media scrutiny is weak compared to central government

Media scrutiny may be less than that received during central government elections (due primarily to the lack of national television coverage, which seems logical since local elections do not occur nationally) but it is not consequently weak. Local government news features strongly in all papers, particularly suburban and provincial papers where councils’ business comes in for very close scrutiny; consider for example the Mountain Scene in Queenstown or the number of papers that publish detailed report cards of the performance of councillors before each election.

Local government activity is a common issue in provincial and rural news all of the time, not just during elections. It would be wrong to accept the view that media scrutiny is weak as even remotely close to reality.

3. Local government financial information is incomprehensible to most non accountants

Putting aside the obvious retort that the nature of local government financial reporting is a direct consequence of the legislative requirements set by parliament, one question that might be asked is how they compare to central government's financial information. It is not clear that the Government's financial reporting standards are any more comprehensible than local governments', however any improvement would be welcome as long as it does not impose yet more reporting tools and burdens on councils.

4. Limited comparative information

The paper notes that one weakness in the New Zealand system is the difficulty of getting information that would allow comparisons between the performances of councils to be made. It's a fair point in that one way of holding politicians to account, and one way for politicians to hold their managers to account, is to provide information on how they perform relative to their peers, i.e. councils in similar circumstances.

However, it is a lot easier to identify the problem than to find solutions which are efficient and meaningful. Nothing is costless and the failure to develop any effective systems so far partly reflects the unwillingness of any agency to invest the necessary resources. Given the nature of our local government system, which is strongly autonomist, it is particularly difficult, due to the wide variation in size, circumstances and service delivery standards, to set meaningful benchmarks.

5. The lack of mandatory requirements to get ratepayer approval

According to the Minister, the lack of mandatory mechanisms for getting ratepayer approval for big projects and large spending increases is a weakness in the New Zealand system. Putting aside the observation that perhaps the other 60% of voters who are not direct ratepayers might like a say and also the lack of a similar mechanism for central government (which has far fewer consultation requirements than local government); why is this a problem?

The authors of the TAFM paper fail to demonstrate any international or local research that suggests local government systems using mandatory referenda (i.e. direct democracy) are more effective or more efficient than those using consultative representative systems. For example, what makes California, which is currently paying its bills with ious, a desirable model? Apparently we are to take their word that the New Zealand approach to local decision-making, which has been designed incrementally by successive parliaments since 1989 (and copied internationally), is now weak and ineffective. There does not appear to be any evidence supporting this negative view of current local government representation and consultation arrangements.

Further, if representative democracy is so subject to failure, how come central government is not planning to subject its taxing and spending decisions to mandatory referenda as well? After all central government's impact on the economy and its share of household income far exceeds that of councils.

This section of the paper concludes with the interesting statement; "this effectively disconnects the popular voice from councils' major planning and spending decisions". Overlooking the current community interest in LTCCPs, the writers, (fortunately) dismiss the option of greater parliamentary control of councils on the basis of the potential risk of parliament having to subsidise under-performing councils. Instead, their proposed solution is to introduce a form of direct democracy in which ratepayers (and also citizens, finally) can "control the shape and size of their own local government".

The remainder of the paper then briefly outlines the detailed workstreams that officials have been asked to consider in order to address the weaknesses identified above - for example, alternatives to the current audit of LTCCPs (which will be welcomed by the sector), more accountability initiatives (from a Minister who publicly wants to reduce compliance!), and of course referenda and polls.

So what does it all mean?

The TAFM paper begins with the assumption that transparency, accountability and financial management in local government are weak and spending is out of control. Unfortunately, evidence is not provided to back up these claims and evidence which refutes them is also omitted. Instead of facts, the paper provides anecdote and unsubstantiated claims. It is a set of solutions looking for a problem.

However it is not just the failure to provide an evidence base to their identification of issues that concern. Two additional observations might be made;

1. That the paper provides no conceptual understanding of the role of local government in New Zealand society, in either operational or constitutional terms, and no sense is provided of where New Zealand local government sits in relation to local government in other jurisdictions.
2. That the paper lacks any appreciation of how local government contributes to local and national well-being and the achievement of social and economic goals in New Zealand as a whole.

It is disappointing that officials have not used this opportunity to highlight the important role cities and districts can, and will, play in helping New Zealand out of this recession, attracting investment and attracting skilled migrants. There are a number of improvements that can be made to the LGA 2002, many of which have been flagged in the Local Government Commission's review of the legislation. The TAFM paper fails to advance this debate.