

To:

15 December 2019

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Submission of Transparency International New Zealand (TINZ) on Reinvigorating local democracy discussion paper

General Comments

TINZ welcomes this opportunity to make a submission on this important issue. We commend Local Government New Zealand for its leadership.

We also recognise that local government organisations are essential to New Zealand's democracy and economy. As well as providing local infrastructure and enabling economic development they have a key role in working with local communities to address social challenges. They strongly influence the quality of living, innovation and social values, as well protecting or changing the physical environment. They are also important partners in inter-cultural and inter-generational relationships.

Our general focus in the submission is on transparency and integrity systems, as well as public participation. We also have a strong interest in the Sustainable Development Goals and the Open Government Partnership. Each of these areas has synergies with the proposals. We also refer to recommendations made in our 2013 National Integrity System Assessment.

We support the submission of Hui E! Aotearoa including its emphasis on the importance of localisation for achieving the 2030 Agenda and Sustainable Development Goals and the role of civil society in the localisation process.

Like Hui E! we also note that local government needs overall to improve its response to the Treaty of Waitangi, including concepts such as partnership and guardianship. We encourage local government (nationally and locally) to embrace that journey.

Devolution and Negotiated devolution:

- There is potency to the scenario of central government acting as stewards, whilst encouraging the ability of communities to work out the best way of achieving national priorities.
- TINZ recommends closer consideration of localised service models that are in place. Two examples are Iwi based services including whānau ora commissioning models, and District Health Boards. Positive benefits include the development of areas of excellence, services tailored to population need, and the potential to develop integrated services.
- Whilst whānau ora commissioning is still in development, intended benefits include building whānau capability to develop solutions to realise their aspirations. The Commissioning Agencies are also seen as more networked and connected to communities, closer to whānau and better informed about their needs.¹
- Commissioning for social outcomes is a multi-faceted process, and differs from asset or more functional service procurement. It is not clear from the consultation documents if local authorities see themselves as commissioning agencies or as direct deliverers of services.
- In terms of the services proposed to be devolved, (page 21), as noted above some of these are already partly devolved through the District Health Board system and with contracted providers, or through training institutions (aging in place, mental health services and vocational training). The comment 'be careful what you wish for' comes to mind, and some of these services have been under severe financial and workforce stress, and facing significant legal challenges. They are growth areas in terms of demand (cost and people). It would be helpful for LGNZ to provide evidence that management by local councils of these contracts would result in better outcomes than under current arrangements.
- The DHB model provides examples of the challenges that arise from decentralising ageing in place services. These include:
 - 'post code variance': inequitable access to health services across regions and between sub-populations in regions;
 - power shifting to individuals or groups within regional structures;
 - procurement decisions overriding partnerships with tangata whenua;
 - outsourcing/procurement that challenges workforce, quality and transparency;
 - bespoke and disconnected health technologies; and
 - Reduced ability to compare outcomes between regions.
- The point of the above is that making a case for a change needs to include strategic, outcome and cost benefit analyses. And there are already current models operating. Looking at those may assist.

Removing Constraints to local decision-making, and regulatory reform bill

- Our general statement is that in any devolution arrangement transparency and accountability should be strengthened, through internal auditing, requirements for these features in contracts

¹ Formative evaluation of the Whānau Ora Commissioning agency model, December 2016
[file:///C:/Users/US/Downloads/46240%20TPK%20-%20Whanau%20Ora%20Formative%20Evaluation%202016%20\(V30\)%20SP%20WEB.pdf](file:///C:/Users/US/Downloads/46240%20TPK%20-%20Whanau%20Ora%20Formative%20Evaluation%202016%20(V30)%20SP%20WEB.pdf)

and projects, and independent assessment and monitoring of procurement decisions. Any proposed regulatory reform should include independent impact assessments, eg environmental, cultural and national.

- Two recommendations in our 2013 National Integrity Systems Assessment remain relevant:
 - Initiate a national conversation on the constitutional place of local government (sections 4.1.2 and 4.1.3).
 - Develop a central government/local government protocol on the design and implementation of regulations where regulation-making powers have been delegated to local authorities (section 4.1.3). (as recommended by the Productivity Commission).

We also commented:

“4.1.3 Local government (territorial and local authorities)

The Productivity Commission² maintains that central government mistakenly treats local government as its operational arm. It concludes “the lack of effective interaction between central and local government is having a detrimental effect on New Zealand’s regulatory system. The uneasy relationship between the two spheres of government is rooted in divergent views and understandings of their respective roles, obligations and accountabilities”.

The integrity issue here is not about whether central government has good reason for overriding local government decision making in these individual cases. As exemplified in the Environment Canterbury case, it is rather the apparent absence of clear and agreed principles to govern relationships between the two spheres of government in terms of the legitimacy and sustainability of local democracy. The principle in action seems to be that local government is free to take decisions – as long as central government does not disagree. This is a shaky foundation for the future, especially since the creation of the Auckland “super-city”³ and the possibility of further local government aggregations, which could, because of their size and significance, have a greater need for some constitutional protection.”

Funding Localism

- TINZ agrees with the Productivity Commission that it is time to move towards a closer partnership between central and local government. This could include looking to funding models that incentivise asset governance and improve transparency and the targeting of additional revenue streams.
- The evidence provided on the links between decentralisation and GDP and between decentralisation and general voter turnout is compelling. However we also note the point made by Hui E! Aotearoa – that many overseas states (or provinces) are substantially larger than Aotearoa New Zealand, and while they may not be 'central' governments (there is a national or federal government above them), they do sit above a complex of local governments, and from below,

- We have one caution – that overseas jurisdictions often have quite different structures of regional and local government, quite different to our central/local set up.
- TINZ supports an independent review of taxation opportunities and challenges for local government.

Ensuring well-being investment meets local needs

- We fully agree that the government’s annual well-being budget process should be informed by priorities set by each community. We support a partnership approach between central and local government.
- The Sustainable Development Goals Agenda 2030 offers a collective vision framework that could inform collective work by central and local government.

One goal to focus on would be Goal 3:- Good health and well-being, as many of these elements are already well within the purview of local government but through improved trust and cooperation there could be further devolution of responsibilities and funding. This goal addresses improving governance of health related assets. (eg drinking water supply, accommodation, sanitation); inclusion, affordability and accessibility of basic sanitary facilities (clean drinking water, sanitation), hospitals and medication/vaccinations; Overseeing and controlling environmental pollution (air, water and soil quality, noise, waste) and animal control; disseminating information about the dangers of substance abuse and withdrawal treatment (alcohol, tobacco, drug use); providing recreation facilities (parks, sports fields and stadiums, swimming pools, camping grounds); supporting healthy forms of urban mobility (walking, cycling and reliable, accessible and safe public transit).

- We are very supportive of the options provided on page 29 for identifying priorities important to local communities and for strengthening accountability and effectiveness. We would strongly encourage the involvement of local government in service design. We support local well-being plans and reports.
- We strongly support use of the Open Government Partnership model as a vehicle for community engagement. The OGP agreement signed by the New Zealand government includes a commitment to the value of openness in engagement with citizens to improve services, manage public resources, promote innovation and create safer communities.⁴ Local government, having very close connections with the communities it serves, is ideally placed to be a key player in this process.
- As we have noted earlier, we are not as convinced that local government is independent enough to act in a commissioning role.

Deepening democracy

⁴ Agreement to Join Open Government Partnership <https://ssc.govt.nz/assets/Legacy/cab-paper-erd13-25-join-ogp.pdf>

- New Zealand's democracy is made richer by the application of the Treaty of Waitangi. We acknowledge that some local authorities have engaged positively with tangata whenua. But not all, and not all well. If councils propose to have greater control over revenue streams, resource use and taxes, this has to be accompanied by changes in structures, governance and relationships to ensure that mana whenua is enabled, and that the Maori world view, voice and partnership genuine, is more than just a voice at a table. This may mean addressing complex and contentious issues such as representation, resource management, and partnership agreements.
- We fully agree that the best solution to feelings of disempowerment is more democracy rather than less.
- Regarding public responses to and interest in consultation, the model used for consultation is vitally important, to avoid consultation fatigue, confusion or cynicism. Local government can be a leader. The Open Government Partnership provides models for deeper citizen involvement. Local government is showing leadership through vehicles such as youth councils, disability advisory teams, and community boards and through mentoring of potential community leaders. TINZ supports the use of community boards as ways to engage more directly with communities.
- Voter turnout can be increased through changes in the way local body elections are promoted and run, and the composition of local body representation. One of our concerns, also reflected by Jean Drage in 'Strengthening Local Voices, is the move to a more managerial and less democratic decision-making. During the most recent election we endeavoured to gather basic contact details for Councillors so that we could ask them to consider questions focusing on transparency, integrity and participation. However many Councils offer only very basic information or use programmes that do not allow voters to contact candidates and only offer the barest of information on their platforms and leadership capabilities. How can citizens genuinely engage with potential representatives if the candidates sit behind a wall? There is also quite varied approaches to the democratic process. There is also much that can be done to increase voter turnout. During the most recent election Masterton District Council showed remarkable initiative to increase voter turnout through person to person connection and community engagement in promoting voting.
- We also support an independent review of the representation review process to ensure there is fair representation on Councils.
- In general there is much more than can be achieved through the practical facilitation of connections: Council facilitated community meetings, better use of Council websites, meetings with NGOs and local social service agencies, enabling networking for local environmental volunteers; and through simple supports such as offering use of meeting places.

No more cost shifting and unfunded mandates

- Cost shifting is a common problem in the nexus between legislators/regulators and those affected.
- We agree that any regulator (local or central) should be required to fully consider and disclose the costs of new policy, rules or regulations on the communities and organisations affected by the changes. Where that imposition has a material impact over an agreed threshold then there needs to be a process in place to ensure fair cost sharing and allocation. This model is present in

other decentralised funding arrangements. It could include dispute negotiation and mediation. This could more strongly incentivise better analysis of cost impacts on local government.

- We support consideration of legislation that enables local government to apply a local tax or levy. Any tax or levy should be accompanied by full transparency around its amount, the length of application, and whether it needs to diminish or increase over time.

Once again we thank you for the opportunity to make a submission on your consultation document. We wish you all the best in summarising the feedback and your advocacy with government.

For any queries on this submission please contact:

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