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Inquiry into the 2019 Local Elections and Liquor Licensing Trust Elections, and Recent Energy Trust Elections

Submission, Transparency International New Zealand (TINZ), February 2020

Thank you for the opportunity to submit on this matter.

We do not think it is necessary for TINZ to make an oral submission.

TINZ submission:

1. Low voter turnout at local elections

- a. It is disappointing to see a shift downwards (albeit light) in the average voter turnout¹, driven substantially by a 3.2% drop in voter engagement in Auckland and Wellington Cities.
- b. We congratulate the good work of Local Government New Zealand and SOLGM to engage in the Vote 2019 campaign. We also congratulate several communities whose home-grown efforts to increase voter turnout stood out and had great impact (eg Masterton).
- c. There was keen interest in the hustings event that we held in Wellington, and we received good responses to the questions we sent out to candidates (See Appendix).
- d. From a transparency perspective TINZ is concerned about the limited information that is available to support voters.
- e. The vote itself is complex with voters having to cast a larger number of votes compared to general elections. The general absence of a party system in local government makes it hard work for voters to find out about all the individual candidates and their policies. This is a poor return on time when no individual candidate is likely to be in a position to secure their policies.
- f. The candidate profile brochures sent out with voting forms can be dense, or with just insufficient information. There is a good deal of advertising promoting the event itself. However we suggest that more focus is needed on why local government matters, key issues facing local communities and helping to navigate people to candidates' information.
- g. Getting people to vote is clearly more complex than just more advertising and awareness. But for the impact on people's lives the low voter turnout rate is a challenge that should be a focus, not just for local government but, because it is a creature of statute, for Parliament.

2. The role of council staff during election periods around decisions to release or not release information or any public statements that may be construed to affect the election outcome

- a. As part of its contribution to local democracy TINZ developed a set of questions that candidates could answer individually, or that local citizens could ask. These are attached at the back of this submission. They covered conflict of interest, the LGOIMA, transparency around meetings and information and understanding of issues important to tangata whenua. We did not ask candidates to return their information to us, we just invited them to reflect on the questions in their preparation for electioneering, and we received many positive comments from candidates about this approach.

¹ <https://www.lgnz.co.nz/vote2019/voters/final-voter-turnout-2019>

- b. It was our intention to provide this information directly to all candidates. We were only able to do that for around 1000 candidates by accessing candidate contact information provided on local authority websites. Many local authorities including large cities are using election software that does not enable citizen access and provides only the candidates' names with brief descriptions. It is entirely unsatisfactory for Council staff to place a barrier, even if it is a returning officer, between citizens and the people who wish to represent them. If candidates want a level of self-protection they are fully entitled to use an election specific email, which many did.

3. The issue of disclosure in respect of candidates or elected members with serious criminal convictions.

Transparency International New Zealand supports public (required) disclosure by candidates or elected members of serious criminal convictions. We also support the application of the Clean Slate Act to disclosure requirements. The requirement of disclosure applies to many positions of responsibility, such as governors and officers of charities and incorporated societies. We do not think that criminal convictions should be a barrier to seeking public office, but the information should be made publicly available so that voters have fuller information about candidates to help inform their decisions.

4. Any irregularities or problems that could have compromised the fairness of elections.

- a. We note that the allegations expressed about bundling approaches to donations in national elections is also raised in relation to local government. At the heart of this concern is that bundling generates a perception of concealment. It has the potential to set an unfair playing field for candidates in terms of resource use. Candidates should be free to raise money to support their campaign within the limits set by the Electoral Commission. However, where large sums are gained from events like auctions, we think that the integrity of the candidate is enhanced by them providing as much transparency as they can about those events.
- b. As a matter of information Transparency International New Zealand receives several expressions of concerns each year from members of the public, with specific allegations about local body candidates, elected representatives and employed officers: the general themes are declarations relating to candidate funding; conflict of interest; competency and cronyism.

5. The recommendation of the Justice Committee (2016) that the Government consider giving responsibility for running all aspects of local elections to the Electoral Commission

Our general view is that we think that responsibility for running elections should sit with a central state institution rather than with private companies or with local bodies. For either of the other two options we are uncertain whether vulnerabilities such as capacity, risk, transparency and security are sufficiently covered.

6. The recommendation of the Justice Committee (2016) that the Government consider encouraging or requiring the same voting system to be used in all local elections.

We do not support a recommendation for a single voting system to be used in all local elections. It should be up to each area to decide how they apply democracy.

7. Feedback on the committee's recommendations on foreign interference

In our submission to the Select Committee on the last General Election we made the following points, which still apply:

- a. On the topic of foreign manipulation or influence over political campaigns, we acknowledge the experience of GCSB and NZSIS for the elections under consideration in this inquiry. Our concern

lies more around the inappropriate use of personal data to manipulate social discussion. This has been evident in overseas campaigns, and can be expected to threaten democracy in New Zealand. Our questions are: Who will consider this threat? and How can we bolster our integrity systems to protect our democracy against that sort of influence and to mitigate its impacts?

- b. The July 2018 report of the UK Information Commissioner (ICO) into the use of Data analytics in political campaign²s is highly relevant. This looked, among other things, at the ‘invisible processing’ of people’s personal data and micro targeting of political adverts. The ICO considered how data from Facebook could have been misused in the UK referendum on membership of the EU and to target voters during the 2016 American Presidential election process. In its July 2018 report the Commissioner has concluded that:

There are risks in relation to the processing of personal data by many political parties. Particular concerns include: the purchasing of marketing lists and lifestyle information from data brokers without sufficient due diligence, a lack of fair processing, and use of third party data analytics companies with insufficient checks around consent.

- c. Several of the recommendations made by the ICO are of relevance to New Zealand and to this inquiry. Three of these were:
- that political parties work with the appropriate authorities to improve transparency around the use of data all the parties have the right to have and use (eg the electoral register);
 - that online platforms which provide advertising services to political parties and campaigns should have expertise within the sales support team who can provide advice on transparency and accountability in relation to how data is used to target users;
 - and that the government should require the Information Commissioner to create a statutory Code of Practice about the use of personal data in political campaigns.³
- d. How could these recommendations be implemented in New Zealand to strengthen the integrity of the local body democratic process? Maintaining public confidence in the electoral process is critical to a healthy democracy. Who will address this emerging and powerful risk to our democratic process?

Our contact for this submission is:

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² Investigation into the use of data analytics in political campaigns Investigation update 11 July 2018, Information Commissioner’s Office, UK.

³ A full list of the recommendations can be found in the full report and more detail about the policy recommendations can be found in a separate report from the ICO, “Democracy Disrupted? Personal Information and Political Influence”

Appendix 1

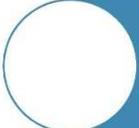
New Zealand Local Body Elections 2019
Questions for candidates



*HERE ARE SOME QUESTIONS THAT YOU MAY WISH TO CONSIDER AND TALK ABOUT AS A
CANDIDATE FOR COUNCIL, BOARD, COMMUNITY BOARD, DHB OR TRUST*

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Personal Motivation

 - o Why are you standing for election?
 - o What does integrity in local government mean to you?
 - o Tell me about conflict of interest and how you manage it.
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Access to information

 - o Do you think that the Council (or Board or Trust) gives the public the right amount of information and access to meetings?
 - o Tell me what you know about the Local Government Official Information and Meetings Act and the Official Information Act.
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Public participation

 - o What are your ideas for getting more public participation in local decisions?
 - o Who do you think is missing out?
 - o What are your ideas for helping people who don't have good internet access, to be involved and have their say?
 - o What are your plans for engaging with young people?
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Tangata whenua

 - o What do you think are the main issues that are important to local tangata whenua?
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Fair Representation/Diversity

 - o Does your Council (or Board or Trust) have fair representation of women as councillors and employees, including leaders?
 - o What is your opinion about diversity on and in the Council (eg gender, ethnic, disability)?
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Accountability

 - o How will you balance economic, social and environmental issues?
 - o When it comes to a decision, what will you prioritise?
 - o How can I trust you will follow through on your promises?

About Transparency International NZ

Transparency International New Zealand (TINZ) is the recognised New Zealand Chapter of [Transparency International](#), the global civil society organisation against corruption. TINZ is a not-for-profit incorporated society with charitable status. TINZ is non-political and non-partisan.

The vision of Transparency International, provided below, means that TINZ is a caretaker of New Zealand's high trust, high integrity society. Our reports, assessment documents and facilitation of discussions have positively impacted New Zealand's approaches towards corruption and open government.

The respect given to Transparency International New Zealand is driven from documents such as our [Integrity Plus 2013 New Zealand National Integrity System Assessment \(NIS\)](#) and subsequent updates in 2015 and 2018 towards a 2nd edition, as well as the [Corruption Perceptions Index](#) produced by the global body, Transparency International. TINZ has also worked with central government agencies on initiatives to strengthen understanding on a broad range of issues around transparency, open government, and integrity systems. This includes our innovative Public Sector CEO Leadership Integrity Forums, jointly hosted with the Office of the Auditor General.

TINZ actively brings critical and constructive voices to the table wherever anti-corruption expertise, advocacy and action are needed, and has played a key role in efforts to promote integrity and transparency and to resist corruption.

The portfolio of Transparency International is wide and its approaches are focused on detecting and preventing corruption. The large network of committed stakeholders places the international body and the New Zealand chapter in the privileged position of being able to continue fighting against corruption even within a global socio-political context that feels ever more challenging.

A world with trusted integrity systems in which
government, politics, business, civil society and the daily
lives of people are free of corruption

(Transparency International New Zealand Vision)