



[Reading Room: Local Government](#)

## DEVOLUTION: Partnership or Ad Hocism?

This paper was prepared by Peter McKinlay, Executive Director of MDL, November 1998 - with the assistance of a grant from the State Services Commission. The views are those of the author.

*With the changing relationship between central and local government, and the re-write of the Local Government Act, the issues covered in this paper have new relevance.*

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## 1. INTRODUCTION

The purpose of this paper is to look, within a New Zealand context, at the principles and practice of allocation of functions between central and local government with the two objectives of:

- Understanding what has typically happened so far
- Drawing some lessons for the future.

Our starting point is that both tiers of government are engaged primarily in producing and enabling access to public goods<sup>1</sup>. We do not intend, in this paper, getting into the vexed question of whether and to what extent any particular good or service is a public good, a private good or a combination of the two. We simply note that although the technical characteristics of public goods are well understood, it is extraordinarily difficult to reach general agreement in any specific case<sup>2</sup>. Instead, we note that these questions, in societies such as New Zealand, have typically been dealt with through the democratic process.

The one point we do wish to make, as it is central to this paper, is that public goods may be national, regional or local in their impact<sup>3</sup>.

Not all public goods, though, fall neatly into these three categories. Many, depending on the objective they are intended to fulfil and the context in which they are delivered, may be regional, national, or local or all at the same time. Considerations of both equity and efficiency may see a government treat health services as primarily a national public good. However, many aspects of health play out at a regional or local level and are critically dependant upon local knowledge and local or regional circumstance. It may be possible to set national standards and policies for delivery of healthcare to Maori through Iwi but effectiveness in the delivery process will be critically dependant upon local input and local control.

Similarly, roading which has traditionally been treated as a mix of national, regional and local public goods is now being reformed within a policy framework which places a strong emphasis on national public good issues<sup>4</sup>.

In a number of jurisdictions, questions of where to locate the responsibility for delivering particular types of public goods are managed largely through constitutional means. Thus, in the United States, Article One of the Federal Constitution delegates a number of powers from the States to the national level. In turn, a number of State constitutions delegate specific powers to local government.

In England, which lacks a written constitution, the relationship between central and local government is managed substantially through fiscal means (supported by prescriptive legislation). Central government claims the right to direct much of local government activity, including decisions on local public goods, through the fact that it provides some 80% of the gross revenue of local authorities.

New Zealand has neither a written constitution nor a strong fiscal relationship between central and local government.

As a matter of law, local authorities are creations of central government. Not only does central government provide the legislative framework, through the Local Government Act 1974 and a myriad of other legislation, it also manages the process for the establishment, disestablishment and variation of the scope and coverage of local authorities<sup>5</sup>.

Despite the fact that central government provides the legislative framework for local government, there is little indication that this has ever been done as part of a considered understanding of the respective roles of central and local and how the two should relate to each other and the communities which they serve. Instead, the history of government intervention in local government matters is essentially one of a combination of response to necessity (the statutory creation in the 19<sup>th</sup> century of a range of local authorities as the necessary prerequisite for carrying out essential public works such as roading, harbour works, rivers control and basic physical amenities in urban centres) and ad hoc

tinkering to deal with the highly prescriptive nature of local government legislation.

This reflects the traditional approach to local authority legislation which has been a mixture of:

- An approach by successive governments of legislating only for the very specific activity which it has been desired to permit<sup>6</sup>;
- Judicial interpretation of the powers of local authorities based on the fact that they are statutory corporations and therefore deemed to have power to undertake only those activities explicitly authorised in their enabling legislation or deemed to be necessary in order to do so.

As a result, every time a local authority is unable to do something which appears desirable, or which politicians may be persuaded is desirable, or there is a wish to alter the structural or other requirements for local government, legislation is needed. The result is that the Local Government Act is a hotch potch of powers, many inserted to deal with very specific one-off situations.

Similarly, in its role as manager of the economy, central government has from time to time taken an interest both in the structure of local government and in the way in which it undertakes its activities. Typically this has been justified in terms of reducing the costs of government or improving the efficiency with which local authorities deliver services. Recent examples include:

- the major restructuring of local government which took place in 1989, eliminating virtually all special purpose local authorities (such as Harbour Boards, Pest Destruction Boards, Catchment Boards and so on) and reducing the number of territorial local authorities from more than 200 to 74;
- measures to encourage a more commercial approach to the delivery of services, particularly infrastructure. These included the compulsory corporatisation of passenger transport services and energy undertakings and a general power for local authorities to form companies, known as Local Authority Trading Enterprises, in a process parallel to that which central government had adopted, with State Owned Enterprises, for its own trading activities.

Outside of these specific interventions, there has been little evidence of a co-ordinated approach by central government, and its various agencies, to the role of local government as a sector or the part which it might play in the governance of New Zealand's many communities and the more efficient and effective delivery of services in which central government has an interest.

There are signs that this situation may now be changing. In recent years there have been a number of central government initiatives to seek greater local or community involvement in service delivery. These include:

- transfer of the responsibility for school governance from the (then) Department of Education / Education Boards to School Boards of Trustees;
- the Safer Community Councils initiative operated out of the Department of Prime Minister and Cabinet;
- the "From Welfare to Well Being" and "Strengthening Families" initiatives of

the Department of Social Welfare.

In parallel with these initiatives, there have been a number of examples of local authorities feeling obliged to take on what for them are new activities or responsibilities as a consequence of central government withdrawal, whether of a function or funding.

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## 2. FRAMEWORK

Two different issues arise when considering the allocation of functions between central and local government (or for that matter between either and the private or not-for-profit sectors). The first is the rationale - what principles should apply in determining the proper location of any particular function? The second is the different means available for transferring the function.

The question of principle is often identified with the European Union notion of subsidiarity expressed in Article 3b of the Treaty on the European Union as "In areas which are not under its exclusive power, the Community shall act in conformity with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the member states and can therefore, by reason of the scale and efforts of the proposed action be better achieved by the Community".

In the context of the Treaty, subsidiarity establishes the principle that the Community should be responsible only for those matters which are not better dealt with by the individual nation states which make up its membership.

Over time, the principle has come to be understood as requiring that activities should generally be undertaken by the smallest level of government qualified to do so. Thus:

- The Australian Local Government Association in a submission on tax policy stated the principle as "one of satisfying community needs by allocating responsibility for areas of service delivery to the sphere of government responsible for the smallest functioning units through which the service can be practically provided" (ALGA 1996)
- in an address to the 1996 National Conference of the Institute of Public Administration of Canada, the Honourable Stéphane Dion, President of the Privy Council and Minister of Intergovernmental Affairs (and previously a Professor of Politic Science) referred to subsidiarity as "the principle of local autonomy and self-government [which] allows us to build on local strengths, on adapting to the needs of each region and each province of the country" (Dion (1996)).

Expressed in this way, the principle is an empirical one. It presupposes an inquiry into the capability of different levels of government to undertake particular activities. In turn, this requires a framework within which to analyse the costs and benefits of different options, and to assess the associated risks and means of controlling them.

Coglianesse and Nicolaïdis (1997) argue that the issue of subsidiarity should be considered within a principal-agent perspective.

They note that "In making allocational shifts, one level of government gives up

authority to another level. Agency ties provide some assurance to the principal that the authority it transfers to its agent will not be used contrary to the purposes of the delegation. The strength of the agency ties therefore defines both the power of the principal and the agent. The structural mechanisms that make up agency ties constrain the agent at the same time they reserve some power to the principal. In the context of tiered governance regimes, this means that the attention to these mechanisms is necessary in order to analyse fully the allocation of authority between centralised and decentralised institution" (p5).

They make a convincing case for the use of an agent-principal approach and identify four factors as significant:

- delineation - the determination of standards or guidelines that mark the scope of activity, functions, tasks or justification of the agent
- monitoring including the use of proxies or requiring that the agent itself report in predetermined ways
- sharing - mechanisms which involve representation or involvement by both levels of government in each other's affairs
- reversibility - in respect of this they state "Any allocation will likely satisfy two apparently contradictory requirements: legitimacy and reversibility. Legitimacy demands both a sound justification for initial allocations of authority and a degree of permanence or "stickiness" to these allocations to ensure respect for allocational choices. Reversibility, in contrast, implies that initial allocational choices may need to change due to unintended consequences or subsequent changes in technologies, ideologies, or circumstances (p9).

The case is persuasive but in a New Zealand context must be seen as "work in progress". We have yet to develop a consistent framework within which to consider allocational issues. As we will see from the examples considered in this paper, allocational decisions have typically been ad hoc or one off rather than being seen as part of a body of practice.

The second issue, which has had rather more discussion in New Zealand is the question of means. In formal terms there are four main ways of conferring functions away from the centre:

- Devolution; the transfer of power, authority, and responsibility from a national to a sub-national level, commonly by legislation.
- Decentralisation; the transfer of power and authority to more distributed forms of delivery by central government.
- Delegation; the transfer of a function to some other agency but with ultimate responsibility remaining at the centre.
- Contracting for Services; the purchase of specified services for an agreed price.

Devolution is concerned with the transfer of authority, unlike the other three which are concerned primarily with delivery arrangements.

Central government may choose to devolve a service in order to:

- deliver **better** things
- better **deliver** things
- better **co-ordinate** things
- be better **informed** about local needs
- capitalise on **existing advantages** of local structures

None of the four means of conferring functions away from the centre encompass what local government now argues is the increasingly common phenomenon of central government simply ceasing to deliver an activity itself thus creating a pressure for it to be delivered or funded locally.

In practice, local government has tended to use the term "devolution" to have a much wider meaning than it has in specialist literature. We follow that practice in this paper, treating the term "devolution" as implying "shifting the power to take certain types of decisions from one level of Government to another lower level or to entities outside Government altogether, in a way which makes that lower level or outside entity an autonomous actor". The scope extends from what we call consensual acts of devolution where the higher and the lower level have formally negotiated a transfer of function to imposed or unintended instances of devolution where central government may simply have legislated for a function or created a vacuum by withdrawing from an activity.

The paper does not address devolution in a Maori context, though it is acknowledged that some of the more innovative initiatives occurring are in areas such as Maori welfare, health and land management.

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### 3. METHODOLOGY

The work has involved the following components:

- consideration of overseas experience, especially in the United Kingdom and Australia;
- an overview of the scope of New Zealand local government activity and its formal potential to undertake devolved activity (for example, sections 37K, 598 and 601 Local Government Act);
- approaches to some local authorities selected to provide a reasonable cross section as between urban and rural, large and small, and to Local Government New Zealand, the representative body for the sector. A copy of the standard letter which was sent to these organisations is attached in appendix one.
- approaches to a range of central government agencies which, from our knowledge of working in the area, were actively engaged in some form of transfer or sharing of a function with local authorities.
- an examination of a number of examples of devolution drawn to be

reasonably representative, both geographically and by type of activity; and

- drawing on our own experience and networks.

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## 4. CONTEXT : APPROACH

### Local Government

The local government attitude towards further devolution (in the sense in which that word is used in this paper) remains ambivalent, torn between a belief, on the one hand, that it has the potential to undertake a much greater role and a concern, on the other, that central government's motivation is primarily one of cost shedding.

In a 1994 document (see McKinlay 1994) the New Zealand Local Government Association was arguing Government should accept:

"That local government is the most appropriate level of government to recognise and effectively respond to local needs and aspirations".

The same document quoted from the European Charter of Local Self-Government that:

"Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy".

The cost shedding concern can be seen for example in a briefing paper from Local Government New Zealand in November 1996 for the newly elected Parliament stating expectations of central government including that:

- it pay rates or equivalent compensation to local authorities on central government land and properties;
- where local government acts as the agent of central government, [it should] provide us with the ability to recover our costs fully.

Local government's sensitivity on the question of costs of devolution was sharpened considerably in the early 1990's as the result of persistent public criticism by the then Minister of Local Government, the Honourable Warren Cooper, of local authority rates and charges. A number in local government saw this criticism as totally unfair, claiming it failed to take into account the significant additional costs local government was facing as a consequence of a series of measures, cost shedding and otherwise, which Government had imposed on local government.

A list of claimed additional impacts was drawn up by one mayor who had been particularly incensed by the criticism and adopted by local government as representing the sector's view (Report to New Zealand Local Government Association Management Committee 17.08.1993).

A review of the list shows a somewhat mixed bag, from GST (affecting all providers of goods and services but a particular point of sensitivity in local government which regards GST as a tax upon a tax) to the additional compliance costs resulting from sources such as the Resource Management Act, the Building Act, Sale of Liquor Legislation, and the (extensive) costs of complying with new reporting and accountability requirements.

The local government response to questions of devolution builds on long-settled apparent understandings between central government and local government to the effect that social service and income support<sup>2</sup> activities are properly financed from general taxation and not from rates. This was a strong theme during the 1989 Reforms of Local Government supported both by officials (OCCLG, 1988) and by local government (NZLGA, 1989).

Standing in contrast to this apparent sharp distinction between (at least) the funding roles of central and local government are provisions of the Local Government Act which point to a potentially significant role for local government in social services activities if not in income support.

Since 1989 the Local Government Act has stated the purposes of local government. They include:

- recognition of the existence of different communities in New Zealand;
- recognition of the identities and values of those communities;
- scope for communities to make choices between different kinds of local public facilities and services;
- for the delivery of appropriate facilities and services on behalf of central government.

Other sections of the Act have long given local government apparently wide powers. Thus section 598 of the Act gives councils powers to promote community welfare, either themselves, or by making grants of money or advances, or providing guarantees, on such conditions as they think fit for any organisational group or body of persons whose object or principal object is conserving or promoting the welfare of the community or of any members of the community. Taken in conjunction with the broad statement of purposes in section 37k this is a very broad charter indeed.

The breadth of the charter is supported by the structure of local government. Local authorities operate with a single Chief Executive whose responsibilities extend from employment of staff to "ensuring the effective, efficient and economic management of the activities and planning of the local authority". This places in the hands of the Chief Executive a holistic responsibility for the entire span of the local authority's activities including its relationship with the communities it serves.

## **Central Government**

In many respects, this can be seen as the defining difference between the local authority context and that of central government. The model which has emerged over the past 10 years of central government reform is one of a high level of autonomy for individual ministries or departments. Chief Executives enjoy very considerable autonomy. From a local government perspective, central government departments often appear as independent entities which function without any



obligation to work with each other or to ensure co-ordination of activities which, in practice, overlap<sup>8</sup>. There is little evidence of any concerted endeavour on the part of central government to consider in any systemic way either the appropriate level for the delivery of any given service or the benefits which might proceed from co-ordinating service delivery.

There are, however, signs of a gradual shift seemingly driven by a recognition that there are limits on the ability of a central bureaucracy/executive to determine and deliver the needs of and services for an increasingly heterogeneous society. In a speech delivered to the Local Government Association on 20 August 1992 the present Prime Minister, in her then capacity as Minister of Social Welfare, noted that issues of co-ordination and the need to ensure that centrally funded programmes meet local needs and priorities have not diminished, and went on to stress that the likelihood of duplication and overlap had created a greater need for social service strategic planning in localities than before.

A combination of fiscal constraints, and recognition that dealing with complex issues at a community level requires strategies for generating local support, as well as local co-ordination of government activity, has seen an increasing although still ad hoc emphasis on working at a local level with one or both of the objectives of co-opting / bringing forth local support and resources and achieving better co-ordination of the different government agencies working with the same clients.

From central government's perspective, there are good reasons why it may want to approach devolution with some caution. If one objective of a programme is to achieve consistency nation-wide in the application of (say) a regulatory framework, then this may argue for delivery through a single central government agency rather than through devolution<sup>9</sup>. Capability may also be an issue. There is a wide variance across New Zealand's territorial local authorities. This can be a very real obstacle to devolution. A decision to delegate a function to local authorities generally may carry with it the risk that the performance of some will fall beneath an acceptable level. On the other hand, selective delegation based on a central government judgement about capability may also be unacceptable.

Political risk is also a factor which central government needs to recognise. Devolving responsibility for potentially sensitive programmes to local government could result in the programmes being caught up in local politics with potential risk for the Government of the day.

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## 5. DEVOLUTION IN PRACTICE

Devolution in the sense of central government consciously empowering / requiring local government to undertake activities in the furtherance of central government's policy objectives is by no means a new phenomenon. The health inspection functions of local government are a prime example. These are exercised by local government, under statutory authority / direction as part of central government's public health function.

Many other of the statutorily based activities of local government are also quite explicitly devolved from central government as part of its policy objectives. The powers exercised by local government under the Resource Management Act and the Building Act are probably the two areas which most directly and obviously impact on the every day lives of New Zealanders.

They are at one end of the spectrum. Because they are statute based, their

establishment, and any change, inevitably involves at least a degree of consultation. If local government has any criticism of central government's devolution policy when exercised in this way, it is usually concentrated on two areas:

- lack of adequate guidance or definition of central government's policy objectives;
- failure to recognise and / or provide adequately for the costs of undertaking the devolved function.

Currently, the Resource Management Act provides the prime example of both these concerns. One unitary authority<sup>10</sup> Chief Executive commented to us -

"The Resource Management Act 1991 also provides an excellent example whereby central government has devolved a responsibility but has provided little guidance or assistance in the way of bringing down national policy statements, guidelines or strategies".

The report "Functions Devolved to Local Government and Costs Thereof" considered by the Management Committee of the New Zealand Local Government Association in August 1993 as part of its response to persistent ministerial criticism of local government costs commented -

"There is no recognition by the Government that the requirement on regions and districts to undertake preparation of their own statutory policies, in the absence of clear relevant national policies, imposes its own costs on local government"

and

"The requirement of the Resource Management Act on councils to consider alternatives, assess benefits and costs, and to gather information and monitor, also impose potentially and actually significant costs on local government".

Despite its weaknesses, however, statutory devolution at least has the advantages of:

- taking place in the open and with at least some level of consultation with local government (usually, as with the development of the Resource Management Act, very extensive); and
- making it reasonably clear where responsibilities lie.

The main interest in this paper is in devolution in its wider sense including:

- partnership initiatives where central government genuinely seeks to work with local government in the achievement of mutual objectives;
- co-option where central government seeks to use local government resources primarily in support of its own activities;

- unintended devolution, usually resulting from the withdrawal of a central government function or funding, where there is no specific intention that local government will fill the gap.

We look at examples of each of these in turn.

## **Partnership**

Perhaps the best known of what could be termed partnership initiatives is the Safer Community Council programme run by the Crime Prevention Unit within the Department of Prime Minister and Cabinet.

Under the Safer Community Councils programme, the Crime Prevention Unit will make available an annual grant of \$40,000, essentially to cover the cost of an Executive Officer and some support funding, together with a grant of between \$10,000 and \$35,000 to support project activity (the actual amount for each council is calculated using the Community Funding Agency's "needs indicator funding allocation model").

Safer Community Councils are sponsored by either a local authority or an Iwi. Membership will typically include a wide range of community groups and will also involve government agencies with an interest in crime prevention, most commonly Police, Corrections and Social Welfare.

There are now some 58 Safer Community Councils in existence. A quarter are chaired by mayors, half by councillors, and a quarter by other community people.

There are quite detailed compliance requirements including preparation of a crime prevention plan and a community safety profile. The sponsor assumes responsibility for receiving funding from the Crime Prevention Unit, paying the Safer Community Council and certifying to the Crime Prevention Unit that monies have been properly applied.

The intention is to support community based initiatives in the belief that crime is at least in part a local problem requiring local solutions. Despite the relatively supportive and hands off approach taken by the Crime Prevention Unit, the experience still seems to be one of high compliance costs and a concern that Government does not trust the local community to manage the resources passed over to it.

We found, also, that some of the local authorities we consulted believed that involvement had resulted in unanticipated costs on ratepayers - essentially, that the monies available from the Crime Prevention Unit were insufficient, thus requiring additional support from ratepayers over and above the commitment expected at the time the Safer Community Council was established.

## **Regional Road Safety Co-ordinators**

The employment of Road Safety Co-ordinators is a joint arrangement between communities, represented by local authorities and the LTSA. The New Zealand Road Safety Programme contribution to the employment of co-ordinators is a subsidy intended to cover salary only. Road Safety Co-ordinators are appointed to co-ordinate, facilitate and manage local efforts to address and identify road safety problems in their area. Their role is to assist and stimulate their communities as they develop a road safety culture. This is to be done with community groups and other organisations in accordance with the goals and targets of the National Road Safety Plan and Regional Land Transport Strategies.

The programme grew out of the Ottawa Charter of 1990. Funding for projects is approved centrally and funding is provided by central government. Co-ordinators are autonomous on a day to day basis and they actually report to the regional, city or district council.

The programme has grown to three hundred programmes and has plateaued due to the lack of additional funding at central government. The aim is now to make it sustainable to focus it around best practice, autonomy and innovation.

There is a specified process which the projects go through each year to get funding. LTSA undertakes this through regional offices working with local government prioritising and selecting the projects which go to central government. Once they get approval from central government they adjust the program to fit the funding.

Local government provide resources in kind. There is a tension as local authorities are reluctant to put in any money because they consider that there is already money in the road fund and the motorist is already paying more than enough in terms of petrol tax.

This programme is still at a relatively early stage in its evolution with tensions coming primarily from the LTSA's interest in operating it as a national programme on a competitive basis with local authorities wishing to see a greater measure of local accountability, control and certainty of ongoing support if they are to commit to it fully.

## **Co-option**

This is perhaps the most common approach currently employed by central government towards the involvement of local government in delivery of services. Four examples, one from the health sector, two which have been led by the Department of Social Welfare, and the emerging community wage scheme provide an idea of what has been happening.

## **Health: Community Representatives on Boards of Crown Health Enterprises**

Late in 1997 the Government acted on a ministerial objective of improving community responsiveness of Crown Health Enterprise Boards and involving local authorities in this process. The purpose was to respond to a perceived lack of community input into the work of Crown Health Enterprises.

After considering a series of reports from officials, Cabinet decided that two directors on the board of each Crown Health Enterprise should be appointed from persons nominated by local authorities within the district served by the Crown Health Enterprise.

The intention appears to have been one of legitimating the work of Crown Health Enterprises by demonstrating that they had an element of community representation on their boards.

The initiative received a very mixed response from local government. A number of councils declined to put forward nominations pointing out, quite correctly (and echoing what officials had actually told ministers) that they did not see directors, even if nominated by local authorities, as being capable of representing the community. Directors, as a matter of law, were required to act in the best interests of the company. For many local authorities this presented a fundamental

conflict of interest between director responsibility and the demands of community representation.

At a national level, local government was concerned at a different aspect of the policy. In a February 1998 briefing paper for the Prime Minister, Local Government New Zealand noted:

"Policies continue to be developed by central government agencies that, although requiring local government support, are developed in isolation without consultation or involvement in the policy making process. A recent example was the call on councils to nominate community representatives to CHE Boards. Local Government first heard about this measure, from the minister concerned, the day before it went to Cabinet for approval and had no opportunity to address it at a policy level".

## **From Welfare to Well Being**

This is a central theme of the work of the Department of Social Welfare, underscoring its commitment to assist income tested beneficiaries move from dependency on benefit to self-sufficiency.

As part of the strategy, the Department has sought to engage the support of a wide range of community interests, from business, to Iwi, to the voluntary sector to local government.

From the Department's perspective the strategy involves maintaining liaison through its local area officers with local authorities, community groups and others whom the Department believes may have a contribution to make to the strategy.

Local responses to the strategy appear quite varied. Some local authorities have been concerned that the Department has claimed credit for activities which were primarily local authority initiatives not departmental ones. Others have been disappointed at the lack of follow-through. One prominent mayor commented:

"You also mentioned initiatives such as "From Welfare to Well Being" and "Strengthening Families". The [blank] Council's experience of these two initiatives has not been particularly encouraging. Initiatives which have been proposed under these umbrellas, though initially encouraged, have not been responded to in a meaningful way. This has left the impression that such initiatives may be in large measure window-dressing rather than a serious attempt at local / central government partnership."

## **Strengthening Families**

This initiative has been led by the Department of Social Welfare primarily as a means of improving co-ordination at a local level amongst different agencies working with families. The purpose has been to avoid the all too common situation of a number of different agencies each trying to address some aspect of the problems being faced by a particular family but with no one agency having any kind of overview of the complete set of interventions.

The emphasis of the programme is in bringing together the local managers of the three main government departments involved (Health, Education, and Social

Welfare) together with related entities such as schools and hospitals. Endeavours are also made to involve voluntary agencies working with the same client group.

The process includes development of a protocol under which the different managers commit to the process which they undertake to follow.

From the Department of Social Welfare's perspective, the role of local government is relatively limited. In each area in which the programme is being implemented, the chief executives of the three departments brief local mayors and seek their leadership involvement to bring the key local players together. Once that has happened the process is then expected to proceed without any further involvement from local authorities (except to the extent that they may have a community service function which takes part in the co-ordination process in the same way as any other agency).

It is unclear whether local authorities have the same understanding. It seems more likely that mayors and their councils believe that the Department is seeking their ongoing involvement as the holders of the local democratic mandate to oversee the programme.

With both "From Welfare to Well Being" and "Strengthening Families" the primary lesson appears to be that of being clear about what is intended and ensuring that central government and local government share mutual expectations about the purpose of the programme and how it is intended to operate. In the words of Local Government New Zealand the point is to avoid the development of policies "in isolation without consultation or involvement in the policy making process".

## **Community Wage Scheme**

The Government as part of its new measures for assisting income tested beneficiaries intends that, where appropriate, beneficiaries be required to undertake 20 hours per week of community work. This is work for entities such as local authorities or voluntary sector groups.

The Government's intended contribution is the community wage itself (the primary benefit plus a margin of \$25).

The scheme has been developed without close consultation with local authorities (other than a series of semi-promotional visits by the Minister in charge of the scheme). Instead, there seems to be an assumption that local authorities as part of their contribution to their local communities will make work available and will meet the costs of doing so (supervisory costs, ACC levies, tools, transport, administrative support etc).

There appears to be very little enthusiasm, amongst local authorities, for involvement if the result is an additional cost to the ratepayer. The Director of Community Services in one rural local authority, after consulting his fellow directors, commented:

"My personal view is that most councils will be extremely reluctant to get involved in this area unless these issues are clarified." (The reference was to payment of costs.)

A major urban authority told us that it took a very firm line that it would not accept new functions which are properly those of central government without accompanying funding (but it also has reservations about tied funding). The specific question of involvement with the community wage scheme was about to

go before the Council's Recreation Committee. The expectation was that it would be rejected.

## **Unintended Devolution**

This is an extremely broad category. It extends from one-off responses through to strategies developed to deal with changing Government policy in a sector important to the community through to the development of broad-ranging strategies for managing not only the local authority / central government interface but more broadly the full range of impacts which central government activity (or lack of activity) may have within the district of the local authority.

The process is best described as evolutionary rather than revolutionary. In some local authorities it forms part of a very conscious and deliberate policy shift; in others it may have evolved without the Council ever stopping to take stock and recognise that it may be undertaking functions, possibly quite major, which were previously undertaken by central government, or compensating for the withdrawal of a governmental presence in the local community .

Some are relatively minor one-off initiatives such as the response by a number of local authorities to the withdrawal of the Ministry of Consumer Affairs' telephone complaints service. The immediate impact was an increased workload for Citizens Advisory Bureau. A number found that they were unable to cope with the increased workload in the absence of additional resources and approached their local authorities (a major source of funding for most CABs) for additional assistance. In the cases we were told of, this was granted with the local authorities concerned seeing the need to provide that support as yet another impact of central government withdrawal.

Perhaps the best example of a more substantive response is the increasing involvement by local authorities in health services advocacy and planning. During 1996 and 1997 one of the authors was involved in work with the Central Regional Health Authority reviewing the future of community health groups, community groups funded by the CRHA as part of its consultation procedures.

Virtually without exception, all of the 22 local authorities within the CRHA's district were actively engaged in health issues. Although this included conventional lobbying of politicians, the greater part of the activity of these authorities was policy-based research and advocacy with the objective of playing a role in needs assessment and priority setting.

A number of these local authorities were themselves assisting to fund various community based groups with a health service focus. Some had funded quite extensive surveys of local health needs with the objective of providing an overview of health status and relative needs.

When asked why they were engaged in this kind of activity the typical answer was that, with the withdrawal of formally elected or part elected bodies such as area health boards and hospitals (and education boards; a number of authorities were taking the same approach in this sector), the local authority was now the only democratically elected entity reasonably accessible to its citizens. This was compounded by the impact of the withdrawal of much of the former regional capacity of central government departments.

An indicator of how much this kind of activity is now seen as a core part of local government came from a discussion with one district council consulted in the preparation of this paper. When asked for examples of devolved activity (in the

sense the term is used in this paper) the initial response was to say that they were not engaged in any. When prompted by a reminder that they had been quite active in health services research and planning the response changed. Yes they had been and were undertaking quite considerable extra activity because their community could no longer look to central government (or perhaps no longer had confidence in central government). Not only had they carried out a major health survey; they were now well advanced in negotiating with their local hospital a joint health needs analysis project, something which they would not even have contemplated as recently as five years ago as a proper part of their activity.

Significant involvement in the health services area is now in practice an increasingly common part of the activity of virtually all New Zealand local authorities. Manukau City Council, for example, has for a number of years supported the Counties-Manukau Health Council and other community based health initiatives. Marlborough District Council has been playing an active part in the development of an integrated care initiative in Marlborough.

Some local authorities are now taking a much broader approach still to the impact of government services (or lack of them) within their communities. Cities like Manukau and Christchurch see their role as increasingly one of taking an overview of services within their districts and responding by a combination of filling critical gaps, developing initiatives (such as Christchurch's extensive involvement with employment initiatives) and above all seeking to co-ordinate the activities of central government and other agencies.

Manukau City Council has recently put a proposal to a number of central government agencies for a joint central government / Manukau City Council strategic initiative to "focus on the alignment of goals, strategies, resources, activities and programmes in pursuit of increased economic growth in Manukau and building stronger communities".

The stated rationale includes:

"It appears that all government agencies working in the Manukau district have their own respective strategies and indicators which impact on the city's residents."

"Two recent Government initiatives entitled "Wrap-Around" and "Strengthening Families" have unfortunately received community criticism due to the lack of consultation. On occasion this also occurs in respect of significant Council activities. Strategy for success therefore should be to completely align the efforts of all public agencies, including the Council and communication and involvement with the local community."

Christchurch City Council is also placing significant emphasis on taking the lead in co-ordinating public sector and voluntary sector activities within Christchurch.

As examples of current initiatives, the Christchurch response for this paper noted:

- The Field Workers in Schools project which involves the Council primarily, but with some support from the schools involved, and another Crown agency, funding a field worker to work within a geographical cluster of schools as the contact person for "social" cases that come to the attention of the school or other agency.



- Meeting with staff and the Police to discuss the common aspects of the Police and the Council's vision for where Council should be in the year 2001 to see what opportunities there are for co-operation and common action to achieve common goals.
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## 6. ASSESSMENT OF EXPERIENCE

### Local Authorities

Local authorities' experience with devolution, whether formal in the sense of by Statute, intended, as of an explicit Government policy initiative, or unintended as the result of a Government initiative, usually to cease an activity or withdraw funding, has made most of them extremely cautious. In a very real sense, many local authorities are torn between a belief that they need to play a greater role in areas which have traditionally been the preserve of central government, in order to improve outcomes for their communities, and a concern that this will result in increased costs for which they will be castigated both by their ratepayers and by central government.

The dilemma is summed up in the following comment from one local authority policy manager:

"The health sector experience has also made this local authority at least nervous about devolution. The particular concern is yes, they accept a well-funded devolution proposal from the Crown for the provision of services in the given area and all goes well for the first year. The health experience suggests that the problem comes in second and subsequent years where the load and requirements are increased and the budgets cut and this would leave a political body like the Council in an impossible situation. If they pull out of the devolution they end up in political trouble, but if they continue to provide they have to do so by increasingly "subsidising" this provision from ratepayer's funds."

Regrettably, this appears to have been a common experience. Earlier we cited the impact of the withdrawal of the Consumer Complaints Service offered by the Ministry of Consumer Affairs. Another example mentioned by one Council, but a recognised problem for a number, is pensioner housing. Many councils took part in this scheme on the understanding that they would build and manage pensioner housing, targeted towards elderly people with limited assets and income, and that central government's role was to provide low interest finance which effectively covered the cost of the housing.

In recent years, Government has increased interest rates to market. Local authorities have found themselves choosing amongst options which include:

- increasing rental (with only part of the increase covered by the accommodation supplement);
- subsidising rentals from rates;
- selling the housing.

None of these options are politically palatable. From the perspective of many councils, they entered into a long term commitment in good faith only to find that the rules have changed and they are left carrying the political cost.

At the same time, local authorities recognise that they are in an increasingly interdependent world. If they are to deliver the outcomes their communities seek, then they need to work closely with central government and its agencies.

One anecdote illustrates the point. Earlier this year the mayor of a medium sized New Zealand city chaired a meeting of government agencies and voluntary sector organisations active in the delivery of social services within the city. The meeting produced a very useful exchange of information, views and commitments to work together. Part way through the mayor turned to his community services staff who had organised the meeting and asked why they had not done this sort of thing before. Their response was that they did organise a meeting of voluntary groups on a quarterly basis. They had found that no-one would show up unless central government agencies were also involved.

Local government has found that perhaps its most important role, in relation to central government services, is providing the focal point for co-ordination, not just in the sense of bringing people together but in providing in support of that co-ordinating role the background research and information on the "state of the community" needed to aid people in working together and setting priorities.

Local government elsewhere has had similar experiences. An article in the December 1997/January 1998 issue of the Australian Municipal Journal<sup>11</sup> entitled "Partnership Farce in Co-funding" echoes some of the more pessimistic views expressed by local government in New Zealand. The article stressed the potential for Victoria's recently restructured local government to become the "context for an inter-governmental partnership between the state and local government in the planning, co-ordination and provision of human services".

It acknowledges a positive response from the Minister but then describes a departmental initiative (the Maternal and Child Health joint funding review) under which the department will cease funding councils but councils will be expected to maintain their contributions. The article concludes "... councils may have no option but to draw the curtain on the 20<sup>th</sup> century farce of "partnership" co-funding and to refocus on community service priorities more aligned with core responsibilities of community governments".

In England, the relationship between central government and local government has long been one under which central government has treated local government almost as a sub-set of its departmental structures with very tightly prescribed rules around funding and activity (admittedly a function of the fact that English local government is a major deliverer of social services and also substantially dependent on central government for funding).

In New Zealand, the present situation of local government appears to be one of a cautious willingness to engage, recognising that local authorities have a very different but complementary relationship with their communities from that either of the central government or of its various agencies. The principal reservation remains one of whether central government will recognise the different contribution local government can make and treat it as a partner rather than, as all too often happens, making decisions in isolation from local government.

## Central Government

The fundamental difference between central government and local government, and the approach which they take towards devolution, is the very different structure of these two arms of government. As already noted, local authorities generally take an holistic approach to their responsibilities. They have a single Chief Executive and are normally able to avoid the "silo" approach which now characterises central government policy making and service delivery.

There are signs through initiatives such as Safer Community Councils and Strengthening Families that Government is now starting to recognise this difference, and the potential which local government has to bring together local interests - whether voluntary sector groups or officers of central government departments - in ways which can be quite difficult for central government itself.

However, it is less clear whether central government understands that local government considers that it has a contribution to make over and above simply that of exerting community leadership if and when invited by central government to do so. Better use will be made of the potential which local government has to contribute to the effective delivery of central government programmes, if central government understands that most local authorities now see themselves as having a very real contribution to make in both the delivery and implementation of social service activities which have commonly been the preserve of central government. Local government's capacity includes:

- The ability to assemble and analyse both hard and soft data regarding the local community - one substantial side-effect of the local government restructuring of 1989 has been the development of a significant policy capability within most local authorities.
- The capacity to provide local leadership and co-ordination not just through the mayor but through the workings of the council itself and the activities which it undertakes.

At the same time, local authorities are increasingly conscious of the burden which involvement in what has traditionally been central government's areas of responsibility can impose on ratepayers. Local authorities incur constant criticism both from their own ratepayers (especially business groups) and from central government ministers, arguing that they should be reducing costs and confining themselves to their "core business".

Central government needs to understand that it cannot credibly, on the one hand, attack local government as inefficient or failing to reduce costs and on the other hand expect it to make substantial additional contributions to central government initiatives such as the community wage scheme.

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## **7. CONCLUSIONS: A WAY FORWARD**

### **Conclusions**

Outside traditional areas such as the regulatory role of local government, the practice of devolution from central government to local government is still relatively limited and occurs, most often, as a consequence either of central government withdrawal of functions or funding, or of central government seeking to impose additional responsibilities.

There is still comparatively little appreciation of the role which local government is

able to play in areas such as:

- policy development;
- co-ordination.

Nor is there a sufficient awareness of the conflict between the pressure on local authorities to reduce the burden on their ratepayers and the additional demands from central government for local government to undertake unfunded activity.

Perhaps the most significant issue, though, is the question of partnership. Historically, central government has treated local government as though it had relatively little contribution to make in the policy or delivery process, even in which go to the heart of the activity of local government. In contrast, local authorities see themselves as having a very real contribution to make, especially given the relative breakdown of close co-ordination between central government departments which local authorities see as a consequence of recent public sector reform. This is illustrated by the following comment:

"The carving up of government departments to give each a narrow focus, combined with an output based "contract" with their ministers does in the social area cause considerable difficulty. You will be aware of some high profile, well publicised cases of people with combinations of mental illnesses, psychiatric disorders and substance abuse problems who clearly looked at in total, are in need of serious treatment and residential care but because different agencies are responsible for different aspect of their total dysfunction they end up being nobody's responsibility. The equivalent in the social area, while less traumatic and much less well publicised, occurs all the time. This, in my view at least, is not only inefficient it is plain stupid."

The comment is a strong one. It reflects the fact that local authorities unlike central government agencies do have an holistic approach and are typically able to see the many different aspects of any given social problem.

Whilst recognising the different responsibilities of central government, they consider that they do have an equal contribution to make. The fact that they are all too often treated as a residual element in the policy process, rather than as a partner, can be seen as an opportunity missed.

On the other hand, it is equally important that local government recognise the risks which central government faces in any significant devolution. Questions of national consistency (where that is appropriate), capability and political risk are all ones in respect of which central government needs to be satisfied, something which is only likely to happen if local government itself understands the issues and develops means of minimising the risk.

Finally, there is now sufficient experience of the contribution which local government can make and of the concerns which it has, to suggest that central government should give serious cross-agency consideration to how best to capitalise on the potential local government offers for improving the quality, efficiency and effectiveness of service delivery.

One theme which is consistent amongst the various case study examples, and

which should be an explicit part of any central government reconsideration of how it might work with local government is the issue of trust - not trust in the moral sense of honesty but trust in the different sense of whether and to what extent one party can make reliable predictions about the likely future course of conduct of another.

The literature on the role of trust in organisations is discussed extensively in a 1996 paper by Michael Locke of the Centre for Institutional Studies at the University of East London (Locke 1996). His primary focus is on the role of trust in organisations rather than trust between organisations. However, the literature which he surveys includes much of the recent writing on trust within societies generally including trust between organisations and between citizens on the one hand and the state on the other. The common point linking the various writers is that trust is inherently embedded in individuals rather than organisations. When we speak of an organisation trusting another, what we are really speaking of is individuals in one organisation, perhaps because of their own experience, perhaps because of the accumulated experience of others in the organisation, having trust in individuals in another.

The writers relied on by Locke make the point that the essence of trust is the ability to make reliable predictions thus:

"Trust ... is a particular level of subjective probability with which an agent assesses that another agent or group of agents will perform a particular action *before* he (sic) can monitor such actions ... *and* in a context in which it affects his own actions .... When we say we trust someone or that someone is trustworthy we implicitly mean that the probability that he will perform an action that is beneficial or at least not detrimental to us is high enough for us to consider engaging in some form of co-operation with him" (Gambetta, D (ed) (1988) *Trust: Making and Breaking Co-operative Relations*, Oxford, UK, Blackwell, p217)".

and

"Trust entails a prediction about the behaviour of an independent actor (Putnam, R (1993) *Making Democracy Work*, Princeton, NJ; Princeton University Press, p171)".

The majority of the case studies cited in this paper involve situations where in one way or another local authorities were saying that either they could not with confidence predict the outcome of a proposed involvement with central government or that, in ones they had undertaken, their predictions were not fulfilled.

Prediction does not imply that one party can reasonably expect to know the future conduct of the other party, forever and under all circumstances. What it implies is that for some understood period of time - perhaps in terms of the expected duration of the relationship or the period prior to a substantial review - the one party can expect that the other party will act in particular ways unless there is some supervening factor which makes that no longer practicable.

It does mean that if central government wishes to look more to local government it needs to be clear about the nature of the relationships it intends to establish and the terms of its likely commitments. It also needs to be clear about the circumstances which might lead it to resile from any part of a proposed

relationship. Nothing can be expected to be unchanging; rather the point is that the prospect of change should be clearly understood at the time the relationship is established and any change should be consistent with that understanding.

Recognising that the building of trust relationships is inherently empirical - in a sense a series of experiments - Locke also discusses a methodology for developing a trust based relationship. The Centre for the Institutional Studies is based on the work of Sir Karl Popper. Locke advances Popper's problem solving schema:

P1 - TS - EE - P2

The starting point is a problem (P1) to which a trial solution (TS) is proposed. The solution is tested in practice and corrected (EE or error elimination). The problem is redefined (a new problem posited) and the process goes through successive iterations.

In essence, what is proposed here is a process of learning from experience in the conscious knowledge that this is what is taking place. It emphasises not just the learning but, equally importantly, the significance of one party's conduct as informing the other party's understanding of how the first party might act in the future.

## **A Way Forward**

The time is now appropriate for developing a consistent framework within which to consider the allocation of functions. This should be done with an open mind to the related but separate question of whether central government should in fact be seeking to allocate functions away from its own departments and agencies to local government (or for that matter the private or non-for-profit sectors). The purpose of developing a framework is to allow government and its advisors to make informed decisions on the potential costs and benefits and to provide, for the parties to whom those functions may be allocated, some assurance of the basis on which this will happen and some confidence about the future.

It should also provide, separately, a commonly understood means for managing the separate interests of government and the other party.

It requires a combination of clear rules of engagement and a willingness to take an open minded approach towards the assessment of cost and benefits.

Coglianesse and Nicolaïdis make the point that decisions about the allocation of functions are essentially matters of judgement driven at least in part by perspectives of what is appropriate and subjective evaluations of the expected benefits. They state their view as "Decentralisation can allow government to respond more effectively to variations in local needs and preferences; to lower costs of planning and administration; provide opportunities and incentives for policy innovation; and give citizens greater choice and voice in policy making. Centralisation, on the other hand, can permit government to address problems having cross-border (or spillover) effects; protect consumers against product risks; exploit available economies of scale; co-ordinate policies more effectively and promote equality and political homogeneity across a larger domain to reflect "shared values" (op cit p2). They go on to comment that "it should be apparent, however, that the theoretical advantages of centralisation and decentralisation counter balance each other, suggesting that the precise nature of an optimal allocation of authority may prove to be highly context-dependent. It may also suggest that optimality would be better conceived in a dynamic sense, allowing for changes in policy allocations over time".

One other factor, which they also emphasise, and which was a main theme in many of the case study examples cited in this paper, is the question of legitimacy. For government to have the freedom it may want to allocate functions in an optimal way, it is important that the parties to whom those functions may be allocated can have confidence in the basis of the allocation. This means clear and shared understandings of what is being transferred and of who will be expected to bear what costs. It means assuring the parties who may receive that allocation that they will not be exposed to the political risk which can arise, for example, if government reduces its financial commitment once a programme has become well established in new hands.

There is one final point worth making. As we have seen, the traditional practice in the New Zealand, where functions have been allocated away from central government, is for this to be done on an agency by agency basis with the "rules of engagement" being developed by the parties to the particular transaction.

If the potential for allocation of functions away from government is to be realised, then it is essential that there be a "whole of government" approach to the development of the appropriate framework. It will not serve government's if a series of different approaches are developed by different agencies each of whom go knocking on the door of local authorities presenting potentially conflicting messages about what is involved.

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## References

Australian Local Government Association, "Taxation Reforms for Effective Local Government", submission to the National Tax Reform Summit, Canberra, 3-5 October 1996

Coglianesi, C and Nicolaïdis, K, (1997), "Securing Subsidiarity: Legitimacy and the Allocation of Governing Authority", Paper in the John F Kennedy School of Government, Harvard University, working papers series

Dion, Honourable Stéphane, "The Quality of Public Service in the Canada of Today and Tomorrow", address to the Institute of Public Administration of Canada (National Conference - IPAC 1996)

Horner, Tim "What has Central Government Moved Out Of and Given to Local Government and Why", Address to Local Government Association Seminar 14 June 1994

Jansen, Sir Ross, "Decentralisation - Including Devolution and Degulation", Address to New Zealand Local Government Association Seminar, 11 July 1995

Local Government New Zealand (1997), Briefing Paper to the Minister of Social Welfare the Honourable Roger Sowry

Local Government New Zealand (1998), Briefing Paper to the Minister of Local Government the Honourable Tony Ryall

Local Government New Zealand (1998), Briefing Paper to the Prime Minister Honourable Jenny Shipley

Locke, M (1996) "Trust" in the Governance of Organisations: Using a Rational Model", Centre for Institutional Studies, University of East London, Working Paper

65

McKinlay, P (1990), "Redistribution of Power? Devolution in New Zealand", Victoria University Press for the Institute of Policy Studies, Wellington

McKinlay, P (1994), "The Big Picture - Local Government Reform - What Was Ordered and What Has Been Delivered", A Paper Delivered to the IIR Conference: Community Consultation for Effective Local Government Performance, Auckland, May 1994

New Zealand Local Government Association (1989), Statement on Reform of Local Government Funding, Wellington

Reform of Local and Regional Government: Funding Issues (1988), Officials Co-ordinating Committee on Local Government, Wellington

Walter, David (1995), "Devolution or Dumping? Has Central Government Devolved Additional Functions to Local Government or Are We Simply Being Dumped On?", Address to New Zealand Local Government Association Seminar, 11 July 1995

Willis, J (1998), "Partnership Farce in Co-funding", Australian Municipal Journal, Vol 77 No. 1118

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## FOOTNOTES

1. Technically, a public good has two principal characteristics. It is "non-rival" in consumption which means that one person's consumption does not detract from another's opportunity to consume the same good. It is "not-excludable" which means that it is difficult to prevent people from consuming the good (a prerequisite to being able to charge individual consumers on the basis of their consumption).

2. The current and ongoing debate over tertiary education provides a good example.

3. Typical examples of these three are national defence, control of air pollution and street lighting.

4. Indeed, this emphasis was so strong in the early stages of the reform process that it resulted in a backlash from local government which came close to derailing the whole reform endeavour.

5. This does not, however, provide a definitive answer to the separate question of whether local government should be thought of as a creature of central government or primarily as an expression of local democratic will. It is possible, for example, to draw something of an analogy between local authorities and limited liability companies. Both are creatures of statute in the sense that central government provides the legislative framework without which they could not exist. Both on the other hand can be seen as expressions of a collective purpose, in the one case to provide a form of local governance in the other case to facilitate the management of major commercial enterprise.

6. In recent years there has been a shift to more a purposive approach with amendments to the legislation drafted in broad terms, but the legislation is still substantially prescriptive in the overall impact.

7. The distinction may be less easy to make in practice than it is in principle. For example, is a local authority's policy to hold down charges for recreational facilities (such as swimming pools) or libraries to facilitate access by low income citizens purely a recreational or cultural issue or is it an, admittedly minor, income support measure?

8. One local authority officer consulted in the preparation of this paper commented "My assessment is that a lot of the motivation from the local government end arises from a perception that Government spending in the local community is not well targeted and that there are some significant deficiencies. So some of the local government successes in this area arise from the simple act of providing forums for the co-ordination of the activities of local government, community groups and government agencies, the aim being to provide for better co-operation and communication".

9. A point specifically mentioned by one of the local authorities consulted in the preparation of this paper



which noted officers "also questioned [the Council's] role with some functions. Council currently has an active role, in the health arena with infectious diseases, and with dangerous goods, where it enforces national regulations. This may be better carried out by a national body as there is no local discretion with these activities".

10. A unitary authority is a territorial local authority which also exercises, within its district, the powers of a regional council.

11. The official journal of the Municipal Association of Victoria.

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