

16 September 2019

Steven Bailey
Inquiry Director - Local government funding and financing
NZ Productivity Commission

Dear Steven Bailey

Ministry of Health submission on New Zealand Productivity Commission Local government funding and financing: Draft report 2019

Thank you for the opportunity to provide comment on the draft report on Local government funding and financing.

The Ministry of Health has a key interest in the ability of local government to perform its core functions under a variety of statutes and legislative instruments. This includes the Health Act 1956, which establishes a duty on territorial authorities to improve, promote and protect public health (s. 23). The Health Act also provides for territorial authorities to perform a range of regulatory functions and creates obligations in relation to the management of nuisances, sanitary works (in particular drinking water), infectious disease control and the licensing of camping grounds and hairdressers. Also, territorial authorities have specific responsibilities under The Burial and Cremation Act 1964 which creates specific responsibilities in relation to cemeteries and crematoria. In addition a number of other statutes provide territorial authorities with significant responsibilities for buildings, food safety, local alcohol policies, public transport, land use, urban development, air quality, discharges to the environment, sanitary services assessments and emergency management.

In combination, this very broad range of functions make local government a significant decision-maker and a major provider of services in matters that directly and indirectly influence health outcomes and community wellbeing. For these reasons, the Ministry wishes to ensure that territorial authorities and organisations they control are well resourced, well governed and fully able to deliver the many essential services and other functions for which they are responsible.

Environmental health

The discussion of funding in the report does not address fee recovery as a source of funding in any detail. This is relevant to the revenue local authorities collect from licensing and registration

functions under the Health (Hairdressers) Regulations 1990 and the Health (Registration of Premises) Regulations 1996.

Health protection bylaws, such as for tattooists, beauty therapists and massage therapists for example, have an important role in setting minimum standards for providers in the workplace and also the protection of consumers from injury and infectious disease. We are aware that 12-13 local authorities currently have such bylaws but the majority do not. This situation exposes providers and consumers to public health risks as a result of variable controls. The role of bylaws, codes of practice, fact-sheets and other health and safety information in preventing workplace accidents and infections has not really been considered in any detail. Yet some territorial authorities (eg, Auckland Council) put significant effort into providing advice to service providers and the public in relation to the public health risks they face.

Territorial authorities play a role in supporting Medical Officers of Health in their infectious disease management functions under Part 3A of the Health Act 1956 and the Health (Infectious and Notifiable Disease) Regulation 2016. In some cases, territorial authorities have tried to minimise their existing statutory responsibilities. In such cases the issue of concern is not that central government has given local authorities yet more responsibilities with no additional funding but rather the opposite; some local authorities are trying to resile from their existing statutory responsibilities.

Under the Sale and Supply of Alcohol Act 2012, administered by the Ministry of Justice, the considerable time licensing inspectors can devote to their enforcement and inspection roles is able to be redressed by fees. However, other local authority functions under the Act, such as developing, consulting on and dealing with appeals regarding local alcohol policies, can be time consuming, costly and ultimately ineffective – for example, there are currently no local alcohol policies in place.

Health officials support the report's focus on the pressures climate change will pose for both central and local government and the need for closer partnerships and participation in each other's policy development processes. However, the report does not suggest any option specific enough in this regard to further this debate. For example, one option would be to adopt an approach similar to that applying to Law Commission proposals for law reform, which requires government to go through several procedural steps to ensure the Commission's reports are sufficiently considered and more likely to be adopted. Another is a reworking of the Cabinet Manual processes to ensure that local government is more closely involved in proposals which might affect territorial authorities, or for which territorial authorities have relevant expertise and responsibilities.

As well as seeing the solutions being in greater collaboration with, and funding from, central government, another option would be to incentivise or require greater cooperation, coordination and collaboration between territorial authorities. While some territorial authorities enter into resource sharing arrangements, particularly smaller councils seeking help from bigger councils, this is not necessarily used to its fullest extent.

Housing

The Paper touches on significant issues around the supply of land for housing and the infrastructure to support housing. Local government performance and its interaction with central government in this area is likely to affect the future shape of high-growth regions. In particular, the standard of the housing itself, the associated public and active transport options, three waters infrastructure, as well

as parks and recreational facilities all have a direct bearing on health and wellbeing of the community. Good performance by high-growth area territorial authorities in the face of considerable housing pressures could lead to improved housing and associated infrastructure and so contribute to improved health outcomes and communities.

Drinking water

The report notes on page 11 “The current regulatory regime imposes weak disciplines and incentives on council-led water suppliers to meet safety and environmental minimums...”. This is incorrect. Under Part 2A of the Health Act, maximum penalties are up to \$200,000 and up to \$10,000 a day for continuing offences. Furthermore, Part 2A has recently been amended to remove the qualifier of “all practical steps”, making compliance with the drinking water standards mandatory.

Although possibly making an indirect reference on page 243, the report does not recognise that territorial authority decision makers may defer costs for long lived assets (like water reticulation systems) in favour of keeping rate increases down. Maintenance costs can be deferred for some time before it makes a noticeable impact on the level of service. However a 'bow wave' of costs builds up making it even harder in the future to catch up. The need to balance budgets including funding depreciation is important.

The report supports amalgamation of small suppliers into Council Controlled Organisations and suggests this as a compulsory last resort for suppliers that continue to perform poorly. This suggestion would only carry benefits if the expertise and resources of the amalgamated supplies were shared, with the smaller supplies gaining access to the technical, operational and funding resources available to them collectively.

Thank you for the opportunity to provide comment.

Yours sincerely

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