
February 2018 Monitoring Report

Introduction

Local government is becoming more confident the new government is quite genuine with its expressed intention of wishing to see a much more collaborative working relationship between central government and local government. The Minister is clear that the four well beings will be reintroduced into the Local Government Act. There is an expectation individual government agencies will be expected to take a much more consultative approach when working on issues which could impact on community well-being.

It's an approach which foreshadows a much more significant role for councils not just in undertaking their traditional roles, but in working with their communities to help shape the way in which services are designed, targeted and delivered.

As discussed in our January 2018 monitoring report, there will be some quite significant challenges in working through how best to discharge the restored role of promoting community well-being. This monitoring report considers another aspect of the changing central government/local government relationship, whether there should be an equal expectation on local government to work more collaboratively with central government in support of its objectives. We do this by speculating on how the two tiers of government should approach addressing the recommendations of the Havelock North Water Inquiry Stage 2 Report ("the Report") and in particular the recommendation that "the Government should make a decisive and definitive assessment of whether to mandate, or persuade, suppliers to establish aggregated dedicated water suppliers".

Background to the recommendation

The Report clearly favoured some form of consolidation with the objective of establishing a relatively small number of large dedicated suppliers. Arguments included "The basic proposition was that dedicated suppliers may be able to enhance the safety of drinking water by taking advantage of economies of scale, obtaining access to greater resources, developing greater competence, and producing better accountability."

Whilst the Report's authors were cautious in terms of spelling out just exactly the scale which should be required, or the form that a dedicated supplier should take, they were clearly favourably impressed by the experience of Watercare in Auckland (which both owns and manages water and wastewater services for the whole of Auckland) and Wellington Water (which manages but does not own water and wastewater services for the cities of Wellington, Lower Hutt, Upper Hutt and Porirua).

It is also clear from the Report's discussion of a number of smaller water suppliers that its authors have very considerable reservations about the capability or capacity of smaller suppliers to deliver water services which satisfy modern public health requirements.

What the Inquiry's Recommendations could mean

It was not part of the Inquiry's brief to specify any particular structural arrangements for water services. Accordingly, its recommendations were directed to the Government as the party responsible for leading decision-making on what changes should take place. The Report stated:

If the Inquiry's positive recommendations in relation to dedicated suppliers are accepted, it will be a matter for Government to consider the nature and extent of any changes needed to set up dedicated supply entities. Given that the improvements in drinking water safety would accrue largely, if not exclusively from the dedicated *management* and *operation* of the supply, it may be that no ownership or structural changes are needed in order to set up, and reap the benefits of, a dedicated supply entity. Wellington Water was cited as an example of a dedicated supplier that involved no legislative change or change of ownership of assets.

The Report also recognised the existence of considerable opposition within the local government sector to any change, observing:

The Inquiry received submissions from local government entities indicating substantial opposition to any alteration in the current control and management of drinking water supply by councils. In the Inquiry's view, this sector opposition, coupled with a review of the long, but largely unsuccessful, history of this issue in New Zealand, indicate a need for a fresh and objective assessment. If it is accepted that the concept of dedicated suppliers has merit, firm leadership by Government and decisive action would be warranted. The potential for the issue to be simply shelved for another long period is significant, and the Inquiry believes that the time has come for decisive and definitive steps to be taken.

In essence, the Inquiry has done three things:

- Found, based on an abundance of expert evidence, that the present structural arrangements for the management and operation of water supplies in New Zealand generally fall well short both of best practice internationally, and of the minimum standard required to ensure safe drinking water.
- Left it to the Government to determine what structural and other arrangements should be put in place whilst noting experience such as that of Wellington Water suggested that there might not be any need for ownership or structural changes (that is changes going beyond a shared services approach).

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- Acknowledged long-standing opposition within the local government sector to any significant change, and indeed identified this as a major factor in the continuing underperformance of New Zealand's water services.

The Implications for Central/Local Government Relationships

An important question for local government is whether a more collaborative approach imposes obligations primarily on one party only, namely central government, or whether the obligation is a more general one of each party working collaboratively to understand the other party's objectives and priorities and how it can best assist the other party in achieving them.

The Report and its recommendations will require local government to address this issue directly. It is clear from submissions to the Inquiry that many if not most councils have significant reservations about any changes to current arrangements. More evidence of resistance to change can be seen, for example, with the history of the so far unsuccessful endeavour to create a joint CCO to manage water and wastewater services among some Waikato councils, and in local government opposition to successive endeavours by the previous government to legislate a framework for what would have amounted to compulsory regionalisation of water and wastewater services (opposition which it is fair to say partly reflected the less than satisfactory process followed by the then government, and inherent problems with the legislation itself).

Central government has the primary responsibility for public health. This includes determining good practice and standards which will deliver the quality of service required to achieve the government's public health objectives. Safety of drinking water is clearly an important public health objective and, from the findings in the Report, an objective which is far from being realised for significant numbers of New Zealanders.

Local government responses to the Inquiry's recommendations suggest that a number of councils either do not accept the Inquiry's findings, or believe that despite concerns expressed about issues of scale, capacity, capability et cetera, they can somehow lift their performance without significant change in how they manage their services. Some may not even have read the report and recommendations before rejecting its findings.

A recent issue of the Southland Times reports the reaction of the Mayor of Invercargill in these terms:

One of the most contentious recommendations was for the government to "make a decisive and definitive assessment" on whether to strip councils of responsibility for drinking water and creating a dedicated independent water supplier to manage these instead.

Invercargill mayor Tim Shadbolt said the council was "quite alarmed" about the recommendation.

"The suggestion is we're going to have to sell off our water reticulation systems to international water companies," he said.

Other Southern councils were equally concerned although putting forward different reasons. It is likely also that many other councils are similarly opposed.

Central government is faced with a very real and genuine dilemma. The findings it has in front of it from the Report are unequivocal. A significant proportion of New Zealand's water services are failing to deliver safe water to users. The Inquiry's expert witnesses were effectively unanimous in seeing at least part of the reason as being the relatively small scale of a number of service providers. The Report's authors clearly expect that, unless issues of management and operation are addressed to ensure that service providers have adequate scale, and are invariably delivering water to acceptable quality standards, there is a very real risk of further large-scale events of waterborne infection as serious as or worse than the Havelock North outbreak. As well there is an expectation that as many as 100,000 New Zealanders will each year fall ill from the water they drink.

Central government will also be aware from the Report if not otherwise that resistance to change has a long history (which in part may result from the way in which successive governments have sought to bring about change). The question it confronts is whether working collaboratively with local government it can bring about changes in the management and operation of water services sufficient to ensure that all New Zealanders have access to safe drinking water supplies, or whether it will have to consider seeking change through legislation.

The latter approach raises the question of whether the government could command a majority in the house to legislate for change. With the evidence the Report provides, it might be able to make the case to its coalition and support partners that, if local government is not prepared to work collaboratively to put the necessary changes in place, then legislation is essential to manage a major public health risk. On the other hand, especially if local government were opposed, this government might find as its predecessor did that it simply cannot command the necessary majority.

In a way that is beside the point. The real issue which local government needs to consider is whether it is reasonable to expect central government to be genuinely collaborative in working with local government, and to require its agencies to change the ways in which they work, without reciprocating. Is there a genuine risk that a failure on the part of the local government sector to facilitate what must be seen as necessary change to the management and operation of water services will ultimately be seen by central government as a rejection of the spirit of collaboration?

This is going to require a whole of sector approach and it will be critical for local government to understand collaboration is a two-way street. Whether local government as a whole can work with central government to put in place practical solutions to the issues identified by the Report could be the single issue which determines the nature of central government/local government relationships for years to come.