

# Local Democracy Today and Tomorrow: The Emerging Role of 'Non-Traditional' Entities of Local Governance



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# **Local Democracy Today and Tomorrow - the Emerging Role of 'Non-Traditional' Entities of Local Governance**

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## **Introduction**

The focus of this paper is on the emergence of non-traditional participants seeking to engage with communities through local governance processes. Its contention is that we are on the cusp of an emerging and potentially transformational approach to the theory and practice of local governance, and to an understanding of how best to facilitate central/local intergovernmental relations.

At the heart of the argument is the proposition that at least in local or community democratic practice there is a need to rethink our understanding of governance. Rather than (or perhaps as well as) being understood as encompassing the way in which the governing board<sup>1</sup> of an entity, or an entity itself, should undertake its activity so as to best discharge its role, governance should now be seen as "a collaborative approach to determining a community's preferred futures and developing and implementing the means of realising them. In practice it may or may not involve one or more of the different tiers of government, institutions of civil society, and private sector interests." (McKinlay et al 2011a p5.)

The focus is much more on the needs and preferences of communities<sup>2</sup> and much less on the formal constitutional or legal powers and limitations which constrain or empower the activities of formal institutions of government. On this approach 'community' is the node around which different practices of governance evolve.

The paper draws almost exclusively on experience from within developed economies primarily within the Commonwealth, but also US experience. The author's hope is that this experience will provide examples which can be drawn on in less-developed economies, especially where there is the potential for non-traditional entities of governance to provide both capacity and capability which may still be lacking within formal institutions of government.

### *The status of local government*

In Commonwealth jurisdictions, and a number of others, local government is seen as very much constrained by central government decision-making on both policy and legislation. It is very common to describe councils as "creatures of statute"

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<sup>1</sup> In this context the term 'board' should be understood to include the elected members of the local authority, the Minister or Ministers responsible for a government agency, the trustees of a foundation or trust, and other persons exercising a directorial role in respect of an entity part at least of whose functions have a public or quasi-public component.

<sup>2</sup> Defining the term "community" or "communities" is an extraordinarily vexed task. Leistner reporting on the Portland experience describes a process through which the City Council has established a set of criteria which the Council will apply in recognising self-identifying communities. As a practical solution to a complex problem of definition this has considerable appeal.

with the implication that they have no separate inherent jurisdiction or legitimacy apart from that conferred through legislation.

This view can obscure an important truth about local government: individual councils have a statutory monopoly over the delivery of local government services within their area of jurisdiction. Despite Tiebout's (1956) well-known views on contestability - that people will choose their local authority jurisdiction based on the mix of services and taxes it offers - transaction costs and other obstacles effectively mean that most people, most of the time, have no choice over their local authority, the services it provides or the cost they are required to pay through property tax or other means in return for those services. An important consequence is that local authorities lack the feedback loop which entities operating in contestable markets face - loss of market share as dissatisfied customers shift to alternative providers. The significance of this should not be underestimated. Among other things it means that too often both elected members and officials will not understand the extent to which they may be losing the confidence, trust and support of the communities they serve, and those communities, in turn, rather than exercising proactive choices to address their concerns, will simply become disaffected and disengaged and typically with no practical immediate means of dealing with their concerns.

#### *A preliminary comment on decentralisation*

The question of the level at which responsibility should be held for any particular public sector activity has been a theme in public administration for many years. The principle of subsidiarity is well entrenched in dialogue within the European Union.

McKinlay (1990) identified three different ways in which a higher tier of government may respond to an interest in more localised control:

- Decentralisation - government shifts decision-making from a central office to a regional office, or a regional office to a local office.
- Delegation - the holder of formal legal authority authorises another party to exercise that authority (but retains the power at any time to resume the authority).
- Devolution - the power to take certain types of decisions is shifted from one level of government to another lower level or to entities outside government altogether, in a way that makes that lower level or outside entity an autonomous actor.

Each of these options (and for that matter subsidiarity) by necessary implication addresses a situation in which authority is held within a centralised structure and the question at issue is whether and how that authority should be held by a less centralised structure.

The UK government's *Open Public Services* White Paper (quoted more extensively at page [5] below) expresses its approach to the issue as "We want the control of public services to be as close to people as possible. Wherever possible we want to decentralise power to the individuals who use a service."

In a sense, this is to look at decentralisation as taking place within a closed system in which the higher tier of government has both the legal authority and the practical power to determine the level or levels at which authority is exercised, and initiatives taken. This paper addresses the seeming evolution of a

different phenomenon in the governance sphere: the emergence of non-government entities with significant ability to shape governance at a local or regional level independently of any decision on the part of a higher tier of government.

The question for higher tiers of government becomes one not of exercising the power to determine at what level of government any particular authority and competence should be held, but one of considering whether its practices, especially in terms of the regulation of local government, may be impeding the development of significant and positive shifts in the nature of governance, especially when those shifts rely at least in part on local government being able to play a leadership role in respect of the communities it serves.

#### *Layout of the paper*

The paper first provides an overview of developments in understanding local democracy and community governance, and then considers four separate trends: the emergence of new forms of non-statutory governance at a local level, the increasing tendency of higher tiers of government to work directly with communities, the development of community banking in Australia as a unique but replicable form of community governance, and the potential for significant trusts and foundations to play a pivotal role in community governance. It then concludes by considering the implications of these trends for the future of local government.

### **Developments in Understanding Local Democracy and Community Governance**

In this section the paper draws substantially on extensive literature reviews from two reports addressing, respectively, the evolution of community governance in Australia (McKinlay et al 2011b) and the “civic revival” in the United States that is re-connecting community members with local decision-making and civic life in their communities (Leistner 2013).

#### *McKinlay et al*

This literature review took a broad overview of recent thinking about the nature of government and governance, drawing on a range of research from the developed Commonwealth, and from North America in particular. It began by considering the conventional view at the end of the 20<sup>th</sup> century noting that in their 1992 book *Reinventing Government* Osborne and Gaebler described governance in these terms:

“Governance is the process by which we collectively solve our problems and meet our society’s needs. Government is the instrument we use.”  
(Osborne and Gaebler, 1992:24).

In 2001 the OECD listed the eight characteristics of good governance as:

It is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making.

Both of these descriptions reflected the conventional view that governance describes a form of institutional behaviour, rather than a process through which

people engage with others - including institutions of government - to share in making decisions that affect them. Kjaer, looking at governance from the perspective of the role of national government, draws a distinction between old and new governance:

Inherent in the old governance is a traditional notion of steering by national governments from the top down. The new governance has more to do with how the centre interacts with society and asks whether there is more self-steering in networks. (Kjaer, 2004:11.)

In England, significant rethinking of the nature of governance, and the way in which governments interact with the communities they serve, came into play with the election of the Blair-led Labour Government in 1997. That government enacted the current enabling legislation for local government in England and Wales, the Local Government Act 2000, which introduced the 'power of well-being' - empowering councils to undertake any activity they believed would promote the well-being of the communities they served.

The government also promoted the establishment of Local Strategic Partnerships (obligatory for councils which received Neighbourhood Renewal Funding, optional for others). An LSP was a body which "brings together at a local level the different parts of the public sector as well as the private, business, community and voluntary sectors so that different initiatives and services support each other and work together" (ODPM 2006:6). The partners in an LSP were "expected to act strategically to deliver decisions and actions which join up partners' activities across a range of issues, enabling each of them to meet their own targets and goals and tackle cross-cutting issues more effectively." (ODPM op. cit.)

A succession of policy iterations, under first the Labour Government and then the Conservative/Liberal coalition governments, saw a gradual refining of policy on working with communities, through Total Place, to the Big Society and now to Localism, with the government's Open Public Services White Paper released in 2011 stating:

We want control of public services to be as close to people as possible. Wherever possible we want to decentralise power to the individuals who use a service. But where a service is used by a community collectively, the control over services needs to be exercised by a representative body. In these circumstances we are clear that the principle should be to decentralise power to the lowest appropriate level. For many services, this will mean the community groups and neighbourhood councils to whom power is decentralised, while for others it may be local authorities and other elected bodies...

This shift in emphasis was complemented by extensive work on the part of academics which included Robin Hambleton's now well-known description of the distinction between government and governance:

Government refers to the formal institutions of the state. Government makes decisions within specific administrative and legal frameworks and uses public resources in a financially accountable way. Most important, government decisions are backed up by the legitimate hierarchical power of the state. Governance, on the other hand, involves government plus the looser processes of influencing and negotiating with a range of public and private sector agencies to achieve desired outcomes. A governance perspective encourages collaboration between the public, private and non-profit sectors to achieve mutual goals. (Hambleton 2004:50.)

McKinlay et al (2011b p21) find a number of researchers attributing a growing interest in community governance to increasing disenchantment with the conventional structures and practices of government:

Robin Hambleton (2004) and Geoff Gallop (2006), among others, explain the increased emphasis on community governance as a response to diminished citizenship created by the new public management approach and the growth of managerialism. The move to reinvigorate notions of civil society, citizenship and democracy were linked to concerns that existing models of government were inadequate (Gaventa, 2006; Denhart, 2007). It is also reflected in the influence of leading political scientists such as Robert Putnam (1993) who wrote about social capital and importance of a 'civic community' if a democracy is to work.

Another factor, recognised among others by Haus & Sweeting (2006) and Schaap et al (2009), is the different ways people now relate to local government - as electors, as consumers, and as citizens who want to share in making decisions which affect them. An illustration of the shift comes from the blog of the general manager of a northern beaches council in metropolitan Sydney, Australia commenting on the responses to a residents' satisfaction survey:

*What has surprised the council about the survey results is the fact that residents appear to be less concerned about what I would call the 'traditional' activities of local government – and much more interested in what could loosely be termed participatory democracy. The survey findings go on to say that out of ten drivers of satisfaction – what residents really want – the top two were access to Council information and support and community involvement in decision-making. Development came third, domestic waste fourth and perhaps most surprising of all, maintaining local roads came seventh.*

In Canada, Don Lenihan at the Ottawa-based Public Policy Forum has undertaken extensive work on new ways of engaging, observing "the growing influence of social media and a deepening disenchantment with the established order have been incrementally eroding trust in institutions for more than a decade now. This has manifested itself in a myriad of ways in Canada, including large numbers of citizens turning their backs on government and the democratic process." (Lenihan 2012:3) Lenihan has been one of the early advocates for co-design, an approach which seeks to bring the agency or agencies delivering a service or services (council, government agency) and the communities in which those services will be delivered together, to consider how best services should be designed, targeted and delivered.

*Leistner*

Leistner (2013) provides a comprehensive overview of recent literature and research addressing local democracy in the United States. In his introduction he comments:

Since the 1980s, academic researchers and local governance reformers have advocated for a shift away from the traditional top-down, expert-driven approach to governance and toward a governance model in which government leaders and staff and community members work more as partners in shaping the community and in local decision-making.

His extensive literature review begins with "communities across the United States are experiencing a 'civic revival' that is reconnecting community members with

local decision-making and civic life in their communities.” He then goes on to observe:

Since the 1960s, many researchers have warned of a decline in democracy in the United States. They cite declines in traditional forms of political involvement, such as voting and participation in traditional political parties....They write about the increase in the “professionalisation of politics” in which a “politics” is carried out by politicians, professional lobbyists, and experts and is separate from the civic activities carried out by the general citizenry in local communities....Community members not only have been disengaging from governance and politics, they also have been disengaging from each other.

He cites Thomson (2001) posing, as the central question for academics and practitioners who are seeking to bolster civic society:

What forms of organisations and activities have the potential to bridge the yawning gap between citizens and their governments?

Other themes from Leistner’s literature review relevant for this paper include:

- Leighninger (2006) writes that “citizens seem better at governing, and worse at being governed... ” Many community members resent what they see as an “adult-child” relationship between government and the community. Local leaders who try to make decisions in this old way often “are faced with angry, informed, articulate citizens” who are more able to oppose government actions. Leighninger found that “local leaders are becoming tired of confrontation and desperate for resources”.
- Chaskin (2003) suggests that the conception of governance shift from the traditional focus on “governmental decision-making and the wielding of political authority” to include the structures and process that define relations between civil society (including the private sector, community organisations, and social movements) and the state.”
- Berry, Portney and Thomson (1993), based on a study of citywide community involvement programmes across the nation, wrote that “voting does little to build a sense of community... Rebuilding citizenship in America means that reform must move beyond getting more people in private voting booths to getting more people to public forums where they can work with their neighbours to solve the problems of their community.
- Cooper, Bryer and Meek (2006) write that traditional public administration culture and practices act as major barriers to effective community involvement in the work of government.
- Cooper (2011) states as the “de facto power of the bureaucracy” increased dramatically, “citizens were increasingly confronted by a technical professional role definition of the administrator that preclude the need for their lay input.” This “professionalism of administration established formal barriers to anything like sustained civic engagement.”
- on the subject of capability, Morse (2012) raises the issue of “how communities can build capacity for collaboration and engagement.” He observes “Local government leaders may have a strong *commitment* to citizen engagement and collaboration, but success, ultimately, is dependent upon the *capability* and *willingness* of citizens, groups and

organisations to be engaged partners in the governance process.” He concluded that “as local governments look to promote more citizen engagement and collaboration, they will need to simultaneously work to build the capacity of citizens to do so.”

- Chaskin (op. cit.) emphasised the need for organisations seeking to work within community to recognise that often community organisations operate “in a context that is often already well-populated with a range of associations, organisations, and crafted coalitions that would also claim - in particular cases or around particular issues - to speak for an act on behalf of the neighbourhood and its members.”

## **The emergence of new forms of non-statutory governance at a local level**

In this section we provide an overview of the emergence of different forms of community or local governance not as subsidiary institutions of government, but as community based initiatives sometimes but not always developed in collaboration with a local council of some form.

In England two NGOs, Action with Rural Communities in England (ACRE) and Action for Market Towns, have between them provided support for the development of some 4000 community-led plans over the past 25 years.

ACRE’s website (see <http://www.acre.org.uk/rural-issues/community-planning>) has this to say of community planning:

Community planning is one of the most important tasks any rural community can undertake. Long before the term ‘localism’ was adopted by government, rural communities were already taking control and deciding on what was best for them. ACRE and its Network has promoted self-determination, via community plans, for rural communities since their inception.

Community-led planning has always been at the heart of rural communities; whether it’s a Parish Plan, Community or Village Design Statement or a Neighbourhood Plan. The ACRE Network has continued to adapt and provide support and resources to communities to ensure they can produce high-quality plans that meet the needs of all members of the community.

ACRE encourages the communities it supports to work closely with their local council, but it remains central to community-led planning that it is locally controlled. Indeed community-led planning is described as “a step-by-step process, that enables every citizen to participate in, and contribute to, improving the social, economic, environmental and cultural well-being of their local area. It relies on people coming together locally, researching local needs and priorities and agreeing a range of different actions which help to improve their neighbourhood.”

### *New Zealand*

Porirua City is, in New Zealand terms, a medium-sized City Council and is located immediately to the north of Wellington, the capital city. It is primarily residential, with a mix of communities of very different ethnic and socio-economic composition.



One of the Council's seaside communities, Plimmerton, was instrumental in the establishment of its Village Planning Programme. Leveraging off the Local Government Act 2002 requirement for local government to consult with its communities, in 2003 the Plimmerton Residents Association approached the Council for assistance to develop a village plan. In 2004 the first 'village plan', the Plimmerton Village Strategy, was presented to Council. The strategy detailed residents' aspirations for their community. It was developed through an extensive community consultation process involving 23 street meetings and more than 300 residents.

The Council has taken a flexible and enabling approach to the development of village planning. It will offer support to local communities where there is a community group, often a residents association, interested in taking the lead.

Eleven of the Council's 16 villages now have village plans either in place or under development. They assist communities identify their priorities, and provide an important source of input for the Council in developing its own plans. The Council's website provides a detailed overview of the operation of village planning. See <http://www.pcc.govt.nz/Community/Community-Projects/Village-Planning-Programme>

#### *USA*

Leistner (op. cit.) provides a detailed overview of Portland, Oregon's 40 year history of developing a network of resilient neighbourhood associations (and associations of identity) covering the city's entire population of over 600,000 people. It is a history that demonstrates both what works and what doesn't, highlights the potential for conflict especially if the objectives and priorities of residents on the one hand and elected members and officials on the other differ (especially over the appropriateness of citizen input into decision-making), and how over time a culture of citizen participation can be embedded.

Despite its 40 year history, Portland's system of neighbourhood associations is still very much 'work in progress' especially in terms of the degree of authority exercised by neighbourhood associations as compared with elected members and officials.

#### *More generally*

Each of the three examples cited in this section could be seen as fitting relatively comfortably within a pattern of governance still largely controlled by the local authority. Community-led planning, village planning and neighbourhood association networks all typically work quite closely with the related local authority. In practice, there are significant benefits from doing so both in terms of residents' ability to influence decisions about 'their place' and providing a valuable additional source of input for a local authority for its own decision-making. The same can also be said of a number of other emerging forms of participatory democracy such as participatory budgeting (see <http://www.participatorybudgeting.org/>) and co-design (see Lenihan op. cit.).

Each can be seen somewhat differently, as the visible expression of and a positive outlet for a deep-seated wish many citizens have to be part of decisions that affect them and 'their place'. In a sense this can be seen as the opposite side of the coin from the disenchantment with democratic politics identified by a number of the researchers cited in the two substantive literature reviews called on for this paper.

Local government, and for that matter higher tiers of government, can look at these developments as good evidence of local governments themselves being responsive to their communities. Alternatively (or perhaps as well) they can see them as evidence of the likelihood that where a vacuum exists, ultimately some means of filling it will emerge. They should also however recognise that these are examples where councils have explicitly or implicitly understood the importance of a monopoly provider of local government services being open to recognising the importance, despite their legislative privileges, of responding to the growing interest of people and communities in taking part in the decisions which impact on 'their place'

### **The increasing tendency of higher tiers of government to work directly with communities**

This section draws on examples from England, Australia and New Zealand.

In England, local government has a very substantial role in the delivery of major social services, a role underpinned by substantial but declining central government funding. In contrast, in both Australia and New Zealand local government has only a very limited role in relation to social services. In Australia, local government typically has a role in the provision of early childhood education and in some services for older people. In New Zealand traditionally all social service provision has been a central government responsibility although many councils, over the years, have ventured into areas such as community development and occasionally some provision in support of social services where community needs have been pressing, and government provision has not been adequate (as an example, some councils have funded the establishment of health centres and/or purchased residences to attract doctors to the locality).

For the purposes of this paper, the relevance of the English experience is the potential for a government which had previously worked through or in partnership with local government to bypass local government and instead work directly with individuals or communities. In Australia and New Zealand the relevance is broadly the same in terms of higher tiers of government seeking to work directly with communities, but in these two countries not by changing the way that services formerly delivered through local government may now be delivered, but by choosing to build relationships directly with communities rather than working through or in partnership with local government.

#### *England*

March 2007 saw the release of the final report of the Lyons Inquiry into Local Government<sup>3</sup>. In remarks accompanying the release, the Inquiry's author, Sir Michael Lyons, stated:

I believe that local government is an essential part of our system of government today. Local government's place-shaping role - using powers and influence creatively to promote the well-being of a community and its citizens - is crucial to help improve satisfaction and prosperity through greater local choice and flexibility.

In my final report, I call for a new partnership between central and local government. This needs to be based on changes in behaviours from all

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<sup>3</sup> [www.lyonsinquiry.org.uk](http://www.lyonsinquiry.org.uk) The inquiry was primarily into local government in England as much (although varying) responsibility for aspects of local government in the United Kingdom has been delegated to the Welsh, Scottish and Northern Ireland assemblies respectively.

tiers of government to achieve a stronger relationship - creating a shared ambition for the future. Central government needs to leave more room for local discretion and recognise the value of local choice; while local government needs to strengthen its own confidence and capability, engage more effectively with local people, make best use of existing powers, and stop asking for central direction.

Implicit in Sir Michael's remarks is the view that it is local government that has the primary responsibility for the well-being of its communities and it is for central government to leave more room for local discretion - in other words to recognise the leadership and decision-making role a local authority should have in respect of the well-being of the communities it serves.

Notably, Sir Michael reported just before the Global Financial Crisis (GFC). The response in a number of jurisdictions, especially in developed Commonwealth countries, has been a marked shift in fiscal policy with a growing emphasis on austerity. This has been reflected both in the growing emphasis on cost reduction (most notably in the reduction of central government funding for local government in England), and on looking for different ways of delivering services capable of achieving the desired outcomes at a lesser cost.

In England this built on but also changed the emphasis of the approach successive governments had been pursuing, since around 2000, to achieve greater collaboration at a local level in the management of public expenditure. At the centre has been the present coalition government's Localism policy. This has included:

- Trials of what is known as community budgeting with the objective of bringing together all public spending within a given area on defined services.
- The enactment of the Localism Act 2011 including certain rights for communities to bid for or challenge to take over assets or services.

Both initiatives are still in their relatively early stages. Each carries with it at least the implication of an intention on the part of central government to work more directly with communities rather than through or with local government.

In 2011 the Department for Communities and Local Government released the government's *Community Budgets Prospectus*<sup>4</sup> inviting proposals for a number of pilot projects, both for 'whole-of-place' community budgets intended to cover the area of an entire local authority, and for neighbourhood community budgets.

In respect of 'whole-of-place' the prospectus was silent on whether this would represent a shift from working with local authorities to working directly with communities (perhaps at this stage because of the scale involved). However in respect of neighbourhood community budgets it was much more explicit, stating:

The Government wants to go further in supporting areas to test the possibilities and limits of co-commissioning by getting support into the local community so that residents can play a fuller and more equal role in a co-commissioning approach. It is interested in transforming the way that local public services are designed and managed, and learning how this can be replicated on a wider scale. This means Whitehall, local public service commissioners and communities committing to work together to co-design

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<sup>4</sup> <https://www.gov.uk/government/publications/community-budgets-prospectus--2>

a more community-based approach to transforming local services, developing proposals for neighbourhood budgets that are ambitious and clearly shaped by the local community.

This was consistent with the government's statements of principle in its Open Public Services White Paper which included:

We want control of public services to be as close to people as possible. Wherever possible we want to decentralise power to the individuals who use a service. But where a service is used by a community collectively, the control over services needs to be exercised by a representative body. In these circumstances we are clear that the principle should be to decentralise power to the lowest appropriate level. For many services, this will mean the community groups and neighbourhood councils to whom power is decentralised, while for others it may be local authorities and other elected bodies such as Police and Crime Commissioners. Services might be provided directly, such as a parish council taking responsibility for the community library; or they might be commissioned, such as a local council using its new public health powers to pay a social enterprise to help cut local obesity rates. In each case we believe that the closer this decision-making power is to the people affected, the better. **So this is the second principle of open public services: power should be decentralised to the lowest appropriate level.**

In June 2012 the Department for Communities and Local Government published *Community Right to Challenge: statutory guidance*<sup>5</sup>. The Ministerial Foreword set out the government rationale, including its view that local authorities do not have a monopoly over service delivery:

Communities rightly have high expectations of local services that offer excellent value for money. But local authorities do not have to have a monopoly over service delivery in the area to ensure excellent services. Nor do they have to have all of the good ideas for where improvements can be made. The most creative authorities welcome innovative ideas from communities about how services can be reformed and improved to better meet local needs, and work with groups who believe they can run services differently and better.

The community right to challenge paves the way for more communities to help shape and run excellent local services. This might include making services more responsive to local needs, offering additional social value outcomes, or delivering better value for money. It may act as a springboard for radical re-shaping of services, or simply trigger small changes that will make a big difference to the quality of service communities receive.

The guidelines provide detailed rules on how the community right to challenge may be exercised, and the criteria that should apply. More critically, the guidelines also make clear what will result from a successful challenge: the community does not automatically then become entitled to take over delivering the service and receive the associated funding. Instead, the local authority is then required to go through a public procurement process open to any potential provider (in part this reflects the requirements of European Union procurement rules). There is no guarantee that the community group which initiated the challenge will be successful at the procurement stage; it's entirely possible that the right to challenge will become in practice a trigger for privatisation, rather than for greater community involvement.

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<sup>5</sup> <https://www.gov.uk/government/publications/community-right-to-challenge-statutory-guidance>

To date there has been very little attempt to use the community right to challenge. It is difficult to determine whether this is because of inherent complexity, or an awareness of the uncertainty regarding the outcomes of a challenge. Would the community group have a reasonable prospect of being the successful bidder in a contestable procurement process, or would the service be taken over by one of the major outsourcing companies which have built significant businesses in taking over public services in the UK?

So far, neither the interest in community budgeting nor the creation of new rights such as the community right to challenge have seen any significant shift of power and authority away from local government either to communities or to other parties. However there is growing evidence that changing the way services are delivered could offer very significant savings, an important motivation for a government in times of austerity.

As one example, in 2013 the Local Government Association commissioned Ernst & Young to estimate the potential savings if the community budgeting approach were adopted nationwide. The EY report (Ernst & Young 2013) concludes:

The potential five-year net benefit of Community Budgets is £9.4 billion-£20.6 billion. The net one year annual benefit is £4.2 billion-£7.9 billion of a one year annual addressable spend of £107.1 billion.

This conclusion is highly conditional. Ernst & Young note that there are a number of pre-conditions, at both the local and national levels, that would need to be satisfied. They include matters such as local socio-economic conditions, capability and the willingness/capacity of national government to engage effectively at the local level. Despite these conditions, the suggested size of the potential savings is by itself a good argument for continuing the initiative.

Other policy areas provide further evidence of a commitment to bypassing local government where central government believes that the result may be better outcomes. The government's initiative to promote the conversion of local authority controlled schools to independent academies (typically operated by some form of not-for-profit entity) has seen a major transformation. According to the Economist for 11 October 2014:

Under Michael Gove, a reformist education secretary, the coalition sought to speed up reforms, boosting the number of academies to about 4,000, almost 20 times as many as in 2010. That means about two-thirds of all English secondary schools now control their own staffing, curriculum and budgets.

Arriving at a definitive judgement on whether the present coalition government's objective is to work directly with communities wherever possible, bypassing local government in the process, is extremely difficult. First, it is clear that quite different drivers operate in different areas of policy - with education reform being an obvious example. Secondly, any judgement is complicated by the complexities of coalition politics. It seems clear that quite often government decisions are not the decisions that would be made if it were left entirely to the majority partner in the coalition, but rather reflect the need to maintain coalition relationships, and also as the next general election approaches, the need to strike a balance between party ideology and objectives on the one hand and electability on the other.

## *Australia*

Co-design is a term which encompasses approaches to the design, targeting and delivery of social services that seek to tap in to the knowledge, networks and potentially the commitment of residents/service users. The Australian Federal Department of Human Services has been a pioneer in exploring the potential of co-design as a means for improving the design, targeting and delivery of the services for which it is responsible. It has done so drawing on the work of Don Lenihan, Vice-President Engagement, for the Ottawa-based Public Policy Forum.

Lenihan & Briggs<sup>6</sup> (2011) provide an overview for Australia of the potential for co-design, setting this in the context of recent thinking from the UK, Canada and Australia on the reform of public sector service delivery and drawing on Lenihan's extensive work on co-design. The preface to their article contextualises co-design as:

Traditional service delivery treated the public as passive recipients of government programs and services. The 'citizen-centred' revolution gave the public a clear voice in service improvement by tying it to client feedback, such as satisfaction surveys. Co-design is intended to extend the role of the public and invite them to contribute to the design of the services. It can lead to further involvement with the public also participating in production of services in the future.

The article was written as part of the Department's consideration of the potential of co-design to contribute to its own work, which included a pilot project undertaken in Association with the Municipal Association of Victoria representing local government within that state.

The project occurred across regional and urban sites in Victoria and aimed to provide the department with the opportunity to better understand the needs within the community and then to work together to identify local solutions to local issues. The project explored how the department can join with other levels of government and non-government organisations to deliver better services to the community and individuals, and how to test public engagement as a model for co-design of services at the strategic planning level.

The Department undertook its own evaluation (Department of Human Services 2012). The evaluation makes it clear that the purpose of the pilot was to test "a way of engaging and collaborating with the community and stakeholders".

Among the positive outcomes the evaluation lists were:

- the opportunity for the three levels of government and community agencies to be 'at the table' discussing local issues
- an opportunity for the department to participate in local planning processes
- understanding the role that local government networks provide in accessing the local community services sector
- building on the critical networking role played by councils in their local communities
- a different and new opportunity for stakeholders to discuss local issues

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<sup>6</sup>Lynelle Briggs at the time of writing was the CEO of Medicare Australia, a division of the Department of Human Services.

- residents valuing their participation in the project and having the opportunity to influence government and community service organisation services
- establishing new contacts and networks for participants.

The evaluation reports positively on the experience of the departmental people involved: "For the department, the effectiveness of the Prototype has to be measured in terms of the immediate impact of the workshops themselves, but also the extent to which they generated lasting benefits in service delivery or community relations. All of the participants who were interviewed considered that the Prototype had been highly successful."

The following finding clearly reflects the views expressed by departmental participants:

One of the unexpected findings was that a majority of participants expressed the view that the workshops had changed the way they thought about service delivery. There were several reasons for this:

- Being forced to think through problems in simple and non-technical language meant the process generated new insights.
- The different perspectives at the table created an environment where participants were able to widen the scope of discussion and venture into other ideas which would have previously not been considered within the group's mandate.
- Departmental staff were not put in a position where participants turned to them for answers; instead, they were in the unusual and welcome position of being able to reflect on ideas generated and not respond immediately.

The Department's very positive experience working in partnership with local government in order to develop closer relationships with communities could have been expected to result in the Department seeing local government as a natural partner in any further initiatives to work more closely with the communities the Department serves. Clearly Lenihan himself thought so, reflecting in a later work on the Victorian pilot project (Lenihan 2012):

On the content side, the project avoids tackling big policy issues head-on. Instead, it links policy discussions to the practical task of improving services within the community.

In this approach, local governments are seen as the gateway to the public. They are well positioned to serve as intermediaries between the public, on the one hand, and Federal and state/provincial governments, on the other, for at least two reasons. First, most municipalities already have highly localised programs, ranging from Neighbourhood Watch to heritage committees, which can be tapped to mobilise and engage the public on a wide range of issues.

Second, the public's strong sense of membership in and commitment to their communities can be a powerful incentive for citizens to participate in dialogue and, ultimately, commit to action. People are far more likely to get involved in a dialogue that immediately affects their families, friends, homes, neighbourhoods and workplaces than one based on broad policy

issues, such as poverty, climate change or innovation. They are also far more likely to make a serious commitment to action on local issues.

Instead, the Department then moved to establish a series of 10 pilot projects under the banner of *Better Futures Local Solutions* in different council districts across Australia, working directly with communities rather than through or in partnership with local councils.

The guidelines for the pilot<sup>7</sup> state that the measures aim to improve the circumstances of people experiencing high levels of disadvantage by supporting them to strengthen family capacity to participate in education and employment, prepare for or gain employment and increase their earning capacity.

A local advisory group (LAG) was established for each trial site. Membership was drawn from a wide variety of community organisations with typically only one representative from the Council. Each LAG was required to develop a strategic plan. A review of the plan for Greater Shepparton<sup>8</sup> in Victoria as an example supports the view that this was very much community governance in action, being developed for the most part independently of local government. This suggests that despite the Department's positive experience of working in partnership with local government from the Victorian co-design pilot, the Department has determined that the better option, on work which goes to the heart of the governance of communities, is to work directly with communities rather than with local government.

### *New Zealand*

As part of the New Zealand government's *Better Public Services* initiative, designed to improve the effectiveness and efficiency with which government services are delivered including greater inter-departmental collaboration, the Ministry of Social Development which is responsible for the government's welfare programmes has been leading what are known as the social sector trials.

The following description of the social sector trials<sup>9</sup> is taken from the Ministry's website:

#### **What are the Social Sector Trials?**

The Social Sector Trials involve the Ministries of Education, Health, Justice and Social Development, and the New Zealand Police working together to change the way that social services are delivered.

The Trials test what happens when a local organisation or individual co-ordinates cross-agency resources, local organisations and government agencies to deliver collaborative social services.

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<sup>7</sup> <http://www.humanservices.gov.au/spw/corporate/government-initiatives/resources/bfls-lsf-guidelines-part-a-program-overview.pdf>

<sup>8</sup> <http://www.humanservices.gov.au/spw/corporate/government-initiatives/resources/shepparton-lag-strategic-plan.pdf>

<sup>9</sup> See <http://www.msd.govt.nz/about-msd-and-our-work/work-programmes/initiatives/social-sector-trials/>



## What is the model?

At the core is:

- either a contracted Non-Governmental Organisation (NGO) or an employed individual in place in these communities to lead a programme of work using cross agency resources
- NGOs and individuals planning social service delivery for young people, managing relevant contracts and funding that are within the scope of the programme, overseeing resources-in-kind, developing networks, engaging with the community and influencing social services outside of their direct control (like statutory services)
- the establishment of Social Sector Trial local advisory groups in each location – representatives include iwi, Council, government agencies, community representatives and social service providers, that oversee the direction and priority setting, engage community ownership and involvement
- the development and implementation of a Social Sector Trials Plan (or [Action Plan](#)) for each location.

The six original social sector trials sites were selected by the Ministry from amongst some 20 different districts which had been initially chosen for assessment on the basis of socio-economic deprivation.

The Ministry was asked why the choice the Ministry made on who should lead each social sector trial was between employing an individual, or contracting with an NGO; why not the local council? From the response the principal reason appears to be a perception that councils lack the requisite capability/capacity, at the heart of which was the need for an individual or individuals with the skill sets, experience, understanding and networks which in the Ministry's view would be required to provide effective leadership for a project requiring the capability to bring a number of different social services together in a 'wraparound' approach to supporting individuals and families.

As a first impression, this could be seen as a somewhat puzzling response as most if not all New Zealand local authorities employ people in roles described, for example, as "community development" or "community engagement". The Ministry's judgement appears to have included not just a 'moment of time' assessment, but a view about the ability to deliver over the expected term of the social sector trial. It will also have included a judgement about whether the background of the council staff involved gave them the necessary skills and experience to lead a trial focused on the coordinated delivery of services the primary responsibility of a range of government departments, as this is not normally a council role under current New Zealand practice. In addition to this, the dilemma about council involvement will also have been only partly about whether current staff had the necessary capability/capacity, but also about on-going resilience – what might happen if the council no longer had staff with the requisite capability/capacity. This, of course, begs the question of why working with councils to assist them develop and maintain the requisite capability/capacity was not seen as an option.

### *Commonalities*

Common to each of the three countries considered is a clear belief within central bureaucracies that somehow it is higher tiers of government that have a greater capability to work effectively with individuals and families in helping find appropriate solutions to the needs of all requirements they may have in respect of government's social services provision (including education, health and social housing as well as welfare and benefit services) and to maintain their capability both over time and in the face of changing conditions.

All of these examples are relatively recent in time and have not yet been the subject of significant research to validate the impression that these are indeed cases of central agencies, for whatever reason, determining to bypass local government in order to deal directly with communities. Nonetheless they raise very serious concerns for anyone who believes that local government should be the natural leader in terms of working with its communities on how and by whom publicly funded services should best be delivered.

### **The Development of Community Banking in Australia**

What is now the community banking network of the Bendigo and Adelaide Bank Ltd began some 15 years ago at a time when Australia's major banks were rationalising their banking networks, leading, ultimately, to the closure of over 1000 individual branches. The potential, and in many cases actual, impact on rural and regional Australia was profound. The loss of banking services to a small community can undermine the viability of remaining businesses as people go to the nearest town with a bank in order to undertake their banking business, and do the other business at the same time.

At the time the then Bendigo Bank Limited had relatively recently converted to registered bank status and listed on the Australian Stock Exchange. It was a relatively small regionally-based bank in a sector dominated by the so-called "Four Pillars": the four major banks that still dominate the Australian banking sector.

Bendigo saw the branch closure strategy of the major banks both as an opportunity and as a challenge which was consistent with its own history. The opportunity was to develop a new model for a sustainable branch network in (initially) rural and regional Australia. Bendigo had begun as a local building society established by community leaders as a means of enabling people working in Bendigo's gold mining industry to finance the purchase of their own homes.

By the standards of the day, that was an enlightened initiative in community strengthening. The challenge for Bendigo, building on that history, was to respond to the threat to the viability of a number of communities posed by bank closures. Its then chief executive had a strong personal view that the way in which the financial sector had been developing was disempowering many communities, removing control over decisions about community owned savings to distant metropolitan centres. At the same time he was also conscious that as chief executive of a listed public company, he had an obligation to shareholders to generate at least adequate returns on their investment.

The opportunity he saw was to combine the Bendigo Bank's need to grow its network and client base, with an approach to branch development that would share risk between the bank and the communities in such a way as would make Bendigo's branches viable when a conventional branch banking model would not.

Bendigo undertook extensive research on different forms of community-based and/or depositor-owned banking services (credit unions, a number of European cooperative banks). None of these satisfied the objective of optimising community control over local banking services as, although they all had some form of customer or community-based ownership model, they were also largely hierarchical in terms of decision-making. Bendigo instead went on to develop its own community franchise model under which individual branches would be owned within the communities they served by locally owned companies structured to provide widespread ownership, governed by a Board of Directors drawn from the local community, and with the profits from the branch operation shared between shareholders, and distributions to the community (typically 20 shareholders/80 community after provision for reserves).

The genius of this solution lies in its recognition that the bank was involved with two entirely separate businesses. The first was the development and support of a series of banking services relying among other things on the careful building and management of a strong balance sheet and underpinning banking capability. The second was the local delivery of those services. Applying an incentive-based analysis, it was clear to the bank that the best way of ensuring successful service delivery was to place the incentives for delivering success where the activity itself took place - in the community. Likewise, the development and support of a series of banking services backed by a strong balance sheet and capability was very clearly a corporate function so incentives needed to be at a corporate level.

The result has justified the analysis. Individual branches have begun to earn quite significant profits, a number now have substantial amounts available for annual distributions, in some cases as much as \$500,000. The bank itself has grown faster and more profitably than its competitors.

The challenge which success at the community level has posed for branches is how to determine who should receive a share of the money available for distribution. Gradually branches are starting to become involved in community dialogues to determine what the community's priorities actually are, so that distributions can be targeted to those needs which the community most values.

The exploratory interviews with community bank branches conducted as part of this author's research on the Bendigo experience suggest that branches which are making this shift see it as a natural evolution of their traditional grantmaking role. In practice, however, they appear to making a quite fundamental shift from responding reactively to requests for specific grants (often focused on issues such as deferred maintenance or equipment replacement for local organisations), to considering proactively how best to utilise the funds they have available in order to improve outcomes across their communities as a whole. This is a change that repositions them from being just another source of grant funding to a potentially significant player in community governance, helping to shape the futures of their communities through the impact their funding decisions can have.

The network as a whole is still very young, with more than half of existing community bank branches having been in existence for six years or less, so their practice is still evolving and cannot yet be described as mature. However, the way the network as a whole has been developing in recent years demonstrates a very strategic approach to building a strong community governance culture and capability. This is illustrated by the way the Bank's community strengthening team describes the future direction of the community banking network:

FROM	TO
Strengthening Community	Transforming Community
Keeping capital in the community	<b>Growing</b> capital in the community
A local investment option for locals	Investment in <b>local enterprises and innovation</b>
Source of revenue for local projects	Source of revenue, plus <b>leadership and innovation</b>

This description of future direction reflects the reality that much of the activity of the community banking network itself in recent years has been focused on supporting individual community bank branches in working more closely with their communities, and quite consciously recognising that their role is applying the funds they have available for distribution in ways that will best help achieve their communities' preferred futures.

This does include working with local councils. Relationships are typically close, but also emphasise the greater connectivity and flexibility community bank branches actually have. It's not uncommon for a community bank branch to invite the community to a meeting to discuss future priorities, and pack out the same local hall the Council might use to invite residents and ratepayers to a discussion on future priorities and get an attendance of five or six, most of whom are from the Council.

As well as building what is unquestionably Australia's most effective community governance network, the bank has also been extremely successful as a commercial business. Much of the success has been driven by the rapid growth of the community banking network with more than half of the bank branches being community owned. Progress is illustrated by the following slide taken from a recent presentation on the Bendigo experience:

Founded on the Bendigo goldfields in 1858.
A single branch until 1978.
Bank conversion in 1995 (\$1 billion in assets).
600 (and growing) retail outlets and 2000 ATMs.
Rapid growth and acquisitions.
More than \$53.5 billion in assets under management.
1.4 million customers.
More than 80,000 shareholders.
First <b>Community Bank®</b> branches established mid-1998.
<b>Founded to create a prosperous community.</b>

The Bendigo model is a fascinating combination of an unashamed focus on the commercial success of the listed bank and a deep-seated commitment to ensuring the success of the community bank network as a network of locally controlled branches and a major player in the funding and governance of their communities.

## **The emerging role of trusts and foundations in community governance**

This section draws primarily on New Zealand experience as the jurisdiction which provides the clearest recent example of the use of trusts or foundations as a vehicle for restructuring 'ownerless' public entities typically undertaking a business or businesses within a defined region or district. Reference is made to similar entities in other jurisdictions and to recent US work on the accountability of major donor created foundations. It should also be noted that research undertaken recently within the *Philanthropication through Privatisation* project (see [www.p-t-p.org](http://www.p-t-p.org)) has identified a number of other foundations or trusts which have resulted from various forms of public sector restructuring and/or privatisation. The PTP project is advocating that a proportion of future privatisations, especially in the developing world, should be committed to foundations for purposes of community benefit, thus making the mandate/community governance aspect of trust/foundation decision-making increasingly significant for policy purposes.

New Zealand's 1984 general election resulted in a government committed to broad-based economic reform which was seen as essential to address deep-seated imbalances in the New Zealand economy, and persistent under-performance which was threatening the ability of the government to support many of the social programmes that were seen as an inherent part of the New Zealand 'social contract'. This included a comprehensive reform of the financial sector in which the government was deeply involved as owner and or guarantor, and a restructuring of all aspects of the electricity industry - again to replace government dominated entities with entities structured on more commercial lines. In both instances the prevailing viewpoint was that commercial structures, commercial skills and commercial accountability were essential prerequisites for improving performance in industries that were significantly underperforming, at what was believed to be very considerable cost both to taxpayers and the economy at large.

### *Community trusts*

New Zealand had a network of regional savings banks that were 'ownerless' and governed by trustees appointed in terms of the controlling legislation. Their deposits were government guaranteed. From time to time individual savings banks distributed part of their surplus for 'community purposes' within the region they served. However these distributions were never significant and, unlike (say) Italy's regional savings banks, they were not an integral part of funding significant local infrastructure or activity.

In the late 1980s the government decided New Zealand's regional savings banks should be restructured as companies, and the government guarantee withdrawn over a period of time. This raised the question of who should own the resultant companies. At the time most of the regional savings banks were seen as having relatively little value<sup>10</sup> and in any event the government's focus was not so much

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<sup>10</sup> This was partly a result of a government requirement that a significant proportion of total deposits be invested in government stock. Rampant inflation in the mid-1980s had seen interest rates rise to

on capturing the value as on creating more efficient structures and terminating the exposure it had through the guarantee.

The savings banks themselves argued that the ownership of the new companies should be vested in trusts created to hold the income and capital for the benefit of the communities they served. This argument was accepted and the share capital of the new companies vested in a series of community trusts.

The newly corporatised trustee savings banks proved to be much more successful than anticipated, partly because government policy brought inflation under control thus reversing the loss on government stock holdings, and partly because the local franchises these banks had built up proved attractive to major commercial banks, with the ownership of all but one of the new companies eventually passing into overseas ownership at a significant premium.

The legislation governing the trusts provides that:

“Property vested in, or belonging to, a community trust must be—

- (a) held on trust to be applied for charitable, cultural, philanthropic, recreational, and other purposes; and
- (b) applied for purposes that are beneficial to the community principally in the area or region of the trust.

(2) The purposes of a community trust are deemed to be charitable for the purposes of the application to a community trust of any enactment or rule of law.”

The practical effect is that community trusts have very wide discretion in terms of how they apply income and capital. There is no provision requiring them to gain any kind of specific mandate from their communities about how they should establish priorities, and nor does the process by which trustees are appointed (see below) establish a sufficient nexus between trustees and communities to provide an alternative means for deriving a mandate.

Their success in building up the value of their investments over time now means that, in a number of New Zealand's communities, the local community trust is the most significant discretionary funder. Inevitably as a consequence, funding decisions by community trusts have an important impact on the governance of communities. Like it or not, they have become a significant element of community governance but without any of the formal checks and balances, or processes desirable to properly reflect community priorities.

In the case of community trusts this is compounded by a now out-dated practice for the appointment of trustees. They are appointed by the Minister of Finance, a practice which goes back to the fact that, when the trusts were first established, they controlled a small but important part of New Zealand's banking sector. Providing for appointment by the Minister of Finance was seen as a means of ensuring that trustees were likely to have the governance skills required of a body which owned a registered bank.

With one exception, community trusts no longer have any involvement in bank ownership, but the practice of appointment by the Minister of Finance continues

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18% in contrast to coupon rates on the government stock in single figures so that on a 'marked to market' basis banks were showing significant losses.

in large part because it provides a convenient means for governing parties to reward party loyalists as appointment as trustees of community trusts is highly prized.

Despite the problems inherent in the structure, and the way trustees are appointed, there is an increasing tendency for trusts to adopt quite innovative approaches to determining what are their communities priorities, and how targeted distribution of trust funds can help achieve those. Work this author has done on the nature of and rationale for strategic planning within two of the leading community trusts supports the view that increasingly these trusts see themselves as increasingly important players in the governance of the communities they serve.

New Zealand community trusts have a number of similarities with foundations that have emerged in other jurisdictions, especially as a means of dealing with the ownership of formally 'ownerless' regional savings banks when those have been converted into corporate form as a response to changing conditions in the banking industry. The closest parallel is Italy's 'foundations of banking origin'. These however are both more numerous and a number of cases significantly larger than the New Zealand's community trusts, and have a much longer and deeper history of community engagement. It is at least arguable that the foundations of banking origin do in fact have a mandate based on tradition and practice as, prior to their restructuring, Italy's regional savings banks were important funders of a number of local activities, especially in arts and culture.

It is thus New Zealand's community trusts which, amongst those trusts resulting from restructuring savings banks, provide the clearest example of the mandate issue - how is a legal power to distribute funds exercised in a way that best reflects the interests of the community?

### *Energy trusts*

The restructuring of New Zealand's electricity sector included abolishing a number of special-purpose local authorities known as electric power boards, and replacing them with companies to own the local distribution activity. As with the companies formed to replace regional trustee savings banks, this also raised the question of who should own the new companies. The government of the day adopted a somewhat unusual process under which:

- The elected members of former electric power boards were replaced by 'directors designate' for the new companies.
- The legislation providing for the restructuring of power boards included a provision to the effect that the directors designate were to develop an ownership proposal (a) in consultation with the local community through a statutorily determined consultation process and (b) which required the approval of the former elected members and the consent of the Minister of Energy.

The legislation did not favour any particular form of on-going ownership. Again, as with the regional savings banks, the main interest of the government was in putting in place what it saw as an essential organisational change. There was never any suggestion that government might be able to claim ownership, in part because it was widely recognised that the value in the local retail distribution businesses had been built up out of retentions from charges to consumers.

The result was a number of different forms of ownership. These included:

- Full share giveaways to consumers.
- Partial share giveaways with the remaining shares being vested in a trust for the benefit of the local community and/or local consumers.
- One charitable trust.
- One trust for local economic development.
- In the majority of cases 100% trust ownership of the resultant company with income and assets to be held for the benefit of the community and/or local consumers (this was predominantly in rural and provincial areas with the motivation of trying to replicate, as closely as possible, the type of public ownership which had existed under the previous electric power boards).

One consequence of the restructuring has been that the resultant local power companies all typically earn 'normal' profits. That they should do so was part of the government's objective of ensuring that investment decisions in the electricity sector followed normal commercial principles including the proper pricing of capital. This means that the energy trusts themselves hold substantial assets on which they earn a normal rate of return. The trust deeds for a number of the trusts give trustees discretion to choose between distributions to consumers and distributions for community purposes often linked to the use of energy (others favour distributions to consumers).

Again, energy trusts are in broadly the same situation as community trusts. They have legal powers regarding the use of their income and capital, but typically lack a mandate. Interestingly this applies even although in most cases trustees are actually elected by consumers triennially. The reason is that consumers lack any significant information about the range of possibilities, and election campaigns are normally conducted on a combination of continuing to retain ownership locally, and to maintain consumer distributions. It is also typical that elections for special purpose entities tend to attract very low turnout because they are often seen as peripheral to the interests of electors.

The energy trusts' establishment process, as noted, threw up a number of different options. One, quite unintentionally, contains within it the potential for establishing a genuine mandate free from short-term political influence as a means for the ownership and control of significant community assets including infrastructure. This is the Eastland Community Trust (ECT), the energy trust established to own the company formed from the Poverty Bay Electric Power Board, the retail distribution entity which served the Gisborne region on the east coast of New Zealand's North Island. This is one of the more remote parts of New Zealand and in relative terms one of the most deprived.

The trust's primary objective is to promote local economic development. The trust deed contains no definition of local economic development and trustees have traditionally taken a broad view of what it could encompass. However they do this within a set of governance arrangements that provide significant elements of a mandate.

The trust deed for the trust provides that trustees should be appointed by the Gisborne District Council but on the basis that they are 'fit for purpose'. The deed prevents the Council from simply 'stacking' the board with its own representatives.

The deed also requires the trustees to prepare, each year, what is known as a statement of intent. This is a process that was developed in New Zealand initially for government-owned companies. The purpose was to strike a balance between



ensuring that boards of directors could exercise their commercial skill and discretion in running the business of the company with the interest Ministers had in being satisfied in advance about the nature of the business or businesses that would be undertaken, the likely risks, the procedures which would be gone through in acquiring or disposing of any major assets, key financial and non-financial performance indicators and other matters of interest to Ministers as representatives of the government as owner.

The Eastland Community Trust's (ECT) statement of intent is discussed with the Gisborne District Council which, in its role as the elected representatives of the community, is able to present what is seen as a community perspective on the priorities the trust is setting for its distribution activity and the on-going management of the businesses it owns. The process is a useful tool for ensuring that trustees' priorities are set with an understanding of what matters for the community itself. The trust however is the sole decision maker on the final content of the statement of intent.

The ECT structure and accountabilities have been an important factor in its effectiveness as the owner of major local infrastructure including the local electricity distribution network and the Gisborne Port. The way the trust deed insulates trustees from short-term political influence means that they are better able than directly elected people to take long-term strategic decisions rather than concentrate on satisfying immediate demands. The benefits from this appear from its relative performance as against other energy trusts which began in similar circumstances but operate with elected trustees who are far more responsive to short-term consumer interests.

A further factor that should not be underestimated is the different understandings people bring to the role of trustee as compared to those they bring to the role of elected member. There is a culture and tradition about the role of trustees, including an understanding of the nature of service which is quite different from the motivation which appears to drive most politicians. It has certainly been a significant factor in the success of the Eastland community trust and arguably would be equally important in the new role for foundations discussed below.

#### *Assessment: a new role for foundations?*

The emergence of foundations as one of the outcomes from significant public sector restructuring or privatisation raises important questions about mandate and accountability. Typically these foundations have legal powers but lack a mandate to specify how those powers should be applied, and what priorities the foundations themselves should serve.

The Gisborne example, ECT, provides a good and evolving example of how such a foundation or trust can actually obtain a mandate by the adoption of a deliberative process for setting out its priorities both for distribution and for investment, and doing so in consultation with the community's democratic representatives. The potential involvement of the community itself in partnership through (say) a network of neighbourhood associations provides an example of how existing good practice can be drawn on to further enhance the trust's mandate.

Further support for the importance of developing partnership/consultative arrangements with communities comes from the experience of the Bendigo & Adelaide Bank which, although not a trust or foundation, has through its community bank branches an equivalent function.

There is a further and in some respects potentially even more significant potential for this new approach to the use of foundations: the ownership of major local infrastructure and assets and/or services in the sense of responsibility for delivery.

A major concern at the moment in a number of developed countries is the way the democratic process has been evolving towards much more of a short-term highly politicised approach to policy development, and to campaigning for office. The ECT example illustrates how the governance and management of local public assets could to a significant degree be divorced from short-term political influences. Taken to a possibly desirable extreme, it raises the question of whether elected local authorities, rather than being service deliverers themselves, should be more in the nature of elected electoral colleges whose principal role is to select 'fit for purpose' governing bodies for the entities which actually manage and deliver local government services.

Finally, it's important also to reflect on the role of donor established trusts, both major philanthropic trusts established by very wealthy individuals, and trusts established in effect by collectives of people wishing to put part of their wealth to philanthropic purposes - of which the trusts linked together through the international community foundations network provide the best example.

Recently the Kettering Foundation in partnership with PACE (Philanthropy for Active Civic Engagement) released *Philanthropy and the Limits of Accountability*, (Rourke 2014) reporting a facilitated discussion across the US philanthropic sector on the theme of the accountability of foundations - whether, to whom, for what and how? The conclusion of the report amounts to a recognition that questions philanthropic organisations themselves must now consider are, among other things, the nature of their relationship to the communities they serve in large part because of the impact which their trustees' decisions can have on shaping the future of communities:

It was clear from these roundtable discussions that philanthropic organizations, once accountable only to their boards and donors, must now come to grips with pressures for a more considered relationship with their grantees and the communities they serve—with the need for public accountability as well as institutional accountability. If participants found no one-size-fits-all answers, they did, nevertheless, begin to define and clarify issues of transparency, impact, strategy, and mission. And they recognized that in responding to a changing world it will be useful for philanthropy to engage with these issues as a sector.

## **Implications for the Future of Local Government**

### *A preliminary comment*

This presentation has drawn well-nigh exclusively on experience from developed economies. The lessons, however, are likely to have wider applicability. Problems of capability, disconnect, and the monopoly role of local government are not exclusive to developed economies. See, for example, de Visser (2013) in respect of South African local government, and Brown (2013) on the relationship between local government and the urban informal economy.

It has also paid little or no attention to the role of information technology. Within local government this is often seen as a new and valuable tool for engaging with communities, and enabling multiple discussions in ways which allow people to 'drop in and drop out' at times which suit them best.

A proper consideration of the role of information technology in community governance would look much wider than just the way local authorities themselves work with it. A number of private entrepreneurs are currently developing community-based alternatives to Facebook and LinkedIn. They are quite consciously looking to develop online communities as networks and decision-makers in respect of their neighbourhoods. These developments are at a very early stage, but the potential for one or more of them to evolve into virtually an alternative local governance structure should not be underestimated<sup>11</sup>.

Such consideration would also look, for example, at the way in which mobile phone service providers are linking farmers and others in developing countries to markets. Again, it is hardly fanciful to see this sort of initiative as a step on the way to a significant and credible governance process.

### *Implications*

This presentation began by recognising the changing context for local government as citizens think differently about the relationships they want to have, and become more disconnected from the electoral process, and as understandings of governance and government themselves change.

It also highlighted the impact of the monopoly status of councils as the provider of local authority services - a status that can block out feedback that would otherwise alert councils to citizen concerns in ways which would encourage a response - dealing with them, rather than simply letting them fester.

Four different trends in local or community governance were discussed. The first, the emergence of non-statutory forms of community governance, reflects positive change – communities, typically in some form of partnership, whether formal or informal, with local authorities, playing a greater role in decisions affecting 'their place'.

The next trend is more troublesome. This is an emerging tendency for higher tiers of government to work directly with communities in developing new ways of designing, delivering and targeting services for which the higher tier is responsible. The immediate and powerful rationale is the emphasis on reducing the cost of service delivery in an environment of on-going fiscal austerity, but the practice appears to be a continuation of a traditional 'top-down' approach which may ultimately prove counter-productive. The implication for local government is that what should be its leadership role in working with communities to determine how best their needs should be met will increasingly be bypassed, potentially reducing the role of local government ultimately to a narrower core of purely local services.

There is a related implication for higher tiers of government. There is increasing evidence that the ability of our societies to deal with a number of the challenges they now face as the consequence of trends such as globalisation and demographic change is going to be more and more dependent on community-based initiatives. In turn the effectiveness and on-going resilience of these initiatives is likely to be at least partly a function of the leadership capability of local government, and its capacity and capability to support the development of community-based initiatives. This suggests that higher tiers of government bypassing local government in order to engage directly with communities may work directly counter to the need to build community capacity, as one of the responses to on-going fiscal austerity.

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<sup>11</sup> For an example see [www.neighbourly.co.nz](http://www.neighbourly.co.nz)

Earlier this year English think tank the Institute for Public Policy Research published *The Generation Strain: Collective Solutions to Care in an Ageing Society* (see <http://www.ippr.org/publications/the-generation-strain-collective-solutions-to-care-in-an-ageing-society>). The basic theme this report was addressing was the likelihood that, within a very few years, an increasing number of older people in need of care will be absolutely unable to obtain care from any provider, formal or informal, if the present reliance on a combination of publicly provided care and 'friends and family' care remains the only option. The proposed solution was the development of a network of community-based voluntary associations as an additional source of informal care, which would almost certainly require significant capacity and capability building support which local government would be far better placed than central government to deliver.

The remaining two trends identified in this paper highlight the reality that community governance in a modern environment is about much more than just the actions of formal institutions of government. Bendigo's community banking model is currently confined to a single commercial entity in one jurisdiction, Australia. However, it is clearly replicable in at least two ways. The first is creating 'Bendigo Banks' in other jurisdictions (this process just getting under way). The second is to look for other commercial activities where the same general approach could be applied. In this author's judgement, the burgeoning industry of providing accommodation for older people is one obvious example, and one where local government could appropriately take the lead.

The second, the role of trusts and foundations in community governance, opens up very considerable and widely differing possibilities. One is the emergence of trusts and foundations as parallel forms of community governance, at least in part replacing much of what local government would currently see as its own mandate (especially as the community foundations movement itself continues to grow). Another is utilising the potential of trusts and foundations working in collaboration with formal structures of local government. Articulating this possibility is one reason for the detailed consideration of the Eastland Community Trust experience. In essence, the role of the local authority in that case is to appoint appropriately qualified trustees and act as the community's overseer (relying on the power to influence, rather than specific legal powers). It is a role which could be generalised within local government by shifting control of significant assets from direct council ownership, to trusts on behalf of the council's communities, with the council's role shifting to that of appointing trustees on a fit for purpose basis and providing an oversight function on behalf of the community.

One issue that receives some but insufficient attention both in the research literature, and in local government lobbying of higher tiers of government, is the extent to which well-meaning concern over transparency and accountability has seriously curtailed the ability of local governments to operate flexibly, responsively and in a timely manner. The branches within Bendigo's community banking network face none of the formal statutory requirements for consultation, formal statutory planning, and compliance that local authorities face. Instead they are free to determine with their communities how best to go about working together to determine how funds available for distribution should be applied. The experience shows that this approach has much more popular support than traditional local government engagement.

Trusts, especially as owners of infrastructure or other major assets, are similarly much freer to act in a timely and commercial manner, whilst still being properly accountable. Again they benefit from not being subject to the compliance requirements impacting on local government.

## Concluding remarks

In this author's view, local government generally is on the cusp of a major shift in the understanding and practice of community governance. It is driven in part by a response to the negative aspects of the monopoly position of councils as providers of local government services - more and more citizens are looking for ways in which they can take part in decisions that affect them. They want the organisations they deal to be flexible, responsive and act in a timely manner, to balance accountability with avoiding undue bureaucratic overload, and be relatively free from the influence of short term political opportunism.

On the positive side, it's driven by an increasing understanding of how best to blend the pursuit of community objectives with the pursuit of other objectives including commercial objectives. The Bendigo Bank provides one example, but so do other structures such as the Eastland Community Trust and many other trusts including a number of the major philanthropic trusts.

What this suggests is the need for a new theory of local governance which moves our understanding of governance on from a focus on boards and institutions to one that recognises local governance as a process through which decisions are arrived at in partnership, and where the community, not an institution or institutions, is the node around which governance revolves.

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