



Council Controlled Organisations

Submission to the
Auckland Council Review
of CCOs



For a better working life

New Zealand Public Service Association

Te Pūkenga Here Tikanga Mahi

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Preamble

Who we are

The New Zealand Public Service Association *Te Pūkenga Here Tikanga Mahi* (the PSA) is the largest trade union in New Zealand with over 58,000 members. We are a democratic organisation representing members in the public service, and the wider state sector (the district health boards, crown research institutes and other crown entities, state owned enterprises, local government, tertiary education institutions and non-governmental organisations working in the health, social services and community sectors).

In developing this submission we sought the views of

We have nearly 6,000 members working in local government, with over half of those employed by Auckland Council or its council controlled organisations (CCOs). Currently the PSA has around 650 members across the Auckland CCOs. This submission reflects both the PSA's thinking about CCOs and feedback from affected members in Auckland.

We wish to thank the Council for this opportunity to share our views on Auckland CCOs but also hope that we will be able to engage on an ongoing basis throughout the later stages of this review.

Introduction

Following the report of the Royal Commission of Inquiry into Auckland Government, the Government passed the Local Government (Auckland Council) Act 2009, which established the new 'supercity' – a unitary authority for the Auckland region. At the same time a number of 'substantive' CCOs were established - some given a statutory basis (Auckland Transport and Watercare Services) and others put into place under order in council as part of the establishment process.

No call for radical change

The review comes at a relatively early stage in the life of the CCOs in Auckland and as a consequence the terms of reference, while broad in scope, are quite cautious about likely outcomes. For example, they talk about "appropriate non-structural mechanisms for addressing integration issues between different CCOs and CCOs and council (Governing Body and Local Boards) and the IMSB", and they rule out any structural changes for Auckland Transport. However, the PSA sees the review as important and timely and, while we are sceptical about the value of CCOs, we recognise that radical change at this point is unlikely and would probably not be

welcomed by our members following the upheavals around the establishment of the Council and its CCOs.

Our principles for the amalgamation are relevant here

When the PSA submitted to the Royal Commission of Inquiry into Auckland Governance, our members in Auckland local authorities identified a set of principles that should guide the amalgamation process and most of these are highly relevant when looking at the future of CCOs in Auckland:

- Auckland deserves a quality of local government and local government leadership that will enable the region to play its part in the wider Asia/Pacific region, serve the needs of the rest of New Zealand, and most importantly, reflect and respond to its diverse communities of interest.
- There must be a clear governance framework that enables alignment of purpose, tackles fragmentation and removes duplication of functions and undue competition between local authorities. However this must not act against the principle of subsidiarity.
- There must be a robust system of checks and balances between the various actors in local government.
- The distinctive character of cities and districts should be maintained, and communities of interest supported.
- The democratic process should be safeguarded and community engagement strengthened.
- There should be public and democratic ownership and control of public assets and public services.
- In any reorganisation, the process should enhance and strengthen, not weaken, current capability and capacity, and should build skills in the local government workforce.
- Services should be locally responsive, delivered at the level that provides the best outcome – the principle of subsidiarity should apply.
- Services should, in principle, be retained in-house rather than out-sourced or removed to a CCO.
- However, there should be scope for enhanced sharing of services (within the overall direct ownership of local government) to ensure both best use of resources and to reduce duplication and competition.
- Any potential savings from economies of scale should be re-invested to improve services.

This submission makes some general points about CCOs before moving on to look at the Auckland situation in particular.

Council controlled organisations

Among the principles above is one that states that services should be retained in-house rather than out-sourced or removed to a CCO. This comes from a concern

about whether the quasi-commercial structure and arms-length governance arrangements are appropriate for public good services, whether they undermine democratic accountability and whether CCOs (likely several state-owned enterprises in the past) are a temporary staging post on the way to full privatisation. Those concerns remain.

Public service ethos under pressure

Public service ethos

The ethos of public service is a key driver for public sector employees, and for many, it is why they choose to work in the public sector – they want to ‘make a difference’. Research has indicated that, in general, public sector employees are less motivated by extrinsic rewards than private sector employees¹ and in 2005 the State Services Commission’s Career Progression and Development Survey found that a ‘feeling of accomplishment’ was the most important job factor for 90% of the public servants surveyed. We believe these findings are as relevant for local government workers as they are for state sector workers. Preserving this public service ethos in a CCO environment presents a considerable challenge to management.

Does the commercial orientation of CCOs threaten public good objectives?

Public good objectives

The commercial orientation of CCOs, which is supported not only by their structure but also by the appointment of business sector representatives to their boards, can be in conflict with the public good objectives of the Council. For example, if a CCO is primarily concerned about the returns on a particular activity, it may overlook the wider contribution to the community e.g. the cost of stadium hire being out of the reach of community organisations.

Democratic oversight is important

Democracy and Accountability

A key issue for PSA members is whether CCOs can be fully accountable to the parent Council and to citizens and residents. Accountability to the community is partly what makes public services different from the private sector. Local government managers and employees have two key accountabilities: they have to look upwards to Council (and sometimes the courts) and outwards to the public (and sometimes the media)². Public sector workers are accountable to specific ethical and professional standards and subject to high levels of scrutiny.

It is a major concern for PSA members is that a CCO Board can put up user charges or take other actions without reference back to residents.

Efficiency can be achieved through direct council delivery

Efficiency

One perceived advantage of CCOs is that they can combine the efficiency of the private sector within the framework of the public sector. However, there is both empirical evidence and theory to suggest that the assumption that the private

¹ Buelens, M., & Van den Broeck, H. (2007). An analysis of differences in work motivation between public and private sector organizations. *Public Administration Review*, 65-74.

² *Public Value, What it is and Why it Matters*, P3 conference (2008), Department of Labour

sector is more efficient and cheaper than the public sector is wrong. For example, a 2007 study by the Danish local government union FOA indicated that municipalities could make huge savings by putting an end to outsourcing. FOA's calculations show that every time a municipality increases the extent of private actors by 5 percent, it costs each citizen of that municipality 136 kroner, or 18 euros. Multiply that amount by the number of citizens nationwide, and the figure reaches 3-4 billion kroner (400-500 million euros).³

A 2009 UK report also identified a trend of 'in-sourcing' in local government, whereby services previously contracted out to private providers were being returned to direct Council provision⁴. Reasons for in-sourcing included poor contractor performance, citizen dissatisfaction, and a view that direct delivery provided a way to respond positively to joined-up neighbourhood services, or to tackle big issues such as climate change. In New Zealand over recent years we have seen examples of local authorities bringing CCOs back in-house in both Queenstown Lakes District and Wellington.

Integration

In both the state sector and in local government there is concern that the plethora of arm's length agencies is contributing to silos that inhibit whole-of-government or whole-of-council co-operation and collaboration. Agencies, once separated out, tend to emphasise their own identity and run the risk of duplicating functions. It becomes harder to manage a systemic response to problems.

Maintaining integration is harder

The Auckland CCO model

The Auckland CCO model goes further than in other local authorities

The Auckland model of CCOs was controversial from the beginning. It is operating under a new model where substantive CCOs deliver services and activities that are funded by more than 35% of the Council's total rates and manages more than 70% of the Council's total rates. "The CCOs provide many of the services that usually form the core activities of local authorities in New Zealand. These services include roading and public transport, water and waste water, and economic development activities"⁵.

Furthermore, the two largest CCOs are established under statute and the remainder under order in council, meaning that the Council cannot make decisions on CCO numbers and structure without the agreement of government. This is unique in New Zealand.

In response to the Auckland Transitional Authority's discussion document on CCOs the PSA argued that all substantial CCOs, including the Auckland Transport Agency,

³ From Public Services International (PSI) World News (April 2009). www.world-psi.org

⁴ UK Association for Public Sector Excellence (2009), *In-sourcing; a guide for local authorities bringing services back in-house*. APSE.

⁵ Office of the Auditor General (2012) *Auckland Council: Transition and emerging challenges*. P. 57

Watercare Services and the Waterfront Development Agency should be reconstituted as internal departments of Auckland Council. Now that the model has been operating for 3 years we have a number of concerns about how they operate in Auckland, which tend to align more with the issues raised by senior staff and councillors as part of this review⁶, rather than those raised by CCO board members and senior staff⁷.

Strategy, policy and CCO objectives

The ATA discussion document argued:

CCOs are a mechanism by which operations can be managed efficiently allowing council to focus on other matters such as strategy, policy or regulatory functions. This is particularly important given the primary role of Auckland Council to develop policies, strategies, spatial and other plans to drive Auckland forward⁸.

This is contrary to our understanding of the role of the Auckland Council and local government under the Local Government Act 2002:

How well does the CCO model reflect the purpose of local government in the LG Act?

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.

The CCO model fails to deliver on objective (a). Auckland Council cannot be reduced to just a focus on strategy, policy or regulatory functions and it is questionable whether it is appropriate abdicate its obligations under (b) to other organisations, council controlled or otherwise.

The silos can undermine good policy development

This is one of the problems of the new public management approach, which has underpinned the development of arms-length organisations in both the state sector and local government. The arms-length relationship is also meant to reflect a necessary distance between policy and delivery, to avoid policy 'capture' by those who deliver services. Unfortunately it has also led to a harmful distance that has damaged the process of policy development. In the state sector the government has responded by merging some organisations into super ministries that provide both policy development and service delivery.

Duplication in strategic functions

The Council perspective also picked up another point, which is that separate organisations with their own boards tend to duplicate functions, including

⁶ Auckland Council (2014), *Auckland Council CCO Review, Current State Assessment (Council Perspective)*

⁷ PWC (2014), *Auckland Council CCO Review, Current State Assessment (CCO Perspective)*

⁸ Auckland Transition Agency (2010) *Discussion Document: Council-controlled organisations of Auckland Council* p. 9

strategic functions. In the case of Auckland Transport, both it and the Council both have transport strategy functions which, while nominally distinct, have led to tensions. This is partly a design problem, given that both gain their functions and powers from statute, but it is also reflected in some of the other CCOs.

There is also an inherent tension between CCOs that have been established for a single purpose and with a commercial orientation, which might conflict with the Council's wider public purpose. For example, Auckland Transport's primary purpose is to create an efficient and effective transport system, but transport also has a critical role to play in place-making.

Accountability

The Auditor-General in her 2012 report on Auckland Council observed that many people interviewed for that report "perceived that Council elected members and senior officers are held accountable for decisions of CCOs, and expressed concern about Council's ability to maintain alignment in CCO service delivery with its plans and strategies."⁹

Accountability implies responsibility

She also referred to others who "mentioned that the waterfront and traffic control events on the Rugby World Cup opening night were a defining moment when the Council recognised that CCO structures could not prevent the Council from being held politically responsible."¹⁰ To us accountability implies responsibility.

Ministerial-like role for councillors?

These events have led to a more 'controlling' approach, including a 'no-surprises' policy that most councillors believe is working well¹¹. However, the CCO model still means that there is a lack of direct democratic oversight, which we would argue should be enhanced. In our response to the ATA discussion document we argued that directors should be elected and that Councillors should be given responsibility for a CCO on a ministerial model. We do not expect to see elected directors as a result of this review but there could be scope for Councillors to have a more direct, ministerial-like, responsibility for a CCO.

The size of Auckland Council should mitigate against councillors meddling in operations

Notwithstanding our views on this there is one form of democratic accountability that our members do not want to see enhanced. Parking wardens are happy that councillors are no longer able to apply pressure when people they know have received parking tickets. In many smaller local authorities (most of New Zealand) this intimacy between councillors and staff is a fact that councils have to live with and it can lead to a blurring between governance and operations. It is to be hoped that in a council the size of the new Auckland Council something less radical than the creation of a CCO could have been devised to deal with this type of issue.

⁹ OAG p. 61

¹⁰ Ibid. p. 65

¹¹ Council perspective p. 10

Have functional silos replaced geographic silos?

Integration

We observe that most respondents to the 'Council perspective' paper "believe that CCOs acting independently whether it be through branding; using their own corporate processes and systems or commissioning their own professional or legal advice rather than using that provided by the council, is not in the best interests of the group." We also note that there was concern expressed from some "that the changes in regional governance have replaced geographic silos with functional silos."¹² We agree with these concerns.

Consistent with this last point, we have had feedback from some members about such things as the frustrations arising from the sheer number of approvals required in some circumstances e.g. CCO board, local board, committee approval and then full Council approval some times. Members also confirm that their CCOs seem determined at times to create their own identity and there is a large amount of duplication, for example in property and at the waterfront where 3 CCOs and the Council have interests in services and activities.

Notwithstanding these problems, the Auditor-General found that, for example, concentrating all transport activity in one organisation "has made it easier to give perspective and context for transport work and to align transport activities". It has also "enabled a joint traffic operations centre to be set up with the New Zealand Transport Agency (NZTA)"¹³. All of this is true but it is a moot point as to whether these advantages could have also been demonstrated if the one organisation was the Council, rather than one of several CCOs.

Employment issues

This is a subset of the integration issue. The PSA has argued that silos in central government have been reinforced by the establishment of the chief executive of each government agency as the employer of staff, and the same principle applies in local government. We note and welcome recent moves to allow for redeployment of staff across the Council and all CCOs in the event of surplus staffing situations arising. That is an important recognition that all the Auckland agencies are engaged in different parts of the same large undertaking, but we need to do more.

Employment conditions support the silos

There is currently some shared services arrangements around human resources but this should be broadened across all the CCOs. Different organisations can take quite different approaches when dealing with the PSA. We have those that recognise the value in working constructively with unions to those who are hostile and make it difficult for us to carry out our representative functions. This is one aspect of quite different organisational cultures that are developing, and that can also be reflected in different pay and conditions. For example, we are

¹² Ibid. p. 12

¹³ OAG p.60

seeing the development of different remuneration systems and this has the potential to undermine joint working and secondments. It can be problematic when staff from different organisations who end up working alongside each other find that they are on substantially different pay and conditions, even when they perform similar jobs. We experience this regularly in the state sector where there has been much longer for disparities to arise.

Ideally we would like to see a multi-employer collective agreement develop but until that time there should be a concerted effort to expand and maintain a common HR function (including payroll) and framework across the Council and its CCOs.

What we would like to see

The PSA understands the limitations of this review, given length of time that the CCO model has been in place in Auckland. We are not expecting substantial change and neither are our members who are still adjusting after the upheavals during the formation of the Council and its CCOs. However, there is scope for some change and we would like to see:

- Greater emphasis on shared services in HR and payroll and a willingness to engage constructively with the PSA across all CCOs
- The Council and its CCOs to be considered as one organisation for the purposes of redeployment and career development
- Steps taken to maintain consistency in pay and conditions across the Council and its CCOs
- The review to look at where there are duplication of functions and see whether they can be resolved through either clarifying which organisation is responsible for the function, the merger of smaller CCOs or greater use of shared services
- The review to consider whether there should be improved Councillor responsibility for each CCO based on a ministerial model.

The PSA wishes to continue to engage with the Council over the latter stages of the review, both at a policy level but also by providing opportunities for the review team to meet with groups of delegates. This could be with the regional delegates committee but also delegates in individual CCOs.

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