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Review of elected members' remuneration

Local Government New Zealand's submission to the Remuneration Authority

14 December 2017

Introduction

LGNZ thanks the Remuneration Authority for this opportunity to contribute to its review of how it approaches the remuneration of elected members. We are pleased that the Authority is committed to finding solutions to the ongoing problems that have beset the remuneration of elected members for many years.

As we note in the body of the submission, since the LGA 1974 Amendment Bill No. 3, which transferred responsibility for remuneration of elected members to the Minister of Local Government, the way in which remuneration has been set and the level of remuneration itself have been subject to constant change. It is a situation that elected members find both frustrating and stressful and which undermines their ability to plan for the future. It also inhibits efforts to interest citizens in standing for local office.

LGNZ is committed to working with the Remuneration Authority to put in place a remuneration approach that is fit-for-purpose, enables elected members to fulfil their statutory and community duties and is sustainable for the long-term.

Council sizing

With regard to the proposed factors to be used for sizing councils are there significant influences on council size that are not recognised by the factors identified?

Yes. In addition to the factors identified councillors' workload is also influenced by two additional factors:

- the degree of heterogeneity within a jurisdiction, as a result of which citizens' preferences will be diverse and governing that more complex;
- whether or not a council is involved in a formal post treaty co-governance arrangement. The emerging co-governance regimes are an additional responsibility and challenge for many local authorities; and
- the rate of population change, whether increasing or declining.

Both factors can be measured reasonably well through census data and Statistics NZ sub-national population projections

Are there any factors that we have identified that you believe should not be used and why?

No; we support the identified factors and have suggested some refinements (see above). We note that some commentators have suggested that "deprivation" is not a relevant factor on the basis that "redistribution" is generally regarded as the responsibility of central government. On the basis of LGNZ's experience, however, community deprivation does appear to have a material impact on the workload of councillors in districts where deprivation exists. This occurs as a result of factors such as:

- demands made on elected members a result of citizens unable to meet the cost of providing and/or upgrading basic services;
- constraints on the level of rates that can be charged which limits the ability of a local authority to adequately meet government regulations and standards – effectively a form of austerity; and

- pressure on councils to advocate on their community's behalf for better public services, ranging from policing, mental health services to schools, is substantial. Low socio economic areas inevitably have poorer public services and councils often find themselves acting as a quasi government department and "topping up" failing public services.

It is important to note that NZ does not have any form of equalisation funding for councils representing low socio economic communities.

When measuring council assets, do you support the inclusion of all council assets, including those commercial companies that are operated by boards?

Yes, and to avoid any doubt inclusion should extend to assets held in CCOs.

If not, how should the Authority distinguish between different classes of assets?

N/A

Weighting

Are you aware of evidence that would support or challenge the relativity of the factors for each type of council?

For territorial council's population and asset management are to major drivers of councillor time and complexity of decision-making. For regional council's area is more important than population.

If you believe other factors should be taken into account, where would they sit relative to others?

This depends upon the way in which the formula is intended to work, for example, the rate of population change and degree of population diversity could be designed to be a weighting added on population numbers

Mayor/chair remuneration

Should mayor/chair roles should be treated as full time?

Yes. The unpredictability of the mayoral role means that part time employment or other forms of complementary income consistent with mayors' variable working hours are seldom available. Therefore, the mayor's role should be remunerated as if full-time with variability determined by council size.

If not, how should they be treated?

N/A

Should there be a "base" remuneration level for all mayors/chairs, with additional remuneration added according to the size of the council?

Yes

If so, what should determine this “base remuneration”?

While historic practice has been to compare the role of a mayor to the role of a Cabinet Minister (since 1989 the Mayor of Auckland was seen to be equivalent to a Minister without portfolio) there are no equivalent private or public sector roles to that of a mayor.

Base remuneration needs to be at a level that will provide new mayors with an income sufficient to compensate them for the losses incurred as a result of giving up previous employment and the loss of taking time away from their particular profession.

If the Remuneration Authority wishes to pursue the analogy between local government and parliament by twinning the salary of the mayor of the largest city with the salary of the most senior Minister in Cabinet, then logically the lowest mayoral salary band should be the equivalent of the salary of an MP.

Please note that any reference to mayor remuneration also applies to the chairs of regional councils.

Councillor remuneration

Should councillor remuneration be decided by each council within the parameters of a governance/representation pool allocated to each council by the Remuneration Authority?

Since 1989 when the Minister of Local Government was charged with responsibility to make determinations for the remuneration of elected members followed by the decision to transfer this responsibility to the Higher Salaries Commission in 2001, the remuneration of elected members has been problematic and lacked consistency. Consequently, it is difficult for prospective elected members to plan for the future with certainty and councils to establish sustainable administrative approaches.

It is vital that this review settle on a sustainable remuneration approach that will support councils and elected members for the future. Key principles will need to be met:

- **Simplicity and transparency** – elected members, staff and most of all citizens must be able to understand the way in which the remuneration approach works and how levels of remuneration are determined. This is essential for community confidence in our democratic institutions.
- **Certainty and simplicity** – process needs to be clear and precise so that councils are able to interpret them without ambiguity and thus avoid the need to frequently seek advice or guidance from the Remuneration Authority. Achieving this will result in low administration costs for both councils and the authority.
- **Responsiveness** – local government exists to meet the different needs of our different communities. Uniqueness is reflected not only in the nature of local services but also in the manner in which communities seek to be governed. Consequently, remuneration approaches must be flexible enough to address variations in governance models in an accountable way.
- **Fairness** – the Authority is required to maintain fair relativity with levels of remuneration received elsewhere. This can be seen as relativity with other sectors, such as parliament, and relativity between councils of similar circumstances (horizontal equity). The current remuneration model, adopted in October 2010, lacks relativity between councils of similar circumstances as the cost of governance is determined by the number of councillors rather than the size and nature of the council.

- **Adequacy** – as required by the LGA 2002 remuneration should be set at a level that “attracts and retains competent persons” (Sch. 7 cl. 1(d)). Anecdotal evidence tells us that this is not currently the case with many reports of elected members retiring early due to the demands of office outstripping the remuneration received. (LGNZ will be undertaking a survey of elected members and past elected members over the next year to investigate this issue.) Adequacy is the relationship between remuneration received and the time demands of the position. It can be addressed by either increasing remuneration or decreasing the time required of members. This is an unresolved issue with the pressure on elected members increasing.
- **Neutrality** – the way in which remuneration is set should not incentivise councils to prefer one governance model over another. In particular, it should not influence decisions about the size of the governing body of councils or the way in which governance is structured.

Determining the right approach – salary or governance pool?

In developing remuneration models the Authority is faced with the need to find a balance between achieving national consistency and allowing for local diversity and flexibility.

- National consistency or a “one size fits all approach” appears to be administratively straightforward but given the diversity of our communities and the different approaches councils take when determining governance arrangements, the Remuneration Authority receives frequent requests to approve local variations.
- Enabling diversity, through pre-determined “governance pools” allows for differences in communities and governance arrangements, such as whether or not a council uses committees or portfolio holders, but can create challenges for governing bodies tasked with determining or recommending a remuneration approach.

The current model of elected member remuneration which sets councillor pay and provides a small top-up for additional responsibilities provides certainty of income, particularly for prospective elected members thinking about standing for office. However, over the last six years a number of problems have emerged such as:

1. the fact that the amount councils spend on governance varies according to the number of elected members they have (rather than the size of the governance task);
2. the difficulty of adjusting the models for bespoke governance approaches, and
3. the problem of adequately rewarding councillors who have been given significant additional responsibilities without adequate remuneration, such as councillors working on district plan reviews.

By itself a “pool” approach does not necessarily address these problems and can create other issues, such as those which occurred between 2004 and 2013 when the pool concept was previously used. For example:

- **The interregnum:** The time taken between the swearing in of a new governing body its agreement to a remuneration model (the structure for the governing body and remuneration relativities) will generally take a number of months. That creates a dilemma for the Remuneration Authority as it is not clear how much each elected member should receive in remuneration for that period.
- **Public perception:** many councillors and members of the public have concerns that the “pool” approach would appear as if elected members were determining their own remuneration. If this was the case it would be a worrying example of self-interested behaviour and conflict with our norms of accountability and transparency.

- **The single national pool:** a fatal flaw in the previous remuneration pool approach was the decision to have a single national pool consisting of each council's pool. As a result, where one council grew faster than others (especially if it was a large council) it consumed proportionally more of the national pool requiring a cut in the remuneration of the remainder. Managing this was extremely complex for the Authority leading to multiple temporary remuneration adjustments.
- **Community boards:** the decision that 50% of community board remuneration would come from the governance pool was ultimately undermine relationships between boards and their governing bodies and incentivised councils to question whether their district should have community boards. An approach in which community boards have their own pools is preferable.

Should the Remuneration Authority wish to re-introduce a pooled approach then these issues will need to be addressed.

The problem with the interregnum can be diminished if there is a 'default' governing template that could apply until new governing bodies meet and decide the option of their choice. A range of 'off the shelf' templates could speed up the process involved in selecting the appropriate governance model. It should also diminish the perception that elected members are deciding their own remuneration. It is important that their role is recommendatory only and that the Authority is the ultimate decision-making body.

The single national pool is not required. Each council pool should stand by itself and the size of that pool should only be governed by change in the 'sizing' formula and having separate pools for community boards removes the problems of governing bodies having a conflict of interest.

The other potential problem with the 'pool' approach is that it might incentivise councils to seek a reduction in councillor numbers as part of their representation review because a smaller governing body has the effect of increasing the remuneration of the members. We note that the size of governing bodies has fallen considerably since 1989 and now sits at approximately 11, leaving NZ with one of the highest representation ratios in the OECD. High ratios diminish the ability of citizens to engage with their representatives and reduce diversity.

The risk of the pool approach reducing the size of governing bodies and thus diminishing local representation (and democracy) is essentially controlled by the role of the Local Government Commission (LGC). As the court of last appeal it is the LGC that will ultimately decide the appropriate size of a governing body to ensure effective representation.

If so, should each additional position of responsibility, above a base councillor role, require a formal role description?

No. If a pool approach is selected there is no need for this level of prescription, as amongst other things, it would defeat the purpose of the pool approach. A better way of dealing with the matter would be to develop a range of remuneration templates and bespoke governance models. These could be approved by the Authority in advance and made available on its website for new governing bodies to choose from.

Should each council be required to gain a 75% majority vote to determine the allocation of remuneration across all its positions?

Yes

Should external representation roles be able to be remunerated in a similar way to council positions of responsibility?

This answer to this question depends on local circumstances, however it is not clear what situation is envisaged. In our view additional remuneration would be warranted in cases, for example, where an elected member is appointed to a regional grouping tasked with a regional planning or investigative role where a major time commitment is involved. This should be a matter for council discretion.

Do the additional demands placed on CCO board members make it fair for elected members appointed to such boards to receive the same director fees as are paid to other CCO board members?

Elected members appointed to CCO boards should be remunerated on the same basis as other CCO board members, unless their position as an elected member is a full time position and is remunerated accordingly. Some of our largest councils have policies that prevent councillors appointed as CCO directors from receiving additional remuneration on the basis that they are already full time. In the case of smaller councils where the work of councillors is part time, it is reasonable for those appointed to CCOs as directors to receive the same fees as non-councillors.

Community board remuneration

Should community board remuneration always come out of the council governance/representation pool?

If the Remuneration Authority was of a mind to introduce a “pool” approach the remuneration of community boards should not come out of the governing body pool as it is impossible for councillors to make determinations without being seen to be self-interested.

Community boards must be seen as providing a level of community governance that is outside the role of governing bodies themselves and thus need their own remuneration approaches.

Community board remuneration is extremely complex given the myriad of roles boards play. This needs to be the subject of a standalone consultation process with representatives of community boards themselves, including the Community Board Executive.

If not, should it be funded by way of targeted rate on the community concerned?

Whether community boards are paid out of a general rate or a targeted rate is a decision that is beyond the scope of the Remuneration Authority’s mandate (see Sch. 7cl.(39)) and best decoupled from the amount of remuneration boards should receive.

If not, what other transparent and fair mechanisms are there for funding the remuneration of community board members?

The LGA 2002 sets out clear and transparent processes, through their long term plans, for determining the degree to which the remuneration of community board members is met by a general or targeted rate. It is outside the scope of the Remuneration Authority’s jurisdiction.

Local government pay scale

Is it appropriate for local government remuneration to be related to parliamentary remuneration, but taking account of differences in job sizes?

This question and the ones below are best considered in relation to the remuneration of mayors and regional council chairs rather than local government generally. The challenge when setting remuneration is to find an equivalent external benchmark and in the case of mayors there are limited choices. In 1989 the remuneration of the mayor of the largest city was pegged to the remuneration of a Minister without portfolio, however the relativity was quickly lost as mayoral remuneration, which was the responsibility of the Minister of Local Government and Cabinet, grew at a much lower rate than Ministerial remuneration, which was set by the Higher Salaries Commission.

In terms of the remuneration of mayors and regional council chairs there may be a rationale to relate the top level of Mayoral or chair remuneration to that of the most senior cabinet member, however the relationship is not so clear when determining the remuneration of a mayor of a small district unless the view is taken that lowest end of the scale is equivalent to the income of a member of parliament.

If so, should that the relativity be capped so the incumbent in the biggest role in local government cannot receive more than a cabinet minister?

There is no valid rationale for capping the remuneration of mayors or chairs to that of the highest paid Cabinet minister. It is simply a policy choice, although one that is not unreasonable. Alternatively, the cap could be the salary of the Prime Minister.

If not, how should a local government pay scale be determined?

N/A