

Notice Regarding Ministerial Powers of Local Government Assistance and Intervention

Background

Section 258O of the Local Government Act 2002 (“Act”) requires the Minister of Local Government (“Minister”) to publish in the *New Zealand Gazette* a list of matters relevant to determining what action, if any, to take under subpart 1 of Part 10 of the Act, which relates to Ministerial powers of assistance and intervention in relation to local authorities.

The Minister may consider any relevant information in addition to the matters set out in this notice.

The Minister may also, pursuant to section 258N of the Act, consult any person, group or organisation on any aspect of the decision whether to provide assistance or to intervene, including on the development of the terms of reference for a Ministerial body, and on the selection of the Ministerial appointees.

Taking into account a broad picture of a local authority’s circumstances, the final decision, whether to act or otherwise, rests with the Minister.

List of matters to which the Minister must have regard

(a) Guiding Principles

In making decisions under Part 10 of the Act and determining what action, if any, to take under Subpart 1 of Part 10 of the Act, the Minister is likely to adopt the following guiding principles:

- Ministerial action should be informed by the purpose of local government and the role of, and principles relating to, local authorities, as set out in Subparts 1 and 2 of Part 2 of the Act;
- local authorities’ accountability is to their ratepayers and residents;
- elections are the primary mechanism for communities to express satisfaction or dissatisfaction with elected representatives;
- due regard will be given to:
 - the local authority’s acknowledgement of the problem, and commitment to its resolution;
 - what the local authority has done, is doing, or plans to do about the problem; and
 - the costs and benefits of assistance or intervention;
- Ministerial assistance or intervention should be proportionate to:
 - the nature and extent of the problem;
 - its potential consequences; and
 - its duration to date and its likely duration if not addressed;
- Ministerial assistance or intervention should endure for only as long as necessary to resolve the problem and provide for a transition back to normal democratic processes; and
- Ministerial decisions regarding assistance or intervention should be transparent.

(b) Matters likely to detract from the ability of local authorities to give effect to the purpose of local government

- The matters or circumstances relating to management or governance of local authorities that the Minister considers are likely to detract from the ability of local authorities to give effect to the purpose of local government within their districts and regions are:
 - financial mismanagement; and/or
 - a significant failure in service delivery; and/or
 - dysfunctional governance and management, which includes:
 - failure or breakdown of key relationships; and/or
 - serious capability deficiencies of elected members or the chief executive, of the local authority which impacts on their ability to perform their role. For the Chief Executive this includes their role as outlined in section 42 of the Act.

(c) Types and sources of information

When making decisions under Part 10 of the Act, the Minister is likely to consider the following types and sources of information:

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- Plans or reports from the local authority, which are voluntarily supplied, required under section 257 of the Act or any other enactment, or requested under any enactment;
- audit reports, including assessment of the accuracy and adequacy of financial reporting required by Regulations made under section 259 of the Act; and
- reviews, reports or communications from any person, group or organisation.

Dated at Wellington this 23rd day of June 2023.

HON KIERAN McANULTY, Minister of Local Government.

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