



Local Government
Commission

Mana Kāwanatanga ā Rohe

**Local government reorganisation:
Guidelines relating to
reorganisation initiatives
and reorganisation investigations**

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Introduction

Purpose and scope of guidelines

These guidelines are designed to assist persons or parties wishing to request the Local Government Commission consider a proposed local government reorganisation (a **reorganisation initiative**) or to conduct an investigation into an issue with current local government arrangements but without proposing a particular reorganisation (a **reorganisation investigation**).

These guidelines refer to the relevant local government reorganisation provisions of the Local Government Act 2002 (the Act) including the detailed process requirements set out in Schedule 3 of the Act, as amended in 2019. Persons and parties considering requesting the Commission to consider an initiative or undertake an investigation, however, are advised to refer to the actual provisions of the Act themselves.

These guidelines cover the process from the submission of proposals and requests to the Commission through to the option of the Commission issuing a reorganisation plan. Further guidelines will be prepared on subsequent steps in the overall reorganisation process through to the issuing of a reorganisation implementation scheme. Separate guidelines will also be prepared on the option for local authorities to develop and adopt their own reorganisation plan and to make application to the Commission for its approval.

The role and powers of the Local Government Commission

The Local Government Commission is an independent body established under the Act with up to three members appointed by the Minister of Local Government. One of the Commission's prescribed functions under the Act is responsibility for local government reorganisation.

The Act provides that the Commission is to be treated as a commission of inquiry (*section 34(1)*). It has powers to summon witnesses, request certain information (*section 34(2)*) and to receive evidence (*section 35*).

What is local government reorganisation?

Section 24 of the Act states that local government reorganisation may provide for one or more of the following matters:

- the union of districts or regions
- the constitution of a new district or region including a new local authority for that district or region
- the abolition of a district or region including the local authority for that district or region
- the alteration of the boundaries of any district or region
- the transfer from one local authority to another of a responsibility, duty, power or discretionary function
- the assumption by a territorial authority of the responsibilities, duties and powers of a regional council

- the performance and exercise by a local authority of both the responsibilities, duties and powers of a regional council and the responsibilities, duties and powers of a territorial authority for a district that forms only part of that region
- the establishment of one or more joint committees and the delegation of responsibilities, duties and powers to those committees
- the establishment of a local board area including a local board for that area
- in relation to a local board, other than an Auckland local board, the means by which the chairperson is elected and whether the board may include appointed members
- the abolition of a local board area
- the alteration of the boundaries of a local board area
- the union of two or more local board areas.

Under the Act, a request to the Commission for it to consider a proposed reorganisation covering one or more of these matters is called a **reorganisation initiative** (see *clause 2 of Schedule 3*).

However, a request may also be made to the Commission for it to conduct an investigation into an issue or a matter without proposing a particular reorganisation. This is called a request for a **reorganisation investigation** (see *clause 2 of Schedule 3*) which may or may not result in a reorganisation involving one or more of the matters set out in *section 24* of the Act.

What is the purpose of local government reorganisation?

Under *section 24AA* of the Act, the purpose of local government reorganisation is **to promote good local government by enabling and facilitating improvements to local governance.**

Reorganisation initiatives and reorganisation investigations

Who can submit a reorganisation initiative or request an investigation?

A proposed local government reorganisation (i.e. a reorganisation initiative) can be submitted, or an investigation can be requested, by:

- one or more affected local authorities
- a group of at least 10% of electors in the affected area
- the Minister of Local Government.

What must a reorganisation initiative or investigation request include?

A reorganisation initiative or investigation request must include the following:

- the name and address of the person submitting the initiative or request
- if the initiative or request is from a group of electors, it must include:
 - evidence that the group comprises at least 10% of electors in the affected area¹
 - the name and address of the person who is the representative of those persons
- in the case of a reorganisation initiative, it must include a description of the proposed changes including:
 - the type(s) of reorganisation set out in *section 24* of the Act being sought (e.g. union of districts, boundary alteration, transfer of responsibility etc.)
 - a plan or other description sufficient to identify the affected area or areas
 - an explanation of the outcome that the proposed changes are seeking to achieve
- in the case of an investigation request, it must include a description of the matter, issue, problem or opportunity to be investigated
- a reorganisation initiative may also include any other information:
 - requested or recommended in any guidelines issued by the Commission
 - that demonstrates the initiative has community support in the affected area
 - considered relevant by the person submitting the initiative.

Guidance note:

Required evidence a group comprises 10% of electors of the affected area needs to be in the form of a list of names and addresses of people currently on the most recent electoral roll for the area. It is recommended that more than the required number of electors is collected to ensure the required number is achieved as some signatories may not be qualified electors or there may be some duplicated names.

¹ The definition of “affected area” is provided in *clause 2 of Schedule 3* and varies depending on whether it relates to a reorganisation initiative and then the form of reorganisation proposed, or whether it relates to an investigation request.

How is a reorganisation initiative or investigation request submitted?

A reorganisation initiative or investigation request must be submitted to the Chief Executive Officer of the Local Government Commission.

Mailing address:

Local Government Commission
PO Box 5362
Wellington 6140

Street address:

45 Pipitea Street
Thorndon
Wellington 6011

Email:

info@lgc.govt.nz

Telephone:

(04) 460 2228

The Commission's process

What happens after the initiative or request has been received?

As soon as practicable after receiving the reorganisation initiative or investigation request, the Commission must:

- in the case the initiative or request is submitted by a group of electors, confirm the group comprises at least 10% of electors in the affected area and, if it does not, advise the person who submitted the initiative or request that the Commission will not undertake an investigation
- decide whether to undertake an investigation having regard to factors specified in the legislation (see below) and after consulting the affected local authorities
- notify the person who submitted the initiative or request, or their representative, of the Commission's decision
- if the Commission decides not to undertake an investigation, explain the reasons for that decision
- if the Commission decides to undertake an investigation, notify the affected local authorities of that decision.

Commission decision to undertake an investigation

In deciding whether to undertake a reorganisation investigation, the Commission must have regard to:

- the purpose of reorganisation as set out in *section 24AA* of the Act (set out on page 4)
- the potential scale and scope of improvements to local governance and services that might result from the investigation
- the potential costs, disruption and other negative effects on the affected local authorities and their communities that may be caused by the investigation
- any time or other constraints that apply to the opportunity to achieve potential improvements to local governance and services
- the need for urgent resolution of any problem identified by the Commission or in the reorganisation initiative or request
- the resources available to the Commission to undertake the investigation in a timely manner
- the likelihood of significant community opposition to any reorganisation that might result from the investigation.

Reorganisation investigation

Investigation process document

As soon as practicable after deciding to undertake an investigation, the Commission must determine and adopt a process for the investigation. It must record that process in writing.

The document which the Commission produces to record the investigation process must set out how it intends undertaking the investigation including:

- the matters to be investigated

- the affected area and affected local authorities
- the procedure and timetable for the investigation
- each affected iwi or hapū and how and when they will be given an opportunity to engage with the investigation
- the key stakeholders and how and when they will be given an opportunity to engage with the investigation
- how and when members of the public will be consulted on the investigation and any proposed recommendations or reorganisation plans that may result
- any other matter that the Commission considers relevant.

In determining these matters and in undertaking the investigation, the Commission must have regard to the following principles:

- early information should be available to the public and stakeholders about the issues to be investigated, the process to be followed and the opportunities for public input
- the process should be in proportion to the scale, scope and potential impact of the identified issues and of any reorganisation plan that may result from the investigation
- the process should recognise the relevant evidence and information that the Commission already holds
- the process should recognise and reflect the nature and extent of the interests of affected iwi or hapū in the outcome of the investigation
- the process should provide persons, entities and organisations who wish to have their views on the subject matter of the investigation considered by the Commission with a reasonable opportunity to present those views to the Commission
- the extent and nature of public and stakeholder engagement should:
 - reflect the degree of public interest (including of each affected iwi or hapū) in the issues and in any reorganisation plan that may result from the investigation, and
 - reflect the importance of:
 - stakeholder input
 - community engagement
 - public acceptance of the process and the potential outcome
 - appropriately balance the costs and benefits of different processes.

Before adopting the process document, the Commission must consult:

- affected local authorities on the proposed process
- all affected iwi or hapū about whether and how the proposed reorganisation investigation, or any reorganisation plan that may result from the investigation, may affect their relationship with their ancestral land, water sites, wāhi tapu, valued flora and fauna, and other taonga or affect their relationships with local authorities.

The Commission may adopt an amendment to the process document at any time and must do so if there is a significant departure from the process.

The Commission must, as soon as practicable after adopting or amending a process document:

- publish the document on its website
- give public notice within the affected area of the publication and location of the process document
- notify all affected local authorities, affected iwi or hapū, and key stakeholders of the publication and location of the process document.

Guidance note:

It should be noted that the recently amended legislation provides more discretion for the Commission to determine processes for community and stakeholder engagement and consultation as part of a reorganisation investigation. For example, there is now no mandatory requirement for the Commission to prepare a draft reorganisation proposal for consultation purposes. While the Commission must still undertake engagement and consultation, its decisions on how these are to be undertaken will reflect the nature and scale of the proposed reorganisation and the amount of information provided by the proposers on levels of community support for the proposal. Proposers should, therefore, consider carefully the type and amount of information they submit as part of their proposal or request.

Investigation process

In conducting its investigation, the Commission may require a local authority affected by the investigation to provide information to the Commission. It may also undertake inquiries and consultation in relation to the investigation with any persons, bodies and groups that it considers appropriate.

At any time during the investigation or at the completion of the investigation, the Commission may issue a report and make recommendations to any local authority on any matter arising in the course of, or ancillary to, the investigation.

In assessing the desirability of options for the reorganisation of local government within the affected area, the Commission must take into account how best to achieve:

- better fulfilment of the purpose of local government as set out in the legislation²
- productivity improvements within the affected local authorities
- efficiencies and cost savings
- assurance that any local authority established or changed has the resources necessary to enable it to effectively perform or exercise its responsibilities, duties and powers
- effective responses to the opportunities, needs and circumstances of the affected areas
- enhanced effectiveness, efficiency and sustainability of local government services
- better support for the ability of local and regional economies to develop and prosper
- enhanced ability of local government to meet the changing needs of communities for governance and services into the future
- effective provision for any co-governance and co-management arrangements that are established by legislation (including Treaty of Waitangi claim settlement legislation) and that are between local authorities and iwi or Māori organisations.

As soon as practicable after completing the investigation, the Commission must:

- give notice of the completion of the investigation
- notify all affected local authorities, affected iwi or hapū, and key stakeholders of the completion of the investigation

² Section 10 of the Act provides that the purpose of local government is:

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

- record the completion of the investigation on its website.

Reorganisation plan

The Commission may, during or at the completion of an investigation, develop and adopt one or more reorganisation plans for the affected area. A reorganisation plan is an adoption of one or more of the particular forms of local government reorganisation set out in *section 24* of the Act.

In deciding whether to adopt a reorganisation plan, the Commission must have regard to:

- the scale of the potential benefits of the proposed changes in terms of the objectives set out in respect of assessing the desirability of options (see above), and the likelihood of those objectives being realised
- the financial, disruption and opportunity costs of implementing the proposed changes at the proposed time
- the risks and consequences of not implementing the proposed changes at the proposed time
- existing communities of interest and the extent to which the proposed changes will maintain linkages between communities (including iwi and hapū) and sites and resources of significance to them
- the degree and distribution of demonstrable public support for the proposed changes within communities in the affected area
- the degree and distribution of any public opposition to the proposed changes within communities in the affected area.

As soon as practicable after adopting a reorganisation plan, the Commission must:

- give public notice of the plan including advice of where it may be inspected
- take any other actions considered necessary to inform persons, bodies and groups identified as having an interest in the plan.

The Commission must also attach to the reorganisation plan a full and detailed statement that:

- explains how the plan will achieve the objectives set out in respect of assessing the desirability of options
- provides a balanced assessment of the reorganisation plan and outlines the advantages and disadvantages of the proposal including those relating to:
 - the creation or alteration of any district or region
 - the exclusion of any remaining area of a district or region affected by the proposal
 - any changes to the responsibilities of each affected local authority
 - any change to how a local government service is managed and provided.

What happens next?

The next steps will depend on the form of reorganisation provided for in the reorganisation plan.

Poll of electors

A poll of electors on the reorganisation plan must be held in the affected area if the reorganisation plan relates to one of the following forms of reorganisation:

- the union of districts or regions
- the constitution of a new district or region including a new local authority for that district or region
- the abolition of a district or region including the local authority for that district or region

- the assumption by a territorial authority of the powers of a regional council as a unitary authority
- the transfer from one local authority to another of:
 - responsibilities, duties and powers in relation to water services or transport services
 - responsibilities, duties and powers under the Resource Management Act 1991
 unless the Commission is satisfied, on reasonable grounds, that the transfer is not a major transfer or the transfer has the support of all affected local authorities.³

The corollary of this is that polls of electors will *not* be held on reorganisation plans solely involving boundary alterations; the establishment of joint committees or the establishment, abolition or alterations to local board areas and local boards.

Establishment of transition body

If a reorganisation plan is adopted and notified by the Commission, and either a poll is not required to be held or a poll has been held and more than 50% of votes cast support the reorganisation plan, then an Order in Council is made to give effect to the reorganisation plan.

In both cases a transition body, as provided for in the Order in Council, is established to work with the Commission and facilitate local input into the development of a reorganisation implementation scheme.

Issue of reorganisation implementation scheme

A final step is the preparation and issue by the Commission of a reorganisation implementation scheme setting out the detail of the reorganisation described in the reorganisation plan and how it is to be implemented. The scheme must promote good local government in a way that meets the needs and preferences of affected communities.

Further guidance

The Commission intends providing further guidance in relation to the conducting of polls of electors and implementation steps involving transition boards and implementation schemes. Guidance will also be provided on the option of local authorities developing their own reorganisation plans and submitting these to the Commission for approval.

³ A transfer is defined in the legislation as a major transfer if the responsibilities, duties or powers to be transferred:

- (a) represent 50% or more of the transferring local authority's operational expenditure, or assets, or staff in respect of water services, transport services, or resource management functions, or
- (b) include responsibility for preparing a policy statement, plan, variation, or plan change under the Resource Management Act 1991.