

Service delivery reviews

Conducting a service delivery review under section 17A
of the *Local Government Act 2002*



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FOREWORD

This guide discusses the requirement to conduct reviews of service delivery under *section 17A* of the *Local Government Act 2002*. It is the last piece of SOLGM's planned suite of guidance that covering the legislative amendments made during 2014.

The legal requirements are not greatly different from the internal reviews of services that all of us have undertaken at some point in our careers. The only strikingly 'new' elements are is that there are two legal triggers for the review process and that the legislation sets a deadline for completion of the first set of reviews.

Of course, we review our services to ensure that we are getting the best value for our community. Possibly the most significant challenge we will face in implementing *section 17A* is to ensure that this does not turn the service delivery review process into a compliance exercise.

This guide will show you how to integrate the *s17A* requirements into your own processes for conducting reviews. The guidance provides navigation through what is one of the more complex pieces of drafting (at least for what it was attempting to achieve). The guide will help you develop a forward programme for reviews. And it will help you understand how to document your processes to safeguard against the legal risks.

This guide has primarily been the work of SOLGM's Planning and Accountability Working Party. I thank them for their work on this guide and the other products in our suite of guidance over the past year.

Barbara McKerrow
President SOLGM
August 2015

Disclaimer

This guide represents the collective wisdom of the local government sector on the conduct of a service delivery review that will meet the obligations under *section 17A* of the *Local Government Act*.

Every effort has been made to ensure that the information in this guide is as accurate as possible, including review by legal advisors.

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1 WHAT IS A SERVICE DELIVERY REVIEW?

This guide discusses the requirement to conduct a review of service delivery under *section 17A* of the *Local Government Act 2002 (LGA02)*.

A service delivery review is a process of determining whether the existing means for delivering a service remains the most efficient, effective and appropriate means for delivering that service. The legislation requires that a service delivery review should periodically assess “*the cost-effectiveness of current arrangements for meeting the needs of communities within its district or region for good-quality local infrastructure, local public services, and performance of regulatory functions*”.

One of the policy objectives underpinning the Better Local Government programme of 2012-14 was the promotion of efficient service delivery and governance arrangements. The *section 17A* requirements were one of a set of amendments along these lines, including:

- amendments to the reorganisation process to better enable community-led reorganisation
- a new principle that local authorities should “actively seek” to collaborate and cooperate with others
- an expansion of the scope of the triennial agreement between all councils in each region to address how issues of mutual benefit will be addressed, and to enable the agreement to include commitments to joint committees or other shared governance arrangements
- improved clarity about the process by which territorial authority functions can be transferred to regional councils, or vice versa and
- an explicit framework for agreements to constitute joint committees.

The requirement to periodically review services supports the changes to the purpose of local government (*section 10, Local Government Act 2002*).¹ The review provides a statutory encouragement to actively seek efficiencies and is therefore a good way of demonstrating that your local authority is delivering its services in a manner that is most cost-effective for households and businesses.

Previous SOLGM guidance has emphasised that the term cost-effectiveness is not the same thing as ‘least cost’.² Councils must also consider the effectiveness of current arrangements. Cost effectiveness is therefore much more consistent with ‘least cost consistent with the achievement of the council’s objectives for delivering the service’.

While the periodic review of services is now a legal requirement, every local authority has conducted a review of service delivery at some time. Parliament intended only that local authorities conduct reviews on a regular basis, there was no intent to point towards a particular outcome or even cut across the review processes local authorities currently have.

1.1 Why do a service delivery review?

Doing a service delivery review well can result in any or all of the following benefits:

- *efficiency gains* – either from financial cost savings or reductions in resource requirements freeing up resources for use elsewhere
- *improvements in services*
- *improving relationships with other local authorities, community groups and private sector providers* – working through options for some services with other bodies builds trust and confidence, and might stimulate other ideas for review

¹ Unless otherwise stated, all subsequent references to ‘the Act’ or ‘the LGA’ refer to the *Local Government Act 2002*.

² See SOLGM (2012), Purpose Clause, Frequently Asked Questions (available on request from SOLGM).

- *better understanding of available options* – identifying alternative means for service delivery can be a useful spur for future thought even if you decide not to pursue them in the current review. It also helps guard against complacency.

A service delivery review is therefore best viewed as an opportunity to improve the delivery of services to your residents and ratepayers. If your local authority approaches a review with a compliance mindset, it is likely to land on 'more of the same' outcomes.

Unlike many of SOLGMs other guides, the processes and pointers in this guide have a far stronger good practice element. Feel free to adapt to fit your own programme of reviews. You might even choose to ignore some aspects altogether.

1.2 What's a service?

Section 17A uses the same terminology as *section 10*, that is to say that it refers to the 'local infrastructure, local public services, and the performance of regulatory functions'.

The starting point for your definition of service should be the activities (not groups) that you disclose for reporting in your long-term plan. As noted later you might then elect to combine like services together for *s17A* purposes (for example by combining resource consents, building consents and licensing into one).

If a service is large, and consists of a number of elements where separation of one or more aspects of the service is a realistic prospect then you might consider disaggregating an activity into more than one subactivity or component. For example with an activity such as roading, you might de-couple transport planning from the physical infrastructural development. One involves retention of a strategic capability and might be a strong candidate for keeping in house, another must be delivered at arms-length (if funded by central government).

On a strict reading the *Act* is focused solely on the public-facing services. SOLGM considers that including back-office services such as debt collection (or other more transactional elements of the finance function) is consistent with Parliament's intentions. Those sceptical of this should remember that back office functions such as IT and debt collection were among the first candidates for the so-called shared service arrangements.

1.3 What must a service delivery review include?

A *section 17A* review determines the cost-effectiveness of different funding, governance and service delivery options for meeting the needs of communities. There is no definition of the terms funding, governance or service delivery in the legislation. In broad terms however:

- *a funding arrangement* involves the manner in which the financial resources are provided to support the service, including both the mix of sources of revenue or capital and any arrangement or agreement that governs the provision of these resources (such as a contract, deed of trust etc)
- *a governance arrangement* revolves around who has the right to make binding decisions about the overall objectives for provision of the service, and set the strategic framework in which the service operates. In the local authority context governance options fit into two broad categories – political or arms-length (which in itself is a catch-all term for a variety of models ranging from corporate forms to various forms of trusts)
- *a service delivery arrangement* essentially describes the body that physically undertakes the work or provides the service.

To give an example of the difference, take the delivery of passenger transport. In most New Zealand local authorities:

- the funding is provided by a mix of user charges and subsidies from the regional council and the New Zealand Transport Agency (there are exceptions to this in some areas)
- the governance of the activity is undertaken by a regional council and
- passenger transport services are provided under a contractual arrangement with a private sector agency.

Section 17A requires consideration of the following options:

- a) funding, governance and delivery by your local authority
- b) responsibility for funding and governance is undertaken by your local authority and delivery is undertaken by another local authority
- c) responsibility for funding and governance is undertaken by your local authority and delivery is undertaken by a CCO, wholly owned by your local authority
- d) responsibility for funding and governance is undertaken by your local authority and delivery is undertaken by a CCO, where your local authority is a part owner (the other owner or owners might be a local authority or other organisation)
- e) responsibility for funding and governance is undertaken by your local authority and delivery is undertaken by some other person or agency (such as a private or community sector agency)
- f) responsibility for funding and governance is delegated to a joint committee or other shared governance arrangement, and delivery is undertaken by some other person or agency
- g) any other reasonably practicable option for funding, governance and delivery (*section 17A* does not limit the options to those above)

We've been asked whether the review should consider options for generating efficiency gains even if no change in the funding , governance and delivery is proposed (we'll refer to these as refinement options) .

There is no legislative requirement to do this. The choice is one for your local authority to make. However, *section 17A* was intended to get local authorities thinking about ways to encourage efficiency gains. In many cases change options may not be practicable, in which case closing off on refinement options may be closing off on potential gains. Refinement options may sometimes be of more interest to elected members. Regardless, the data requirements are identical and reviews that are too unnecessarily frequent are likely to create an unsettled team culture with all that this involves (e.g. high turnover, low morale etc).

2 DEVELOPING A PROGRAMME OF REVIEWS

2.1 The trigger points

There are three statutory trigger points when a review must be undertaken:

1. *when considering significant changes to service levels* – that is to say if you are considering a significant change, then you must undertake a review of service delivery in conjunction. We interpret the phrase significant change to include starting a new service, or significantly increasing or decreasing a level of service. This means your local authority will need to be keep a close eye on developments in the legislative and policy environment that have (or could have) a significant impact on levels of service
2. *within two years of expiration of a contract or other binding agreement to deliver a service* – that is to say, if someone is delivering the service on your behalf, and that is due to expire inside two years, then you will need to conduct a review. We suspect that in practice this will be this most commonly triggered circumstance.

We've been asked about contracts that have a right of renewal, for example a five year contract with a three year right of renewal. There isn't a single right answer in this case. Our advice is to carefully scrutinise the wording of the contract and look for the point when the contract or agreement would be most likely to end. Often this would be the end of the renewal period, as the intent is the agreement will be renewed except for underperformance. In cases where the agreement provides your local authority with more flexibility as to renewal, then the review should be undertaken within two years of the end of the first period. We suggest that the *section 17A* process should occasion a review of whether and in what circumstances your local authority offers rights of renewal.

3. a review of service delivery has a maximum statutory life of six years from your last review under *section 17A*. For example, suppose you complete a review of a service on 6 August 2017, the next review would have to be completed by 5 August 2023 (unless something happens to trigger the review in the intervening period, or your local authority decides to undertake a review of its own accord).

Other circumstances do not trigger a review in and of themselves. For example, reviewing the funding of an activity as part of a review of your revenue and financing policy does not mean that your local authority needs to review governance and service delivery as well.

Regardless of the above, the *LGA* has a transitional provision that requires that all services must be reviewed by 8 August 2017.³

2.2 The exceptions

There are two statutory circumstances where a review is not necessary (even when triggers have been activated). These are:

- there is a contract or other agreement in place that cannot reasonably be changed within two years (though if something happens that makes a change reasonably practicable you would need to do the review then)
- your local authority is satisfied that the costs of doing a review outweigh the benefits of doing a review.

³ *Clause 2, schedule 1AA.*

In cases where either of these exceptions have been triggered then you'll need to have evidence to support your judgement that these circumstances apply.

In the case of contracts or other binding agreements you'll need to document the reason why this document cannot reasonably be changed. This will generally revolve around penalties or other impositions around termination, the difficulties involved in changing providers in mid-project or similar.

The second instance (costs outweighing benefits) was designed to ensure the requirement is observed in a workable fashion. It was designed more for circumstances where the service is small, or where significant cost savings are unlikely or where a review has been conducted relatively recently.

This does not require a formal cost/benefit analysis or necessitate hiring consultants (though for larger, more complex or contentious review projects you might wish to do so). It will require consideration of costs and benefits, and clear documentation of the reasons why you decided not to conduct the review.

Some local authorities have set a policy which sets out a minimum contract value before the local authority will undertake a service delivery review. In effect, this is a policy judgement that reviewing a contract below this size is unlikely to generate savings that outweigh the costs. This approach works well for very small services and smaller contracts (most probably for services that aren't capital intensive).

A more sophisticated approach will be needed for larger services. Your consideration of the costs and benefits that might arise from a review might include:

- *the anticipated cost of the review* – there are a wide variety of different processes for undertaking a review, select one or two options that appear most practicable as the basis for costing (in this way you've developed a potential range, and given yourself some protection from claims that you looked at a single option)
- *the total cost in providing the service* - a 10 percent per annum saving on a \$1 million service may justify a review, a 10 percent per annum saving on a \$50,000 service may not
- *the elapsed time since the last review* – if your local authority has done the last review of the service recently it may well be that you would end up with a similar result to your last review (unless there have been significant changes in the operating environment)
- *changes in the environment in which the service is delivered* – changes in the legislative environment might have made some options feasible, or reduced the potential to use other options (a hypothetical example might revolve around changes to the maximum time period set in *section 130* of the *Act* for contracting out delivery of water services)
- *effectiveness of current arrangements* – are the current arrangements meeting the councils objectives for providing the service, is there any credible (and quantified) evidence that a change in service delivery might provide improved service⁴
- *capacity/capability gains and losses* – some joint delivery options or options that involve delivery by third parties may result in the creation of greater capacity to manage complex issues (this is often one of the benefits that people cite as a rationale for creating CCOs to manage network infrastructure). Some options for delivering some services might remove or reduce the capacity within your local authority in places such as policy and procurement (need to "know what your local authority is buying from suppliers").

⁴ Be sure to separate fact from fiction with this one, there are some agencies and groups that deal in unsupported assertions.

2.3 Developing a forward programme for reviews

The obligation to undertake *section 17A* reviews applies to all services, with both an initial review and an obligation to conduct reviews on a regular basis. Conducting a full review of all of your services is a large task, but fortunately the ability exists to stage the reviews. It would be wise to take advantage of this by developing a forward programme for the reviews, both up to August 2017 and beyond.

As the statutory “life” of a *section 17A* review is six years, it's generally wise to set a forward review programme of six years. This ensures that all services are incorporated in the review, and that all interested or affected parties have an approximate idea of when their service is likely to come up for review. Developing a six year programme does not mean it's set in stone, the programme should be reviewed at least once per annum, and should retain the flexibility to adapt as developments occur.

Figure 1 shows an approximate order of steps to develop a forward programme of reviews

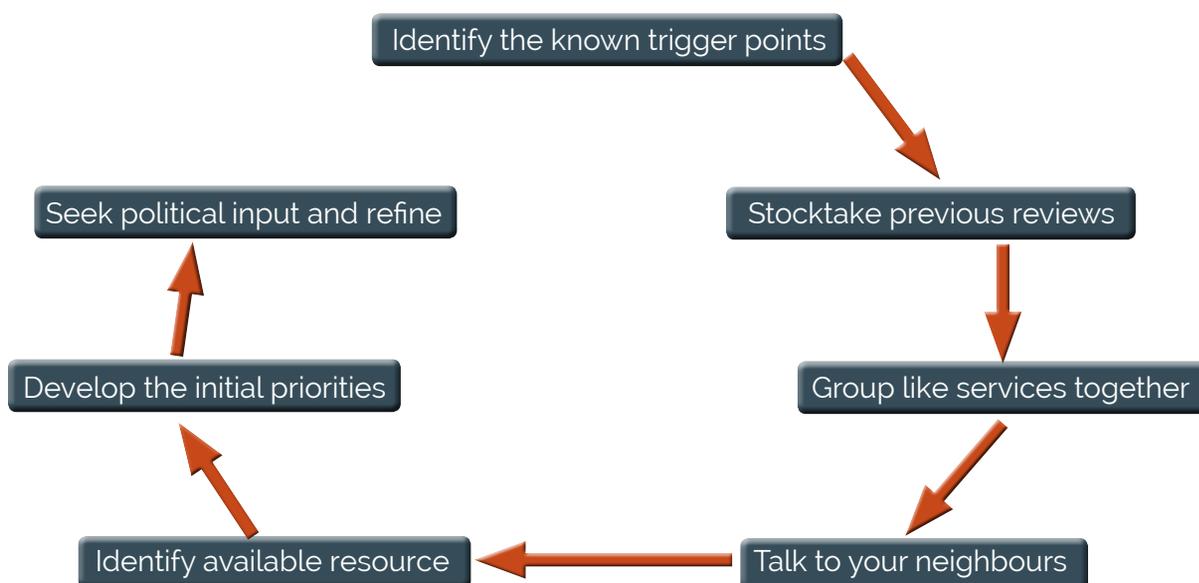


Figure 1: Developing a forward programme of reviews

Identifying the known trigger points

Your first step should be to identify the likely points that will trigger a *section 17A* review i.e. that there is less than two years to the expiry of a contract, or that there is a significant change to a level of service.

Likely information sources for that include:

- *your local authority's contract documentation* will tell you when each contract is up for renewal, what amount and what each contract covers. Where joint procurement options have been arranged this documentation will also identify interested or affected parties. One implication of this is that those local authorities that do not already do so should consider some centralised register or other readily accessible information about contracts
- *your local authority's long-term plan or asset/activity management plans* – these documents will identify any significant changes in levels of service that have been planned. Look for matters such as the expiry of resource consents, and use judgement as to what implications

are likely to have for levels of service. Don't forget that the obligation to review services applies to any significant change in levels of service – a significant decrease in levels of service decrease is as much a trigger for a review as a significant increase

- *the Government's policy agenda* (in as much as it is known) – if central government has signalled that a level of service for an activity will change significantly, for example if there were to be a change to the microbiological and protozoal components of drinking water standards, then a review of water services might be needed at that point
- *your significance and engagement policy* – will provide guidance for considering what is and isn't a significant change in levels of service, and what other issues or decisions might require engagement, when and how.

Stocktake any previous reviews

It's always a good idea to identify the previous service delivery reviews that you've undertaken. This includes both those undertaken under the authority of *section 17A*, and those undertaken of your own initiative. These reviews can provide lessons around:

- *undertaking the process* – for example who should be engaged in the process and at what point
- *previous thoughts around the cost-effectiveness of different options* – what conclusions did the council reach in that previous review and why. Be wary of placing too much weight on the results of a previous review however. Market conditions can change, developments in technology might make some options feasible, even changes in the political direction of council might make the outcomes of a previous review less relevant.

The results of these reviews can help identify priority targets for review – for example those where you know there has been some development that might mean a fresh option is feasible.

When reviewing the results of previous reviews that were 'voluntary' be sure to assess whether these reviews met the requirements of *section 17A*. For example, did your last review consider all of the options that are mandated under *section 17A* (our sense is that most will not have done so). If your last review missed one of these requirements it should not be treated as having been a *s17A* review and the service is most probably a candidate for early review.

Group like services together

There is nothing in legislation to preclude local authorities from grouping like services together to undertake *section 17A* reviews.

Giving thought to matters such as the degree of interconnection between the services, commonalities in the rationale for service delivery and common patterns of benefit might reduce the size of your work programme in a sensible way. For example, drinking water supply and sewage disposal are almost always managed as an integrated whole, and might be combined for the purposes of developing a programme.

Talk to your neighbours

Several of the options that must be considered involve joint delivery with groupings of other local authorities. Getting together with your neighbours to discuss a joint programme of *s17A* reviews avoids duplication of effort (and the result where two neighbouring councils conduct reviews in parallel and come to a different result). The initial place to start this discussion is in your regional networks (where they exist), although ad-hoc groups or some groupings at sub-regional level may make sense.

Identify available resource

Having broadly determined what needs to be done, it is time to consider when it needs to be done and by whom. These steps turn a list of tasks into a forward programme of work.

At this step you'll need to consider workflow amongst the different portions of council, especially your activity managers and the different parts of your governance structure. There are a wide range of matters you'll need to consider including:

- *statutory policy development* – including the development of the LTP, annual plan, and the activity that precedes that (such as asset management planning and development of financial and infrastructure strategies), district plan reviews, assessments of water and sanitary services et al. To take an example, a review that identifies a change in the funding of a particular service, might necessitate a change in your revenue and financing policy, which requires consultation and potentially an audit (if the change is significant).
- *non-statutory development* – how and when does your local authority undertake work such as rating reviews, level of service reviews and any other significant or contentious non-statutory plans and policies
- *consultation* – some options (such as establishment of a CCO) might require consultation, allow time for these processes to run
- *the political process* – there will be times when it may not be practicable to progress reviews with elected members. Few elected members will welcome being called on to make significant changes in the period before the election. Inducting elected members and activity such as direction setting may also preclude their taking significant decisions in the first few months after the triennial election.

As with the previous step, there are benefits in undertaking this work at regional or sub-regional level. Availability of resource across all of your regional partners means some synchronisation in the timetables is essential.

And don't forget to leave some degree of flexibility in the programme for amendments or adaptations as and when opportunities arise.

Develop the initial priorities

And at last you're in a position to develop a set of initial priorities. Some things to consider at this point are:

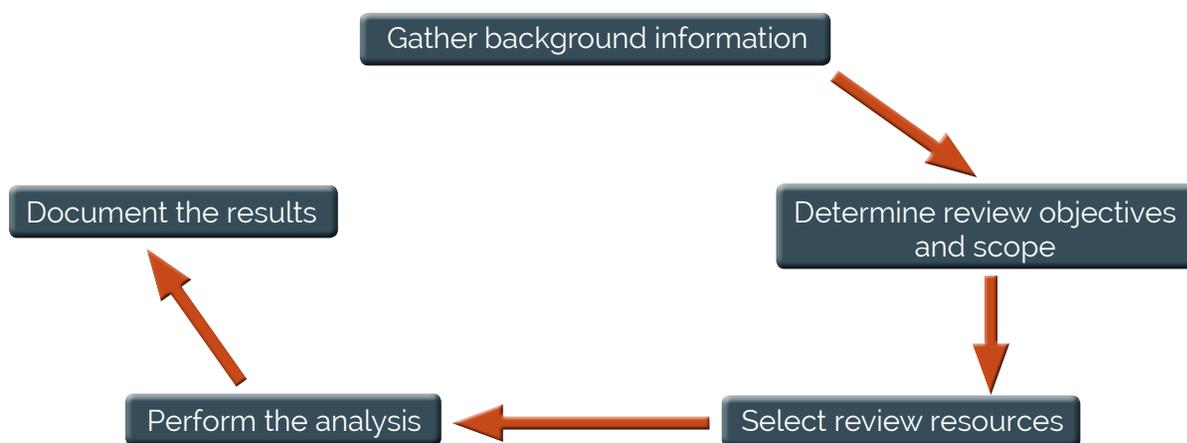
- *timing of previous s17A reviews* – make things easy for your local authority. All things being equal if you've done an s17A review of service delivery in the last year, you would avoid placing it amongst those services up first for review (unless something triggers the review or there is some other compelling reason to)
- *when and in what circumstances s17A reviews might be triggered* – see the discussion above
- *the 80-20 rule* – use your professional judgement to identify those services where efficiency gains are most likely to sit, and which all things being equal, might be those your local authority tackles earlier in the programme
- *consultation* – where reviews could generate changes that require consultation then there may be benefits in aligning that with other consultation and taking advantage of the concurrent consultation provisions of the LGA02.

Seek political input and refine as needed

Service delivery, and changes to service delivery can be an intensely political issue. We recommend that your proposed programme for reviews should be exposed to the decision-makers before it is finalised.

3 CONDUCTING A SERVICE DELIVERY REVIEW

Having developed a forward review programme, lets now turn to conducting an individual review of service delivery.



3.1 Gather background information

This preliminary phase draws together information about the current state of the service into a single place to serve as the basis for the identification and analysis of options.

In the first instance this should be the responsibility of the activity manager or other staff that deliver the service. They will (or should) have ready access to most of this information.

A full information set would include the following:

- *a clear definition of the service* – what is this service, what does it do, what’s been included and excluded from the scope of this service and why
- *current arrangements for funding, delivery and governance* – describe these succinctly including any contracts or other arrangements that relate to the funding, delivery or governance of the activity
- *legislative requirements* – is this a service that is required by legislation (and if so, what is the legislation) or is it discretionary
- *rationale for service delivery*⁵ - why is that you provide the service (or have somebody provide the service on your behalf). In particular look for linkages between the service and your council’s various strategies, policies and plans; and any other intervention logic (e.g. a territorial authority provides dog control services to promote public health and safety, not just because the *Dog Control Act 1996* requires it)
- *how does council currently define effective performance for the activity* – what are the council’s objectives for the service and how do you know whether or not these objectives have been met (in the parlance of performance management – what are the levels of service and performance measures). This is your basis for making judgements about the effectiveness both of the current arrangements and future arrangements
- *the cost and resource involved in delivering the service* – provide a breakdown of the operating and capital cost for the activity, and other significant resources involved in its delivery. Ideally some trend information (for example the last five years) would be provided to garner some idea of expenditure trends and cost drivers. Forecasted budgets for the

⁵ SOLGM (2010), Performance Management Frameworks: Still Your Side of the Deal, provides further information and some worked examples for developing rationale for service delivery.

service should also be provided – this is the basis for comparing the cost of different options

- *risks and risk management arrangements* – what are the financial, political, hazard, and legal risks with this service. How (and how well) are these managed under current arrangements
- *funding provided for the service, and the source(s) for this funding*
- *user/customer information* – this covers a variety of different topics including results of customer satisfaction surveys (where these exist); the common areas of customer complaints, requests for service, and other feedback to the provider of the service, what information exists on the views and preferences for the service
- *other stakeholder information* – including the views and preferences of your elected members and staff involved in delivery of the service
- *results of the last review* – whether conducted voluntarily or under the authority of *section 17A*.

Scaling

The above list has been developed on the assumption that your review is of moderate scale. A smaller scale review might omit one or more of the items in the above list. A full scale review would include information to a greater level of detail and potentially formality. For example:

- the cost and funding information would be presented at 'line item' level and might well be forecasted ten to twenty years into the future
- documentation of the last review might be more in-depth and explain in detail which options were traversed at length and why.

3.2 Determine review objectives and scope

In this phase of the review you determine objectives for the review and how far the review will extend. Although a *s17A* review must always have the primary objective of determining which options are most cost-effective for households and businesses, you may add other matters as well, such as improving customer service.

We've been asked if local authorities are obligated to review the governance, delivery and funding of an activity together or whether partial reviews can be undertaken. For example, governance and delivery might be reviewed at one time, and the funding at another. The short answer is that this is permissible, but that in most instances reviewing the three together is common sense, especially if change to governance or delivery are realistic options. Here are some reasons for keeping reviews of services unified:

- too many reviews, even limited reviews, can have impacts on staff morale with consequent impacts on service performance, staff retention etc
- it can be difficult to sensibly separate the funding of an activity from its delivery or governance, which means fragmenting reviews and involves a degree of relitigating issues thought 'resolved' in other issues
- reviewing one of the aspects of the service might generate ideas for improvement elsewhere, that require a subsequent review
- too many reviews can create fatigue amongst elected members and the community (where they are making decisions on, or being consulted on, the review)
- reviews have direct and indirect costs, including the opportunity cost of the time that could be spent on other activities.

This is the point where your local authority makes an informed judgement as to whether the costs of the review outweigh the benefits of the review (using the criteria above or others).

This phase of a review should see a 'first pass' at the options. At this phase the intent is not to conduct detailed analysis but to eliminate those that are obviously not feasible. For example any option that involves delivery of water services by a party other than a local authority or CCO could be constrained by the time limit on contracting out contained in *section 130* of the *Act*. It is not a licence to remove options based on perceptions that a particular option might not have political support, or might raise community concern.

Local authorities are not required to engage with the community when undertaking reviews. Obligations to engage may exist where levels of service are being changed or at the point when options such as establishment of a CCO are mooted. If engagement is likely, whether voluntary or because legislation requires it, then this should be identified at the scoping stage of the review.

Scaling

The scoping decision will be an important part of the scaling of the review. It is important that the service manager be involved in the scoping process, but the final decision on review scope should sit elsewhere. If the review is smaller in scope then it may be the service manager's immediate superior, if larger it may be a matter for your senior leadership team. If the review is to seriously traverse joint delivery options it may require council consideration.

3.3 Select review resource(s)⁶

Having determined the scope of the review and gathered the necessary background information, it's time to resource the review.

How you resource any review is a matter that is entirely up to your local authority. The resourcing of any review could be as small as a single person (such as the service manager) or as large as a multidisciplinary team (with supporting review panels). Likewise the decision to use your own staff, or contract out the review to consultants sits entirely within your local authority's discretion

Some things to consider at this stage of the process are:

- *place in your overall review programme* – where several reviews are being conducted, a desire for consistency in methodology and overall policy approach can sometimes lend itself to undertaking reviews using a common resource (this might also be the case where one or more reviews are undertaken by groupings of local authorities)
- *the scope of the review* – if a review is larger in scope and is likely to create a diversion from "business as usual" then there may be a case for having the review done externally
- *the desired degree of independence* – generally the people who know the service best are the service manager and the staff involved in delivering the service. There will be a need to consider their knowledge against the possibility that an independent reviewer (whether from inside or outside the council) might provide new thinking and an independent approach (e.g. they are not reviewing their own roles)
- *the balance of skills and knowledge* – a successful review incorporates skills, knowledge and experience from many professional disciplines. Where reviews are conducted internally it may be important to balance the representation from within the service with skills in financial analysis, asset or activity management, community engagement etc. Look for a balance of skills rather than ensuring that every area of council is represented. A moderate sized review might have 2-3 people involved with one designated as the overall review manager, and a relatively simple project structure

⁶ We use the term review agent as a 'catch-all' term for any person or group assigned to conduct the review. This might include an individual, a project team assembled from within council, consultants or some combination of options.

- *access to specialist skills or knowledge* – where specialist economic or financial analysis skills are needed it may be necessary to acquire that knowledge from outside your local authority.
- involvement of elected members – this is one of the key decisions in resourcing a review project. Most elected members will have some views about options ranging from the “contract out for efficiency” to “public delivery and funding are important for their own sake” and all points in between. Elected members may also have strong views about what constitutes effective performance. There is a tension between securing elected member input during the review and ensuring the robustness in the analysis of options. In a larger or more politically contentious review it may be desirable to have elected members involved as part of an overall steering or review group (though watch for situations where some elected members may be seen to “know more” than others). Regardless of the decision around formal involvement of elected members, there will be a need to keep all elected members informed throughout the review process
- involvement of staff – how and when will staff in the service under review be involved in the review process, and how and when will other staff be involved (including those not directly providing the service). The box below discusses employee involvement in more detail.

Scaling

The amount and type of resources you devote to the review is clearly one of the most scalable items present in the review.

A moderate sized review might involve a team of 2-3 drawn from within the council. A smaller review might involve only one person performing the work, with a senior manager (or the CE) providing peer review. A larger more complex review might have a team of four or five performing the review, or be outsourced, with either option having the support of a review panel.

The service delivery review process and employees

Nothing in s17A removes or reduces the rights of staff in employment law, or abrogates from the Chief Executive's responsibilities under employment law, or as a good employer under clause 36, schedule seven of the *LGA02*. The immediate implication of this is that employees (and any representative bodies such as the unions) must be involved in the process.

But involving employees in the process is also the smart thing to do, regardless of the legal niceties. Staff can provide a useful front-line perspective of whether the objectives for a service are being met that no performance measure can ever provide. Staff have a working knowledge of how the service is being used or accessed on the ground, and therefore have a better understanding of the practical issues involved with alternative options. And, in the final analysis, the interaction of staff with the public will play some part in determining how the public view any actual change.

There are few hard and fast rules for determining when and where staff should be involved, up to the point where change is under serious consideration and options such as redundancy or redeployment are being considered. Otherwise it's a matter of common sense and application of the 'do unto others' rule.

In the scoping phases of a review, staff will need an understanding of what the review process involves and why it's being undertaken. At that point it is generally useful to seek feedback on the review objectives, and for feedback on the way the service is operating and suggested improvements.

Where working groups have been created, it is generally advisable to ensure staff are represented. Ensure that you've considered balancing representation from those staff who are members of unions, and those who are not, and how the views of all employees can be identified and considered during the review process.

Another place where you might consider inviting specific feedback is at the point where your review has narrowed options to a small number. An invitation to provide feedback at this point would state how and why the council these options appear the most practicable, and why others do not appear as practicable.

As with any employment process, and any consultation or decision-making process the obligation to approach the process with an open mind applies.

3.4 Analysis

The key principle in this phase is that a review of the options should involve a true consideration of the options.

Cost-effectiveness involves a degree of policy judgement, and therefore is a judgement for your local authority to make. Courts could intervene if your local authority has not turned its mind to the requirement, or on administrative law grounds.⁷

But in making that judgement, some factual evidence will be needed as to:

- what constitutes effectiveness and why it is that the selected option is at least as effective as others

⁷ In this context, the most likely way such a case would be made out through a lack of documentation and robust evidence about the effectiveness of a particular option and documentation that suggests that option has a lower cost than the council's preferred option.

- what the costs of the different options are (SOLGM considered that the nature of the cost/effectiveness balancing does not mean that costs have to be quantified with precision but they should be sufficient to enable a reasonable person to draw a similar conclusion as the decision-maker).

Costing options

The legislation requires an assessment of the cost-effectiveness of different options for funding, governance and delivery. This means that a *section 17A* review will require some assessment of the costs of different options .

This does not mean that you undertake a formal cost/benefit study for every review. The depth of analysis is a decision for the scoping phase of the review. But reviews should generate at least a 'ball park' idea of the differences in cost involved.

Decisions to change governance and delivery are not always easy to reverse or amend. For that reason your assessment of costs of the different options should take a medium to long term focus. For a service that is not asset-intensive we recommend a ten year horizon as aligning with the timeframes set for long-term planning purposes. For a service that is asset intensive, we would suggest that 30 years is the absolute minimum and that good practice would be to consider costs over the lifecycle of the asset.

A robust costing of different options needs to be as much on a like for like basis as possible. That means taking the projected levels of service, projects and expenditures signalled in the activity plan and projecting them across the different options consistently. We've all seen studies that claim that a particular favoured option projects savings, where savings have turned out to come from reductions in levels of service or deferral of work.

Sometimes an activity management plan contains a project or programme added purely for political reasons, where alternative governance such as a CCO or a private sector agency would probably not proceed with. In these instances it is acceptable to remove these projects or programmes, but document these as part of your analysis.

And then the next part of the costing involves making assumptions about the form of delivery, its structure and method of operation. Again document all assumptions and your rationale for selecting these.

In costing different options it may be useful to draw comparisons from other local authorities where a particular governance or delivery option is employed. For example, those few local authorities that still collect waste 'in house' will probably find a wealth of information from those where the service is outsourced.

Watch for the so-called "stranded overheads". These are corporate level costs that will not transfer in the event that a service that will not transfer in the event that a service moves to a CCO, divested etc.

Service delivery reviews and performance improvement methodologies

Many local authorities use performance improvement tools such as Baldrige, balanced scorecard, six sigma and the like. These can be useful support tools and the metrics that they generate can provide useful information with which to judge the effectiveness of service delivery (a service that is meeting performance standards is, or should be effective by definition). These frameworks also provide useful thinking about the overall direction your review process should take.

However the *section 17A* test is a legal standard and requires a judgement of cost effectiveness. The legal standard takes precedence over anything that an off the shelf methodology will tell you. Be wary about relying solely on these tools as the basis for your judgements.

Benchmarking with other local authorities

Another common analytical technique is to benchmark performance with other comparable local authorities. While the term benchmarking may immediately conjure images of “league tables”, many local authorities maintain informal benchmarking with peer groups across selected services. That might, for example, include comparisons of outcome information, levels of service, costs, resources employed, and funding needs and sources.

With careful design and interpretation, benchmarking can reveal areas where your local authority's financial or non-financial performance is an outlier (that is, either the exemplary or execrable). For example, if your local authority is delivering a service that meets the council's objectives, to a higher standard than others, and at less cost that's probably a good indicator of cost-effectiveness.

If you are interested in doing benchmarking for this purpose alone, try to find peer councils that use different service delivery models (where these exist). If all local authorities are delivering using the same model then the information from benchmarking may not be a good basis to assess the effectiveness of different options.

Refinement options

Although not a statutory requirement, it is good practice to consider whether there are opportunities for efficiency gains even if your model is the most cost-effective of the options. Some of the options might include:

- a redesign of existing processes for delivering the service, for example, by removing duplicate collection of information
- investing in training and development of staff so that staff are able to ‘multi-task’ and handle more than one aspect of a regulatory process
- the selective use of technology – for example moving a service online to make the service available 24/7 or remove the need for people to physically come to the council office
- revisiting how and when governance input is necessary and when it not – for example by reviewing the delegations to take decisions. Remission and postponement of rates is a good example. Some applications might have a strategic element to them, but most are purely administrative and may not need authorisation by council or council committee.⁸

Engagement

There are no direct obligations to engage the community when undertaking a service delivery review. Your local authority may need to engage in circumstances where the review triggers an obligation under your significance and engagement policy. Your local authority may have to engage if the review suggests a change is necessary – for example if your local authority decides it wishes to establish a CCO as a result of the review.⁹

It's worth remembering that you are obliged to consider community views and preferences when making any decision under the *Act*. Depending on the information you already hold on views and preferences you may need to obtain, update, or get more specific information in regards community views and preferences. In particular if significant change is a serious option then your local authority should err on the side of caution. In these instances it would be wise to regard consultation as being in accordance with *section 82* of the *Act*.

⁸ A good example of the former is a rate remission or postponement for economic development purposes, a good example of the latter is the power to waive a penalty on an overdue rate.

⁹ *Section 56, LGA.*

Alternative models

There is a wide range of literature (especially from overseas) available about the merits of different approaches to delivery. Often it is service specific – for example there is a great deal of research on alternative models for providing water services.

As a general rule the service might be a better candidate for shared service if:

- *there is evidence that economies of scale (savings from doing things on a bigger scale) or economies of scope exist* – but be careful that the evidence you base this on is robust and not merely opinion masquerading as evidence
- *the service requires a high level of specialist or technical expertise* – for example, some local authorities currently exploring delivery of water services by CCO see benefits from sharing expertise in both the strategic and technical aspects of asset management
- *the service is high volume and there is little variation in service delivery* – if the service is provided to or used in a relatively standard way then it may be a candidate for moving into a shared service arrangement. Don't forget many of today's shared services organisations have their roots in agglomerating back office functions such as debt collection
- *the service is non-strategic* – some services may play an important role in the achievement of your local authority's strategic objectives, in these cases it may be wise for your local authority to retain funding and governance control
- *the service would benefit from the application of commercial disciplines* – often this means that your local authority should consider both shared service, CCO type organisations and delivery by the private sector as alternative options
- *there are legal or regulatory barriers that impede your being able to deliver the service efficiently* – the establishment of Metrowater and Manukau Water¹⁰ are both historic, but still relevant, examples. The councils wanted to be able to use pricing to manage demand and found the tools available under the *Rating Act* did not achieve everything the council wished to, so these CCOs were formed and given powers to charge volumetrically for wastewater
- *the service is self-contained* – that is to say it's not closely linked to other services. For example, few local authorities would seriously consider forming a CCO (or outsourcing) delivery of their wastewater disposal services alone, because they are so closely linked with the provision of drinking water.

Additionally a service might be a better candidate for delivery by a private sector organisation (e.g. a company):

- *there is an ability to charge for the service* – in particular there are cost-effective means to exclude people from using or accessing the service
- *the service has a low level of community or political interest*
- *the service is exposed to commercial risk* – for example, there are many active private sector competitors¹¹
- *there are a large numbers of potential providers* – meaning that your local authority can secure the 'best value' through running a competitive tender process
- *the service requires investment in new technologies.*

Additionally, a service might be a better candidate for delivery by a community or voluntary sector agency if:

- the objectives for providing the service are wholly or primarily non-commercial

¹⁰ These were CCOs of the historic Auckland City Council and Manukau City Council that were subsumed into Watercare (and now Auckland Water) during the amalgamation of 2010.

¹¹ It is an open question whether an activity that has multiple private sector competitors sits with the purpose of local government. In particular can a service that has multiple private sector competitors truly be said to be a public service?

- there is little or no ability for the deliverer to charge for the service – generally this means your local authority will retain a role in funding the service
- the community or voluntary sector provider has a better track record of identifying and engaging with the primary users or beneficiaries of the service than your local authority (this might especially be the case with parts of the community that have traditionally been regarded as hard to reach)
- the provider has better networks within the community – one of the ‘coming ideas’ from English local government is the notion of local government building the capacity of the community to help itself through judicious partnering with, and development of, of the community and voluntary sector.¹²

3.5 Documenting your results

The decisions you take will be scrutinised, especially those decisions that involve the movement of services into and out of council delivery. In rare instances a decision to retain the status quo may even attract scrutiny. You will need to have evidence on hand that you have met the obligations of s17A.

The essential elements that need documenting are the:

- name of the service
- trigger (level of service, contract, expiry of the six years) or whether you are doing the review voluntarily
- decision whether or not the costs of doing the review outweigh the benefits and your basis for reaching that conclusion
- identification of options, and a statement as to whether each is reasonably practicable (and if not, why not)
- consideration of the costs and benefits of each option
- conclusion and recommendations for further analysis (if any).

SOLGM advises local authorities to develop a template to help ensure that each review has a clear trail of evidence. The template and working paper in the appendices to this guide are one way of meeting the obligations. However it’s important that the template not force the way that your local authority undertakes any individual review, the important thing is to be systematic in your identification and analysis of options.

¹² For example, see the New Local Government Network, Local Government and the Commons.

4 SERVICE DELIVERY REVIEW TEMPLATE

Author's notes:

The template that follows is one way of meeting the legislative requirements, and is consistent with the guidance above. It is intended to be 'scalable' to the size of the review. Readers are encouraged to amend, add or subtract as meets the needs of their local authority – noting that SOLGM advises that templates receive a legal review before their first use.

The template is not as scary as it looks. It presents different combinations of options for funding, service delivery and governance. Having rejected some options will generally lead to the rejection of others. For example, if delivery by CCO is not feasible or viable and cost effectiveness then rejection of option 2 in the template, means that generally options 3,7, and 8 will also be rejected.

Don't forget that there may be other reasonably practicable options that you need to look at.

Present arrangements	
Name of the service and scope	(Identify the service and briefly describe the service. Try to keep this consistent with descriptions of the service in documents such as the long-term plan, asset/activity plan etc.)
Rationale for service provision	<p>(Describe the reasons why the service is provided. Please consider:</p> <ul style="list-style-type: none"> • the community outcomes that the service contributes to • any council strategy or plan that this service contributes to • any legal requirements to provide or have the service provided). <p>The rationale should be consistent with any rationale for the service stated in the long-term plan.</p>
Present arrangements	(Briefly describe the current arrangements for governing, funding and delivery of the service).
Last review	(When was the last review of this service undertaken? Briefly describe the results of the review.)
Performance	<p>(Describe how the council knows or is able to assess the effectiveness of the current arrangements in achieving the rationale for service delivery.</p> <p>Consider levels of service and performance measures for the activity. You might also consider any benchmarking information that is available.)</p>
Cost	(Note the total operating and capital cost of the service over the past three and next 10 years).

Decision to review	
Why is the review required? (s17A(2))	<p>(Describe the reasons why the review must be undertaken. Either:</p> <ul style="list-style-type: none"> • there is a significant change to a relevant level of service – don't forget that this includes increases and decreases • a contract for delivery of the service is due to expire within 2 years or • it has been six years or more since the last review of service delivery under <i>section 17A</i> was undertaken or • set out other reasons for undertaking the review.)
Does the cost of undertaking a review outweigh the benefits? (s17A(3))	<p>(Consider:</p> <ul style="list-style-type: none"> • the anticipated cost of the review • the total cost of providing the service – both operating and capital • the elapsed time since the last review • any changes in the policy and regulatory environment since the last review • the effectiveness of current arrangements • the ability of other local authorities to participate in the review • cost and capacity implications – especially where those relate to a statutory function • views and preferences of the users/beneficiaries of the service and of the community.) <p>Author's note: If your local authority has other criteria it wishes to have considered as part of this process, it should include/substitute as desired.</p>
Recommendation whether or not to review	<p>(Record your recommendation to review and your reasons for undertaking or not undertaking the review.</p> <p>Recommendations require the approval of [insert name of delegated officer])</p>
Place in review programme	<p>(Describe the service's place in the review programme (if any). How urgent is the review, and what are your reasons for reaching this conclusion)</p>

Analysis of options (The options listed below are those listed in s17A(4))	The Working Paper on page 25 has been developed to document the analysis in more detail.
1. Governance, funding and delivery by (insert your council name).	(Insert summary comment on the cost effectiveness of this option – your evidence base should be appended.)
2. Governance and funding by (insert your council name) with delivery by a CCO wholly owned by (insert your council name).	(Insert summary comment on the cost effectiveness of this option – your evidence base should be appended.)
3. Governance and funding by (insert your council name) with delivery by a CCO partly owned by (insert your council name) and partly owned by other local authorities.	(Insert summary comment on the cost effectiveness of this option – your evidence base should be appended.)
4. Governance and funding by (insert your council name) with delivery by another local authority.	(Insert summary comment on the cost effectiveness of this option – your evidence base should be appended.)
5. Governance and funding by (insert your council name) with delivery by a person or agency not listed above.	(Insert summary comment on the cost effectiveness of this option – your evidence base should be appended.)
6. Governance and funding by joint committee or other shared governance with delivery by (insert your council name)	(Insert summary comment on the cost effectiveness of this option – your evidence base should be appended.)
7. Governance and funding by joint committee or other shared governance with delivery by a CCO wholly owned by (insert your council name).	(Insert summary comment on the cost effectiveness of this option – your evidence base should be appended.)
8. Governance and funding by joint committee or other shared governance with delivery by a CCO partly owned by (insert you council name) and partly owned by other parties.	(Insert summary comment on the cost effectiveness of this option – your evidence base should be appended.)

9. Governance and funding by joint committee or other shared governance with delivery by another local authority.	(Insert summary comment on the cost effectiveness of this option – your evidence base should be appended.)
10. Governance and funding by joint committee or other shared governance with delivery by a person or agency not listed above.	(Insert summary comment on the cost effectiveness of this option – your evidence base should be appended.)
11. Other reasonably practicable options (identify in detail).	(Insert summary comment on the cost effectiveness of this option – your evidence base should be appended.)
<u>Conclusion</u> Which of the above options is most cost effective?	(Insert comment on most cost-effective option.)
Recommendations from the service delivery review:	<p>(Insert recommendations, note this includes a decision to retain the status quo.</p> <p>Please include recommendations for any next steps such as whether engagement is required (and why?)</p> <p>Where your recommendation is for a separation of governance and delivery you will need to ensure a contract or other binding arrangement is in place. This should include:</p> <ul style="list-style-type: none"> • service levels and the associated performance measures and targets • how performance will be assessed and reported on • funding • risk management • any sanctions or other means for enforcing performance and accountability expectations.)

5 WORKING PAPER: ANALYSIS OF OPTIONS

Authors note: The working paper that follows has been designed to work in conjunction with the template in the proceeding pages. It is intended to be 'scalable' to the size of the review and to help those conducting the reviews to draw the evidence together. Readers should note that this is a device for recording evidence to support their conclusions – this working paper is not a substitute for the generation of this evidence.

Options analysis: Name of service review	
Name of the option	<p>(Insert the option name here – include <i>section</i> reference from the <i>LGA</i>.)</p> <p>Is this the 'status quo' option?</p>
Feasibility	<p>Is a change to governance or delivery subject to a contract or binding agreement that is not reasonably practicable to alter in the next two years? If not, why not?</p> <p>Is the option feasible under current law – if not, why not?</p>
Community views and preferences	<p>Note any relevant information that your council holds on community views and preferences. Also include an assessment of when and how this information was gathered and how 'on point' this is to the issue at hand.</p> <p>Authors note: This is not an obligation to engage or consult in and of itself.</p>
Assessment of the effectiveness of this option	<p>How would this option impact on</p> <ul style="list-style-type: none"> (i) the achievement of the council's objective(s) for the service (ii) the use of, experience of, or benefit received by the users or beneficiaries of the service? <p>Be objective in your assessment and be prepared to justify your assessment with evidence.</p>

Cost of the options	<p>Identify the operating and capital cost for the option. SOLGM recommends taking a ten year horizon – unless the service is one of the mandatory inclusions in the infrastructure strategy (in which case thirty year horizons might be justified).</p> <p>Be prepared to justify your comments with objective analysis.</p>
Overall assessment of cost-effectiveness	Record your judgement of the overall cost effectiveness of the option.
Enhancements to status quo option	If this option is the status quo option, then are there any enhancements that would improve the cost effectiveness of the option.



Professional excellence in local government

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