Cabinet Economic Growth and Infrastructure Committee

ONLINE VOTING IN LOCAL ELECTIONS: REPORT OF THE ONLINE VOTING WORKING PARTY

Proposal

1. This paper outlines a proposed approach to trialling online voting in local elections and seeks a report back in November 2014 on policy, funding and governance arrangements for a trial of online voting in the 2016 local elections.

2. To facilitate engagement with local government and central government agencies, the Department of Internal Affairs (the Department) intends to publish the report of the Online Voting Working Party (the working party) on its website in August 2014.

Executive summary

3. In September 2013, Cabinet agreed to establish a working party to consider the feasibility of online voting in New Zealand’s local elections. The working party met from December 2013 to May 2014 and has now reported to the Department.

4. The working party’s report:
   - advises that trialling online voting in the 2016 local elections is feasible;
   - recommends that the Department lead a partnership approach between local and central government to oversee a trial, and then implementation, of online voting; and
   - provides a practical pathway to working towards trialling online voting at the 2016 local elections.

5. I note that, rather than the Department leading the trial of online voting, it may be more appropriate for local government to lead the trial, working in partnership with central government agencies. Such an approach would be consistent with the Local Electoral Act 2001\(^1\) and ensure that local authorities retain responsibility for their elections. This approach may also better reflect the impetus for online voting that local government stakeholders have created.

6. The questions of funding for, and leadership of, a trial of online voting in local elections require further consideration. It is proposed that these, and related implementation issues, be worked through by the Department and other central government agencies in collaboration with local government over the coming months and reported back to Cabinet Economic Growth and Infrastructure Committee (EGI) in November 2014.

7. To facilitate engagement with local authorities and central government agencies on governance and funding matters, the Department intends to publish the working party’s report on its website in August 2014.

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\(^1\) s147 Local Electoral Act 2001: local authorities must pay for the reasonable costs of conducting local elections.
Background

8. In September 2013, Cabinet agreed to establish a working party to explore the possibility of online voting for local elections [CAB Min (13) 29/7 refers]. The announcement was a response to calls from the Justice and Electoral Committee, some local authorities, Local Government New Zealand (LGNZ) and the New Zealand Society of Local Government Managers (SOLGM) for online voting to be trialled in local elections. The working party was established by, and reported to, the Department.

9. The working party was tasked with considering online voting in local elections – its Terms of Reference were explicit in making Parliamentary elections out of scope. This initiative is not intended to be a precursor to the introduction of online voting at general elections. However, the outcomes of this work may influence any future decisions in that context.

The report of the working party

10. The working party provided its report to the Department in May 2014. The report outlines a proposed approach to trialling, and possible subsequent implementation of, online voting in New Zealand’s local elections. The working party considered that online voting should be an additional voting option for voters, alongside the existing postal voting system, rather than replacing it.

11. The report:
   - advises that trialling online voting in the 2016 local elections is feasible;
   - outlines some of the benefits of online voting, including improving access to voting, making voting easier and more convenient, and reducing voter errors;
   - recommends that the Department lead a partnership approach between local and central government to oversee a trial, and then implementation, of online voting; and
   - provides a practical pathway to working towards trialling online voting at the 2016 local elections.

12. A trial would involve a single online voting system trialled by a range of different councils, wards and District Health Boards (DHBs) to fully test its performance and functionality. The precise nature of the trial was not determined by the working party, as this is for central and local government to determine as part of ongoing work.

13. A short summary of the working party’s report is attached as Appendix A.

Comment

Approach to trialling online voting

14. Online voting is an ambitious technological project and one that may fundamentally change the way in which New Zealanders vote and engage with local government. It will require a partnership approach between central government and local government to succeed. The working party’s report
recommends that the Department (together with other central government agencies) lead such a partnership with local government to trial online voting.

15. However, it may be appropriate for local government to lead the trial, working in partnership with central government agencies. Local authorities are responsible for the conduct of local elections and have effectively created and driven the appetite for online voting. In this model, central government agencies would be active partners, providing support and expertise to the trial.

16. Whatever the model adopted, the Department, will play an active role in implementing a trial of online voting. The Department will have responsibilities for progressing policy and legislative changes to enable online voting and for setting the technical standards and parameters of the trial. The Department’s role may also extend to certifying or verifying that the selected online voting systems are fit for purpose. Other central government agencies, in partnership with the Department, could provide technical expertise for a trial.

17. Any approach would need to recognise that a number of central government agencies have interests in online voting in local elections. Local elections include electing members of DHBs and licensing/community trusts. Local electoral officers gain electoral roll information from the Electoral Commission and the Chief Executive of the Department, as Secretary for Local Government, is charged with overall responsibility for the integrity of the local electoral system. The Office of the Privacy Commissioner may also have an interest in online voting and the use of voters’ personal information.

Funding a trial of online voting

18. The working party has provided a high-level “ballpark” estimate of between $8 and $10 million to implement a limited trial, followed by nationwide implementation of online voting. This indicative estimate is based on the experience of Statistics New Zealand in implementing the online census option\(^2\) and a preliminary estimate by the Electoral Commission of the cost of implementing online voting for overseas voters in the general election.

19. Overseas experience suggests that online voting systems are generally expensive to build (or procure), configure, test, trial and maintain. For example, the online voting system used in New South Wales in 2011, cost $AU7.7m ($AU4.1m to trial and a further estimated $AU3.6m to roll out more widely). This trial was limited to blind and low-level vision voters, rural and remote voters and was used by 46,000 voters.

20. Existing third-party providers of election services (e.g. Electionz.com and Independent Electoral Services) offer some online voting services. These online voting services are currently only used for private elections (e.g. Fonterra board members) and elections for community sector organisations (e.g. Iwi and school boards). However, it is unclear if the technology is suitable for local elections. Further discussion with providers will be required to establish whether the systems provide the required functionality for local elections and the estimated cost of any necessary upgrades.

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\(^2\) Statistics New Zealand has offered the option of completing the Census online, instead of paper based forms, in 2006 and 2013. This required a specialised online system to be built, tested and implemented. The cost of the online component of the Census was $12.7 million.
21. The working party acknowledged that it is difficult to provide an accurate estimate of costs and recommended that the Department should undertake more rigorous costing analysis once there is more certainty about how online voting will be trialled and implemented.

22. The working party did not come to a conclusion or recommendation on who should pay for trialling or the subsequent implementation of online voting, as this was outside the scope of the Terms of Reference. Early consultation with LGNZ in the development of this paper indicates that the sector would prefer the costs of a trial be shared between central and local government.

23. Online voting is a local electoral initiative that has been championed by local government stakeholders. Therefore, I consider that Crown funding should not be an assumed part of the funding arrangements for a trial of online voting. Currently, local authorities are responsible for funding their elections. This includes, for example, compiling and posting voting papers, compiling the rolls and publicity campaigns. However, I note that central government contributes to DHB elections through existing cost recovery processes for the proportional costs of the elections.

*Risks of online voting*

24. The working party’s report makes it clear that online voting is not risk-free. Some risks relate to security aspects of the online voting system, while others relate to wider project management and governance. The exact nature and extent of the risks are difficult to predict at this early stage. It is likely that in some cases, the risks can only be managed, not eliminated. Therefore, good process and a robust governance framework will be important.

25. One of the more serious risks would be that a trial of online voting undermines an election to the point where it must be run again. Ensuring that there is a fast, responsive way to call for a re-run of an election, should an online voting trial fail, will be an important component of the policy framework that online voting operates within.

26. Ensuring that robust authentication mechanisms are in place is fundamental. Voters and elected officials must be confident that the votes cast correspond to the named individual and are not the result of fraudulent activity. The report of the working party highlights several international approaches to identity authentication – for example New South Wales used pre-registration, while Estonia uses nationally issued identification cards. The working party ultimately recommended against mandatory pre-registration, or any steps that would make online voting more difficult than paper voting.

*Project assurance*

27. Due to these risks, assurance will be an important part of any trial. Officials will work with local government and other central government stakeholders to develop more detailed advice on how to best provide a robust assurance plan. This advice will form part of the proposed report back to EGI in November 2014.
Will online voting increase voter turn out?

28. Voter turnout in local elections has been steadily declining. In 1989, average local electoral turnout was 57 per cent for mayoral contests and 56 per cent for council elections. By 2013 those figures had dropped to 41 per cent and 42 per cent respectively. Some stakeholders and the media have identified online voting as a possible solution to reduced voter turnout.

29. Online voting is still a new technology and has not been used in enough countries, for enough elections, to be able to draw robust conclusions about whether it is likely to raise voter turnout. However, international evidence suggests that online voting may not initially lead to an increase in voter turnout. Jurisdictions that have trialled or implemented online voting have found no increase, a small increase or even a small decrease in voter turnout. The impact on voter turnout could not be attributed solely to online voting.

30. Online voting can make voting more convenient and responsive to the public’s changing preferences. By effectively lowering the transactional costs of voting, online voting has the potential to make it easier for some voters to act on their intention to vote. Online voting also has the potential to better meet the needs of voters with disabilities and of overseas voters.

Engagement with local government

31. To facilitate engagement with local authorities and central government agencies, the Department intends to publish the working party’s report on its website in August 2014, together with this Cabinet paper and associated Cabinet minutes.

32. The Department will engage with the local government sector and central government agencies to discuss:
   - the working party’s report;
   - the nature of central government involvement;
   - how an online voting trial would be funded and governed; and
   - the best way to assure the project.

33. This engagement is an important first step in ascertaining whether a trial in the 2016 local elections is practicable. Reaching agreement on the approach to funding trials is an important first step and will test the commitment of the local government sector to online voting.

Report back

34. I intend to report back to the EGI in November 2014 to:
   - seek policy agreement to begin legislative changes to enable a trial of online voting;
   - seek agreement for the involvement of central government agencies in the governance and implementation of a trial of online voting in the 2016 local elections;
• set out local government funding commitments and seek agreement to Crown funding (if required); and
• outline proposed assurance processes for a trial of online voting.

Consultation

35. This paper was prepared by the Department of Internal Affairs. The Ministry of Health, the Ministry of Justice, the Ministry of Pacific Island Affairs, the Electoral Commission, the Office of the Privacy Commissioner, the Office of Ethnic Affairs and the Office of Disability Issues were consulted and their feedback is reflected in this paper. The Department of Prime Minister and Cabinet, the Treasury, and the Government Communications Security Bureau were informed.

36. LGNZ have been consulted in the development of this paper and their comment appears below:

LGNZ is supportive of pursuing online voting and working in partnership with central government to implement online voting in local elections. LGNZ supports the release of the Working Party’s report to facilitate discussion with the local government sector and to identify councils that would be willing to participate in a trial in 2016. LGNZ is concerned about the cost for a trial falling solely on local government and considers that central government should also contribute to the cost of any trial. This is on the basis there are benefits to central government from implementing online voting in local elections. These include more efficient DHB elections and increased trust and public confidence in online voting if online voting is used in general elections in the future. In addition, a central government contribution to the cost of any trial would give local government confidence and certainty that central government would be an active partner throughout the process.

Financial implications

37. There are no immediate financial implications associated with the proposals in this paper. The working party has provided a high level estimate that trialling and implementing online voting would cost between $8 and $10 million. This estimate needs to be further tested as part of the proposed next steps.

38. At this stage it is suggested that the cost of a trial are met by local government. However, consideration of Crown funding (if required) will be reported in the proposed November 2014 report.

Legislative implications

39. Trialling online voting will require creating a new part in the Local Electoral Regulations 2001 and minor changes to the Local Electoral Act 2001 to enable online voting as a permissible voting method.

40. If the voters’ date of birth (extracted from the electoral roll) is required for authentication purposes, an amendment will also be required to the Electoral Act 1993.
41. Policy agreement to the necessary legislative changes will be sought in the November 2014 report. It is likely that, in order to trial online voting in 2016, legislative changes would need to be completed during 2015.

Regulatory impact analysis

42. A Regulatory Impact Analysis (RIA) is not required at this time. Future papers on how a trial of online voting would be progressed, governed and funded are likely to have RIA implications.

Human rights

43. There are no human rights implications associated with this paper. Voting is a fundamental democratic right of all New Zealand citizens and permanent residents. The proposed approach to trialling (and ultimately implementing) online voting will not reduce New Zealanders' ability to vote, but rather offers a new way in which to exercise their democratic rights. In particular, online voting represents an opportunity to provide voting documents for local elections in languages other than English, including te reo Māori and other languages used by many New Zealanders.

Disability perspective

44. The working party identified that online voting should make it easier for people with some disabilities to vote in local elections. Better enabling disabled voters to participate in their local democracies should be a clear goal for online voting. User testing with different disability communities will be vital to ensure the success of the program. Online voting in local elections also is consistent with the United Nations Convention on the Rights of Persons with Disabilities Article 9: Accessibility and Article 29: Participation in political and public life.

45. Officials will engage with the Office of Disability Issues as one of the stakeholders for the trial of online voting.

Publicity

46. The Department will engage with the local government sector. It will be important for the sector to have access to the working party's report to facilitate robust discussions on funding and governance. To facilitate this engagement, the Department will publish the report, together with this Cabinet paper and related Cabinet minutes, on its website in August 2014.

47. I anticipate that LGNZ is likely to include online voting as a part of their 2014 General Election manifesto, which the Chair of LGNZ, Lawrence Yule (Mayor of Hastings District Council), will launch at LGNZ's annual conference in Nelson on 21 July 2014.
Recommendations

48. It is recommended that the Committee:

1. **note** that the Online Voting Working Party has provided its final report to the Department of Internal Affairs;

2. **note** that the working party recommends trialling online voting in the 2016 local elections;

3. **note** that the Department of Internal Affairs will publish the working party’s report on its website in August 2014;

4. **note** that I intend to publish this paper and related Cabinet decisions online, subject to consideration of any deletions that would be justified if this information was requested under the Official Information Act 1982;

5. **note** that the Department of Internal Affairs will engage with local government and central government stakeholders, to discuss governance and funding arrangements for an online voting trial in the 2016 local elections; and

6. **invite** the Associate Minister of Local Government to report to the Cabinet Economic Growth and Infrastructure Committee by 30 November 2014 with advice on proposed legislative amendments, governance and funding arrangements, and proposed assurance processes for trialling online voting in the 2016 local elections.

[Signature]

Hon Peseta Sam Lotu-aga
Associate Minister of Local Government

17 / 7 / 2014
Appendix A: Online Voting in New Zealand Local Elections: feasibility and options

What were the working party’s main findings?
The working party found that, while online voting is feasible, attempting to make online voting available for everyone in the 2016 local elections would not be feasible.
The working party has recommended trialling online voting in the 2016 local elections as the timeframe that best balances the desire to use online voting with the need to be careful and avoid failure.

What are the potential benefits of online voting?
The working party identified a number of areas where online voting offers benefits to either voters, or the local electoral system. Online voting:

- can increase the accessibility of local elections: allowing New Zealanders who are not well served by the postal voting system (e.g. people with some disabilities and overseas voters) to vote in elections;
- is a tool of convenience: enabling voters to act on their intention to vote faster and easier;
- should improve speed and accuracy of results: in the medium term these speed and accuracy improvements could be accompanied by cost savings; and
- would reduce voter errors: by helping voters avoid accidentally spoiling their vote.

What are the risks of online voting?
Online voting, like any activity over the Internet, cannot be without risk. Online voting systems could potentially fail to keep votes secret; votes could be recorded inaccurately, altered or lost; and online voting systems could potentially be unavailable during the voting period.

For these reasons, the working party identified security as a key principle and it has emphasised the need for good process, technical design and identified the challenge of a system ensuring excellent confidentiality, availability and integrity.

Why is trialling online voting important?
The working party has identified that attempts to use online voting do not always succeed. It is a new use of technology. The experience in other jurisdictions suggests that there can be significant hurdles in terms of technical implementation, process integration and earning the trust of voters. It also identified that trials can be important tests of the technology – failing in a trial is far more preferable to technology failing in nationwide local elections.
The working party concluded that trialling online voting is a critical part of the trust-building process and to give decision makers assurance that an online voting system would work as intended.

The working party’s recommended approach
The working party has recommended that the Department of Internal Affairs lead a partnership approach between central and local government to trial online voting. It also recommended a staged approach to testing and trialling, with politically binding trials taking place in the 2016 local elections.

Staged approach to trialling online voting

<table>
<thead>
<tr>
<th>User testing</th>
<th>Non-binding trial(s)</th>
<th>Trial evaluation</th>
<th>Politically binding trial</th>
<th>Trial evaluation</th>
<th>Political decision</th>
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<tbody>
<tr>
<td>Testing environments during &quot;build&quot;</td>
<td>Trial &amp; test system in non-binding contests</td>
<td>Selected sites in 2016 elections</td>
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<td>Should online voting be implemented for 2019?</td>
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Consultation on Cabinet and Cabinet Committee Submissions

Certification by Department:

Guidance on consultation requirements for Cabinet/Cabinet committee papers is provided in the CabGuide (see Procedures: Consultation): [http://www.cabguide.cabinetoffice.govt.nz/procedures/consultation](http://www.cabguide.cabinetoffice.govt.nz/procedures/consultation)

**Departments/agencies consulted:** The attached submission has implications for the following departments/agencies whose views have been sought and are accurately reflected in the submission:
The Ministry of Health, the Ministry of Justice, the Ministry of Pacific Island Affairs, the Electoral Commission, the Office of the Privacy Commissioner, Office of Ethnic Affairs and the Office of Disability Issues

**Departments/agencies informed:** In addition to those listed above, the following departments/agencies have an interest in the submission and have been informed:
The Department of Prime Minister and Cabinet, the Treasury, and the Government Communications Security Bureau

**Others consulted:** Other interested groups have been consulted as follows:
Local Government New Zealand

**Name, Title, Department:** Steve Waldegrave, General Manager Policy, Department of Internal Affairs

**Date:** 17/July/2014

Certification by Minister:

Ministers should be prepared to update and amplify the advice below when the submission is discussed at Cabinet/Cabinet committee.

**The attached proposal:**

<table>
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<tr>
<th>Consultation at Ministerial level</th>
<th>□ has been consulted with the Minister of Finance [required for all submissions seeking new funding]</th>
<th>□ has been consulted with the following portfolio Ministers: Local Government, Justice, Communications</th>
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**Portfolio:** Local Government

**Date:** 17/07/2014

**Signature:** [Signature]

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