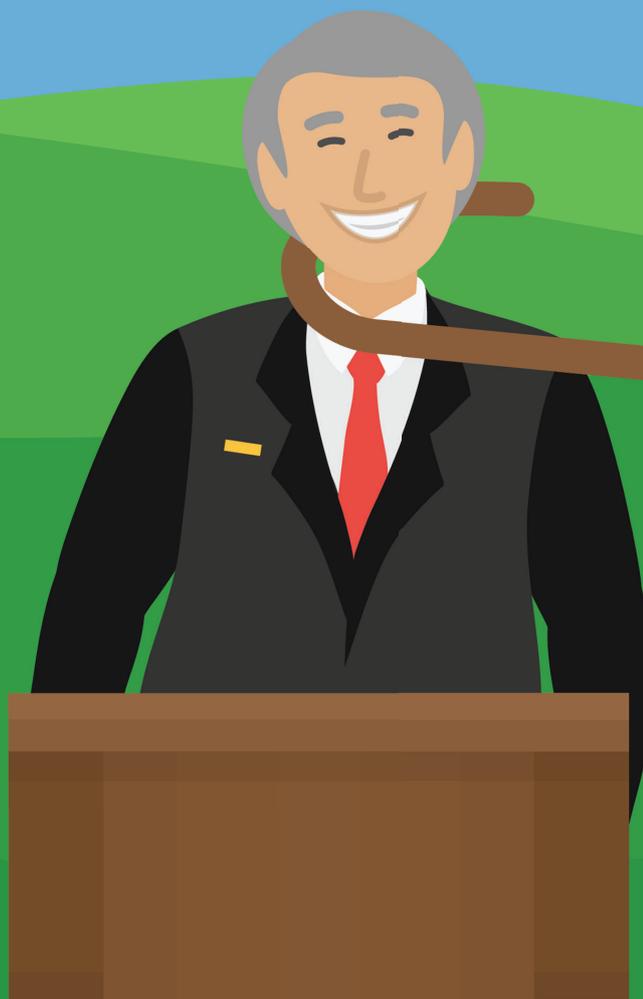
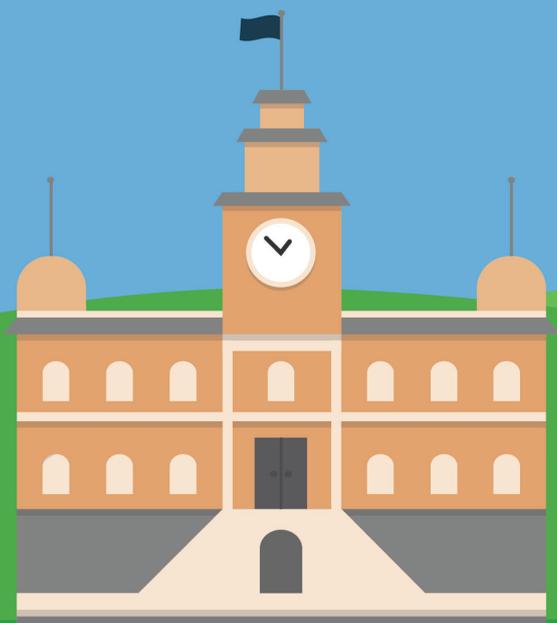


RECALL ELECTIONS FOR LOCAL GOVERNMENT

A joint proposal paper

Neil Miller, Bill Foster

August 2020



**The Northern Action
Group
Incorporated**



FOREWORDS



It was Winston Churchill who said that democracy is the worst form of government, except all these other forms that have been tried from time to time. And the reason that democracy is the best is one simple word - accountability.

Too often we are lured into thinking that democracy's sole legitimacy is representation. But democracy is actually pretty poor at choosing society's best and brightest to represent us - Auckland Council being a case in point. It is the ability to remove our elected leaders that keeps them on the straight and narrow.

It is with this accountability goal that we propose bringing New Zealand into line with many

democracies around the world that enjoy recall elections. The simple truth of the matter is we should have a mechanism whereby we can remove lame ducks, or worse politicians who no longer represent or display the platforms they were elected on.

Despite calling on John Banks to resign while he was being investigated in 2013, the current Mayor of Auckland, Phil Goff, who is being investigated by the Serious Fraud Office for electoral corruption, has offered no assurances that he will stand down or aside even if charges are laid. If that happens Auckland's Super City will, again, be burdened with a lame duck Mayor who lacks the moral authority and respect needed to drive the city forward, and fails to display the leadership we so desperately need.

That is why we must act now - to fight for a recall option, so that a mechanism exists in order to remove the Len Browns or those facing corruption charges, and not leave lame ducks in their nests, just to collect their pay up until the next election.

– Jo Holmes
Spokesperson
Auckland Ratepayers' Alliance



The freedom and right of citizens to stand for any elected official position, and to vote, equally with others, to choose a preferred candidate from amongst those standing, are fundamental elements of our liberal democracy.

Those who are elected can exercise the authority of the position and govern for a fixed term. In New Zealand the term of appointment for national and local government elected officials is three years.

The length of the term is chosen to strike a balance between longer and shorter terms. Longer terms minimise the costs of more frequent elections and increase the benefit from having officials improve their performance with experience.

On the other hand, shorter terms minimise the harm done by people who turn out to be bad actors. There are also the increasing social deadweight costs associated with longer terms in office with office holders using the position to look after themselves, growing patrimonialism, pork barrelling, promoting special interests, and acting contrary to the expressed wishes of voters.

As this paper shows, there is a natural middle course, one which allows citizens to exercise their fundamental democratic rights to vote people out of office, just as they have the right to vote them into office.

This is the function of recall elections, which allow for petitions for, and voting on, the removal without cause of elected officials who simply do not perform according to the wishes of their electors. Such provisions are in addition to current provisions for automatic removal for unlawful conduct.

Recall elections open the door to a longer - 4 year - term of appointment, with lower costs for citizens and the enjoyable prospect of having well performing representatives for longer terms, while promptly getting rid of those who fail to satisfy voters.

Improving technology is lowering the cost of petitions and elections. When we have growing apathy amongst voters who see less relevance in voting as their representation declines with population growth and centralization, recall provisions will hopefully breathe new life and interest into appointments for elected positions by offering the prospect of really holding officers to account.

– William Foster
Chair
Northern Action Group Inc.

INTRODUCTION

A recall option is a procedure by which voters can oust an elected official from office before their term has ended through a direct vote. They require a certain percentage or number of eligible voters to sign a recall motion or petition. This is called the trigger threshold. Recall mechanisms are common around the world on a local government or state level. They are less common at the national level.

A recall election is an instrument of direct democracy for holding elected politicians and officials to account. Recall means that the voters who elect someone to public office have the right to initiate and vote for their removal between scheduled elections and for any reason.

Value of recall option/elections

A well-designed recall option system would have the following advantages:

1. It would improve democratic accountability by holding officials to account directly. When a local politician ignores public sentiment, misbehaves, or breaks an election promise, they risk having to face the people again, prior to the next scheduled poll.
2. It would enable voters to have a say within a term of office, rather than just at election time every three years.
3. It would enable voters to remove incompetent, embarrassing or inappropriate officials quickly, limiting real and reputational damage to local bodies and regions, and reducing repeated mismanagement.
4. It affirms the basic concept of “sovereignty of the people”. It is a fundamental right in a democracy to elect representatives and that includes the right to remove them from office and replace them at any time.
5. It would have widespread public support.



OUR JOINT PROPOSAL

That Parliament amends the Local Electoral Act 2001 to include a provision for recall elections at all levels of local government and District Health Boards. The amendment should include the following policies:

1. Recall elections will apply at all levels of local government and District Health Boards. There will be no option for any organisation covered to opt-out of the provision.
2. To trigger a recall election, a motion to recall a named elected official will need to acquire signatures from ten percent of the number of voters who last voted in the constituency. This trigger threshold is the same percentage as required for a Citizen Initiated Referendum (CIR) under the Citizen initiated Referenda Act 1993.
3. Eligible voters who vote in any recall election do not have to have voted in the original election.
4. A recall election cannot be triggered within six months of a scheduled election. It cannot be triggered within six months of an election. No politician can face two recall elections within a six month period.
5. If the majority of valid votes cast in the recall election are for recall, there will be a by-election to determine the representative of the constituency. This is called a separate special election.
6. An elected official who has been recalled is eligible to stand for re-election in the special election (unless they are otherwise prohibited by existing law).
7. Recall election results can be appealed under Part 4 – Disputed Elections and Polls – of the Local Government Act 2001, just like a normal election.
8. An option: Extend the term of local government bodies by one year to four years once the safety mechanism of recall elections is in place.

Historical Footnote:
The first laws allowing recall elections were included in the Constitution of Athens written by Aristotle.



APPROACH

We have reviewed recall systems from around the world. Many of them are not applicable in this context because they apply only to national politicians (such as the United Kingdom) and, in some jurisdictions, the entire legislature (such as Latvia).

The suggested approach is based heavily on the best features of the recall systems in American states. The United States has a long history of recall elections dating back to Colonial America (1621). States decide whether they have recall elections – not all do – and the exact features vary from state to state. In the United States, 39 states allow for recall of locally elected officials.

There have been 30 successful recalls of mayors, state senators, state representative and city councillors, school board members and judges since 2010. In the same time period, there were 26 failed recall elections involving mayors, judges,

state assemblymen, state senator, state speakers, city councillors, and a governor.

Consideration was given to the threshold required to trigger a recall election. The limit varies across jurisdictions, up to 25% in the Philippines and up to 40% in British Columbia. 10% of the number of voters in the last election was considered a reasonable level for New Zealand and its smaller constituencies. It is the same percentage required for Citizen Initiated Referenda.

This means a mayoral recall election in Auckland could be triggered by 37,500 signatures. Depending on the number of voters and turnout at the last election - which varies across the Wards - a recall election for Auckland Councilors might be triggered by between 3,000 and 9,000 signatures.

EXAMPLES OF WHEN WE WISHED WE HAD RECALL ELECTIONS

Len Brown – In June 2010, Brown came under media attention for his spending on his council credit card and other council expense claims. These included items of a personal nature like toys, groceries, and insect repellent. His subsequent explanations for these purchases were also scrutinised at a Council meeting, where Brown repeatedly slapped his face and got emotional. It was cringe worthy.

In 2014, only days after the result of the second super city election was decided, the public learned that Brown had appointed his mistress to a Council advisory committee, used ratepayer funded resources to entertain, and had intimate relations on the table in the sacred Ngati Whatua Room at the Auckland Town Hall. He was disgraced but refused to resign. Aucklanders had to wait three years to install a new Mayor.

David Scott – David Scott, a Kāpiti Coast councillor, was found guilty of indecently assaulting a female colleague by rubbing his genitals against her during a council morning tea.

He has shown no remorse, and refused to resign for more than a year after his 2018 conviction, collecting his full \$35,000 ratepayer-funded salary.



POLITICS

Recall elections have not featured prominently in either Labour or National's policy platforms. We hope to change that.

Labour last supported recall elections in 1916.

The Auckland Ratepayers' Alliance has recently called for recall elections following the Auckland Council increasing council taxes and overall

operating expenses during the pandemic economic crisis.

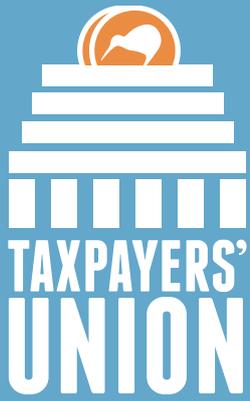
It may be difficult to extend recall elections to central government due to MMP, as there is a complication in extending the recall provisions to list MPs because they are not directly elected by voters.



AUTHORS

This paper was written by Neil Miller, an analyst at the New Zealand Taxpayers' Union.

It draws heavily on the July 2020 paper "Recall provisions for elected officials in local government: Holding them to account!" by Bill Foster. Sections have been used in this joint proposal with kind permission.



LOWER TAXES, LESS WASTE, MORE TRANSPARENCY
WWW.TAXPAYERS.ORG.NZ