



# Controlling externally autonomised entities by Dutch local governments

Externally  
autonomised  
entities

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## Abstract

**Purpose** – This paper aims to address the possibilities for (performance-based) control of externally autonomised (empowered) entities which operate at the level of local government in The Netherlands. The idea is that Dutch regulations do not cover controlling all institutional structures, which might result in unobserved risks for local governments.

**Design/methodology/approach** – Two basic methods are used: a literature study on the variety of institutional structures meant to design an overview. This is completed by a secondary research approach on the findings of 34 local audit offices that have studied the problem for their local government.

**Findings** – In The Netherlands, there is no all-encompassing framework to cover control of autonomised entities at the local level. The most important problems to be solved are related to the specification of services to be delivered by local governments and the role conflict emerging from being owner/financial stakeholder in the organisation, on the one hand, and commissioner for the services of the organisation, on the other. This holds for almost all cases. The problem is even stronger in those cases where autonomised entities operate under a national framework for delivering services that have to fit in with local planning and control systems.

**Originality/value** – The analysis draws attention to the organisations not included in the standard regulatory framework of local governments; and contributes to the awareness of different roles of local government, being both commissioner and owner/financial stakeholder.

**Keywords** Local government, Autonomous work groups, Service delivery systems

**Paper type** Research paper

## 1. Introduction

The organisation of public service provision has changed in the last decades under the influence of “new public management” theories. Regarding the national level of government, a broad literature on “autonomisation” (a word difficult to translate directly into English but it is a process of both empowering managers, making them autonomous and accountable) and privatisation exists. At the local level, literature is scarce. Autonomisation has a relationship to privatisation (Boorsma and Mol, 1983; Von von Weizsäcker *et al.*, 2005), but essentially under autonomisation government still holds a form of interest – politically or financially – in the newly formed organisation. Autonomisation is a process in which managerial responsibility is transferred from bureaucratic hierarchy to managers that can be held accountable for the responsibilities attributed. In this context, the OECD refers to manager’s autonomy as “...the ability to make decisions...without constant involvement or need for approval by the line minister” (OECD, 2002, p. 13). Autonomisation differs from privatisation as privatisation has two clear-cut forms: in the first, government creates a new, private, legal entity from a former government unit; in the second, government



withdraws all responsibility for planning, funding and production and leaves it to the market. In case of autonomisation, the traditional hierarchical command chain in government is broken. A relation between government and the autonomised entity must have some form of specification of services to be delivered. Agency theory teaches that the problem of information asymmetry can partly be overcome by a well-specified contractual relation between the parties involved. For example Ouchi (1977, 1979) refers to the use of performance controls in complex organisations as an additional control tool.

This paper provides a survey of autonomised entities at the Dutch local government level and the *ex ante* control tools, including performance standards and information, which are available for these organisations.

As of 2004, Dutch local governments were required to provide information on *verbonden partijen* (literally: related entities) in their budget documents and annual reports. Based on that information and their own research, Dutch local courts of audit have presented a number of studies on accountability of *verbonden partijen*. I note here that legislation requires that each local government has its own separate court of audit, operating fully independently from both the executive as well as the National court of audit. The problem with accountability issues for politicians can however only be addressed when the *ex ante* budgetary process matches the issues to be disclosed in accountability documents. The emphasis on accountability with respect to restructuring of government services can be discussed as well: accountability can only be realised when it is clear beforehand what responsibilities exist at what level and what goals must be realised. Thus the attribution of responsibilities is a key element in the autonomisation debate.

In this paper I will address the following research question:

*RQ1.* What are the *ex ante* control tools available to City Councils to find a match between the level of autonomisation and political control with respect to autonomisation of provision of services in the public domain?

The paper starts with a brief summary on theory with respect to autonomisation (section 2). Section 3 provides a description of institutional arrangements that are used in the Dutch setting for providing government services. Legislation and other instruments can be used to set a framework under which the services can be provided by autonomised entities. These instruments will be discussed in section 4. In section 5, I will address empirical findings on actual control used by government in their relation to the autonomised entities. Finally, section 6 provides some conclusions.

## **2. Autonomisation at the local level**

Experiences at national levels indicate that autonomisation has various forms and backgrounds. Christensen *et al.* (2002) indicate that it depends on instrumental-structural, historical-hierarchical and environmental features how transformation to autonomised entities is realised on a national level. In general, even at the national level, there has been no systematic approach to creating autonomised entities in The Netherlands (e.g. van Thiel, 2006; Bertelli, 2006). Given the fact that local governments are politically independent from national government, each of them can make its own decisions with respect to the global trend of autonomisation (Pollitt and Talbot, 2004). As a result, variety is likely to be even larger than at the

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national level. However, for reasons of efficiency of scale and policy co-ordination, in the Dutch context co-operation between local governments may result in autonomised entities providing services for more than one local government. In some cases, such a development may even have been enforced by the Dutch national government. Whether or not the decision has been made by local governments, the *ex ante* control issues are basically the same. The questions at hand are primarily matters of legal and (micro) economic settings which determine the governance structure of the newly created entity. In short, it regards the legal status to be attributed to an entity as well as the corresponding balance in authority between the political principal and the executive agent. Relevant economic dimensions are commissioning, funding and use of services on the one hand, and market setting and responsibilities of management on the other hand. The economic dimensions will be reflected in the assignment of the services to be provided – eventually including performance standards – by management. Coleman *et al.* (2009) conclude in a study on British local health care services that there are options for more democratic control allowing for scrutinising spending and decision making of local service providers. Studying the *ex ante* controls on local autonomisation can be helpful to create opportunities for increased democratic control.

The trend to privatisation and autonomisation was originally driven by the theoretical claims that efficiency and effectiveness of (local) government should be improved (e.g. Osborne and Gaebler, 1992; Pollitt and Bouckaert, 2004). Part of the problem of inefficiency of the public sector is, according to public choice theory, caused by the monopolistic characteristics of many of the services provided in the public sector (Boyne *et al.*, 2003, p. 8). A solution to this problem could be the introduction of a more competitive setting. Niskanen (1968, p. 305) suggested that activities performed by a bureaucracy could be taken over by private – profit seeking – entities. As a result, both politicians and bureaucrats would be restricted in their efforts to follow their own interests (Walsh, 1995, p. 19). This basically economic argument is contested in literature. The problem of public service provision and the effects of government intervention do not change as a result of rearranging an organisational structure (Pollitt and Bouckaert, 2004, p. 161; Homburg *et al.*, 2007; p. 7). Furthermore, organisational change may lead to fragmented government with negative impact for transparency and accountability (Pollitt *et al.*, 2004, p. 4). Although claimed at national levels, it is likely that similar effects exist on a local level due to the fact that autonomisation implies creation of entities that are not part of local government anymore, resulting in reduced political attention. As a result, the dichotomy government provision versus commercial private provision of services is not as strict as has been suggested by Niskanen. In 1983, Boorsma and Mol identified five market concepts with respect to provision of services (Boorsma and Mol, 1983, pp. 25-26; Bokkes, 1989, p. 10). The five concepts of service provision range from consolidated service provision where government funds, plans and produces services to free market provision where government has no role (anymore) in funding and provision of services. These two extremes are descriptions of traditional government service provision on the one hand and classic market production of services on the other. When discussing autonomised government service provision, the alternatives between the extremes are of more interest. First, Boorsma and Mol (1983) identify “contract provision” In this case government funds and plans service provision and only hires

off actual production of services. Second, government can (partially) fund the services required and leave planning and production to private entities. This form is labelled “grant-provision”. The last option is “regulated provision”: government’s role is reduced to planning of production but both funding and production are left to the private sector. Particularly in contract provision and grant provision cases, standard setting and feedback loops to government allow the use of performance indicators because government has a direct involvement in realisation of production. The options mentioned above on autonomisation of (hiving off) government activities are not the only developments in organising public service provision. In’t Veld (1995, p. 10) indicates that in some cases activities that were formerly privately organised are transformed to government controlled entities. This process is labelled “hiving in” (van Thiel, 2000, p. 10) in Dutch *verstatelijking*[1]. Although “hiving in” is a concept associated mainly with national government, it is also found at the local level. For example, a former private library is transferred into a public library.

The economic-organisational dimension of service provision in the public domain is one issue but not the whole story. Services delivered towards or on behalf of government can have a variety of characteristics. Some services are directly aimed at citizens, for example in public utilities. These were often historically initiated by local governments and operated at arm’s length of local government. Others are provided because they are in the general interest, for example health prevention services. These differences have an effect on the possibilities for funding of the services provided and on the level of demand for that service. It is clear that for utilities, a price per unit can be charged from the individual user, whereas a service in the general interest will tend to be funded by local government on an input or perhaps throughput (hours spent) basis. In the control relation between government and the entity providing the service, in some cases this leads to problems between the ownership role with respect to service provision and the commissioning role. From an ownership perspective, government is concerned about continuity of the organisation. When government rather than the individual citizen is commissioning the service, the main issue is receiving the required services at an appropriate price (van Oosterroom, 2002, p. 116; Linker, 2006, p. 101). The difference between the ownership perspective and the commissioning perspective may lead to conflicts of interest within the government “controlling” the organisation or between the government and the “controlled” entity.

Whether a process of hiving off or of hiving in is realised, in most cases a separate legal entity is producing the required services. The main exception to this rule is the form in which government provision is realised by means of internal autonomisation. At the local level this is often the case with urban development units managing land on behalf of local government. To avoid misinterpretation of concepts, I will use the concept of “associated entities”. An associated entity is a separate legal entity with an appointed board and a governance structure that is influenced by government and has a long-term business-like relationship with government to deliver services on behalf of government intended to have effect on society. This definition excludes contract relations that only regard service delivery towards government such as is the case with lease of offices or catering or entities providing services in the public domain where government has no influence at all such as the Red Cross.

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Before I can apply the theoretical notions on autonomisation and service provision with respect to local Dutch associated entities, I will first provide a general description of the different types of entities that exist at the Dutch local level.

### 3. Local associated entities in The Netherlands

#### 3.1 Institutional setting

In terms of operational relevance for citizens, local government is the most prominent part of government in The Netherlands, followed by the activities realised by national government. There is a third, intermediate, level of government – the provinces – but these are neglected here. Local governments can develop their own policies within the legal frameworks set by the constitution. In a number of policy sectors, national government sets a policy framework which is executed on the local level with (partial) funding of national government. These so called “co-government programs” (for example some social security benefits) are not regarded as part of the associated entities discussion as they oversee the relation between central and local government and are only governed by legislative requirements.

At the local level, both “public law” as well as “private law” associated entities exist. From a governance perspective, responsibility of local government with respect to associated entities is restricted. The political responsibility of an alderman (local executive politician) is not explicitly described in public law, but can be derived from the responsibility of his peer, the minister. The Dutch political system is based on individual ministers’ responsibility rather than full government responsibility for autonomised entities (see Christensen *et al.*, 2002, p. 161). A minister is fully responsible for all acts of the department he is managing. The responsibility for an associated entity is restricted to three criteria: first, the minister is responsible as far as authority is attributed to him/her. Second the minister is responsible and thus accountable for the framework in which the associated entity is operating in and third, the minister is responsible for actions regarding the associated entity – either public or private – (Kummeling *et al.*, 1999, pp. 19-20). In the relation between minister and associated entity, the first two criteria are most relevant because they determine the structural relations whereas the last criterion only oversees individual actions. At the local level, one can argue that the “framework responsibility” has less impact than on the national level but an alderman can also be held accountable for the structured relations between the local government bureaucracy and the associated entity as well as for what has been arranged in charters of associated entities created by the local government.

Associated entities basically emerge either by creating an entity that formerly has been part of government activities or when a private entity is hived in to the public domain because the services delivered are regarded as part of the public domain. At the local level, hiving off is more common than hiving in. Around 1900, local governments started to create public housing and public utility services, which were later hived off. In education, particularly in primary education the process of hiving off is still continuing. Processes of hiving in were historically often found in the arts departments such as theatres and music halls, but in the last decades these developments have been reversed. Hiving in at the national level can have its impact on responsibility of local government. Particularly in education, social housing, the health and care sector are domains that have to comply with national rules and are mainly funded based on

national regulation. Their operations are at the local level and some of the funding and monitoring responsibilities have been transferred to the local level.

*Hiving off and hiving in of housing and education.* It seems odd, but both hiving off and hiving in exists in the social housing and the education industries. This has to do with political developments in the Dutch State, where organisation along religious lines was an important issue. After a change in the constitution in 1917, each of the main religious groups was allowed to organise its own private schools to be funded by national government. Local governments had organised public schools before and these were also funded by government. In social housing, similar developments existed, but government funding only started after the Second World War. In the last quarter of the twentieth century, the process of hiving off the former public social housing corporations started, followed by a similar development in education. This development has not been completely ended. In education, it is still possible that a group of people creates a new private school and if it meets the requirements set by the department of education, it will be funded by government. As a result local government will have a part of the responsibility for that new school as well.

### *3.2 Associated entities at local level*

At the local level there is also a mixture of public and private law entities that qualify as associated entities. Formally, *Gemeentewet* ([GW]; Law on local government) stipulates that only in those cases where it is particularly relevant to use a private law organisation, the local government is allowed to use a private law based entity. In all other cases, a public law solution should be used. In a report on behalf of the minister of Justice, it is indicated that practices are different and many local governments are using private law entities to achieve their goals (Ministerie van Justitie, 2006, p. 19). Furthermore, the decree on local government budgeting [BBV] makes a distinction between affiliated entities [*verbonden partijen*] in which local government has both governance and financial interest, and other associated entities. The governance interest in an affiliated entity is defined as having a voting right or having a representative in the board of the affiliated entity. Financial interest is defined as having resources at stake in case of bankruptcy, either directly or indirectly. The criteria used for qualifying as an affiliated entity have resemblance to the “control” criterion used in international public sector accounting standards (IPSAS 6) but are not the same: under IPSAS 6 majority voting rights are required.

The public law solution of government co-operation has two basic forms: one in which a separate legal entity is created and one in which one local government actually provides services on behalf of a number of local governments. In the case of a separate organisation, co-operation may have been enforced by national laws as is the case with *Veiligheidsregios* (Safety regions) in which among other issues emergency services are organised. Other forms of co-operation are on a voluntary basis; an example is an organisation which provides social security benefits for a number of local governments. In that case, creating a separate legal entity often is driven by efficiency and scale motives. A particular form of public law co-operation is in the so called *Euregios*, which are cross border co-operations between local governments on both sides of national borders.

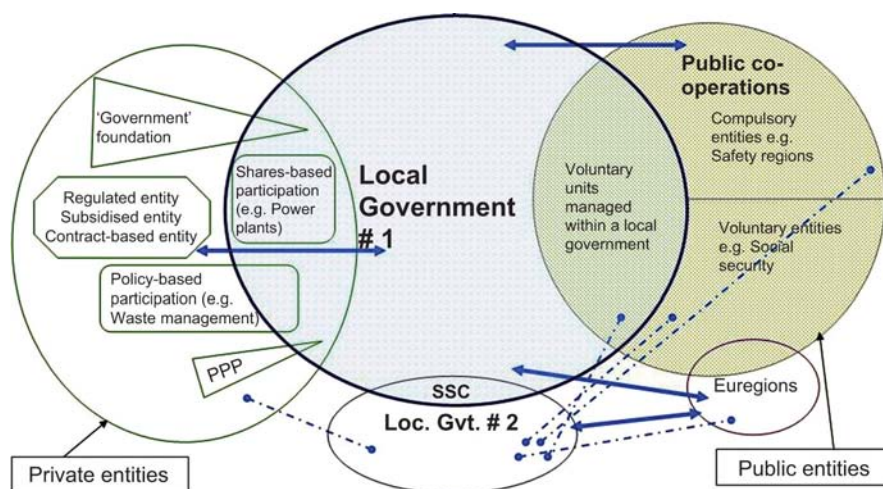
Private law associated entities exist in all forms known in the Dutch civil code. So share-based participations as well as foundations are used. The majority of newly

created associated entities between 1997 and 2005 were foundations, the different forms of share-based companies add up to another 40 + per cent of newly created associated entities (Ministerie van Justitie, 2006, p. 23). In a few cases, particularly in the utilities sector (water, power-network), shares cannot be sold and are held by all local governments together. To differentiate between participations which are compulsory and those that can be used freely by local governments, I label the compulsory held participations in companies as “share based participations” and the other ones as “policy based participations”.

Figure 1 shows the relations between a local government and its associated entities. I have mentioned the most relevant ones, the figure includes some relations - such as the contract based shared service centre operating on behalf of more than one local government - that do exist but are not commonly used yet.

### 3.3 Creating associated legal entities

Establishing a new legal entity by government requires some form of action by the executive branch of government. In this section, I will focus on a legal analytical perspective that covers the general concepts for autonomisation at the local level. Creating a local public legal entity is only possible based on the *Wet gemeenschappelijke regelingen* [WGR] (Law on local government co-operations), which stipulates that all local Councils involved have to give their consent to the creation of such an entity. Creating a private legal entity by the executive is allowed after notice has been given to the local Council and the Council did not object. If the Council does not object, the executive is allowed to create the private law entity after the approval of the supervising Provincial Government. The latter tests whether the local proposal is not a violation of the law or contrary to the general interest. WGR and GW only provide a very general instruction which means that there is no standardised charter in case of creating an associated entity.



**Note:** PPP: Public Private Partnership; SSC: Shared Service Centre  
**Source:** Author’s compilation

**Figure 1.**  
Local government and its  
associated entities

Dalhuisen (2004) noted in a study on creating private law foundations at the national level that in fact there are three options for a minister to create a new legal entity. In two cases Parliamentary consent applies: when the minister is the only one involved in creating a legal entity or when he creates the entity in cooperation with private partners (joint creation). There is a third option, the minister supports creating a new legal entity but is not involved in the formal procedure of writing up the statutes. In that case, formally private parties create the entity and the requirement of Parliamentary consent is not applicable. Theoretically, the local government has the same options as a minister if the use of a private law entity is preferred.

The other solution to arrive at associated entities is by hiving in an entity in the domain of government. In that case, an existing private law entity is regarded to be influenced by a government level with respect to their operations. The most extreme form of hiving in exists in the case of passing a law in Parliament which gives the legal entity a new status within the public domain. At the local level, hiving in cannot be realised by law, but must either be realised by a change in charters of the relevant entity or by participation in shares, other forms of refinancing an associated entity, or by creating new funding relations. In these cases the *ex ante* control in principle comes down to budget authorisation.

At the local level, four options exist for hiving in an associated entity. First, the formal GW:160[2] solution is mentioned. Local government can choose to participate in a private law entity after city council's consent. Second, in education, hiving in is realised after a private initiative to create a new school is included in the local school plan and as a result nominated for government funding. Third, local government can be indirectly involved in an associated entity in case another associated entity – most likely a public law co-operation – has created a relation to a third party to provide public services as is the case with public transport. Fourth, funding and financing agreements for example in relation to tendering procedures for public services or direct income transfers may actually result in hiving in an entity. An example of the latter form is subsidising a local library. Table I summarises the options that exist for creating associated entities.

#### 4. Managing *ex ante* control of associated entities

A political allocation mechanism determines the provision of services by local government. The key feature of this political allocation is the budget mechanism. The

Creating an associated entity	Hiving in an associated entity
Under the law, with consent of City Council By statutes, with implicit consent of City council and approval of supervising Provincial government: actively creating joint creation	Under the law, based on national regulations Under GW, with consent of City Council: buying shares participation in foundation
By statutes: no <i>ex ante</i> consent support creation	By creating a long-term funding or financing relation

**Source:** Author's compilation

**Table I.**  
Forms of creating associated entities at the local level



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formal budget authorisation is the prerogative of city Council, whereas an alderman is responsible for budget appropriation towards the actual service providers inside or outside the hierarchical structure of local government.

The budgeting process is also the prime *ex ante* control tool with respect to associated entities, particularly when the associated entity is funded by government. In The Netherlands, insufficient authorised resources are not an argument to neglect contractual financial agreements. In case overspending is forecasted or realised, this can be legitimised *ex post* by Parliament/City Council (Janse de Jonge, 1993, p. 369). It depends on the political impact of overspending, confidence in the alderman and the responsibility in the particular case whether or not an alderman will have to leave office.

In a number of cases, budgets cannot be appropriated by the alderman because funding is based on compulsory fees or other user charges. In that case the budgeting process is not a suitable instrument for *ex ante* control on associated entities. The type of *ex ante* control mechanisms that exist next to the budgeting control tools can be classified in two main groups, one for entities created by the legislator or the alderman and one for entities that were hived in after they were created. In both cases, a differentiation can be made between *ex ante* controls during the process of creating/hiving in an entity and *ex ante* controls during regular operations. I will start discussing the *ex ante* tools available to the executive in case of creating/hiving in an entity and then focus on *ex ante* controls during regular operations.

#### 4.1 Ex ante controls at the start

At the local level, there is no separate legislative procedure to create an autonomised entity. Arrangements on creating associated entities are based in two general laws: the public co-operation act [WGR] and the local government act [GW]. Public co-operations at the local level are decided on by the approval of all local government councils involved (WGR:1). Local councils can only reject the proposal in case of “being contrary to the law or general interest”. The format of a WGR-based public co-operation is described in the law, but still has some optional arrangements that may affect the *ex ante* control of operations after the entity has been created. Without agreement of all local governments, a public co-operation cannot be realised unless imposed by national government.

In GW:160.2, it is required that the executive (i.c. mayor and aldermen) submit a draft decree to the local council in which the proposed creation of a private law entity is laid down. Only after the local council has been able to give its comments on the draft decree a formal decision can be made. This procedure assures democratic control with respect to the decision. The local council cannot require specifications to the contents of the private law arrangement; only through a vote of confidence it is able to hold an alderman accountable for the creation of an undesired private law entity. There is however an emergency exit: the decree of the executive has to be approved by the provincial authorities (GW:160.3), who have the power to annul the decree with the argument “being contrary to the law or the general interest”. I note that the study by the ministry of Justice indicates that annulment is very rare (Ministerie van Justitie, 2006, p. 35).

Up till now, only the general *ex ante* controls regarding the creation an associated entity are discussed. Kummeling *et al.* (1999, p. 39) have classified the authority that

may be attributed to a minister in case of creating an associated entity into four groups: normative authority, issues regarding information provision, issues regarding governance structure and cyclical authority. These four groups can be identified at the local level as well. Given the arrangements in WGR and GW, influence of the City Council is not strong: at most the legislator can ask the executive to include or exclude particular optional elements of authority.

I will now discuss the three relevant groups of authority; the information provision issue is neglected because it covers issues as accountability and general information provision by the entities, which are mainly *ex post* control tools. In the other three groups, a mixture of *ex ante* and *ex post* controls exists. Particularly normative authority, which cover issues such as general instructions and policy rules are typical *ex ante* controls. However, normative authority is related to decision making processes to assure equal treatment in equal cases. At the local level individual decisions regarding citizens made by associated entities are less common than at the national level. In cases where normative authority exists, generally a decree by city council is needed in which specifications are made. Using normative controls provides assurance for compliance to democratically set standards. Usually, only in distribution of social security benefits as well as employment for handicapped people authoritative decisions by associated entities are made. In general such activities are transferred to associated entities for reasons of efficiency of scale on behalf of smaller local governments. Most other associated entities provide executive services that do not involve an authoritative decision. In those cases, the normative authority as *ex ante* control tool is less relevant.

The main *ex ante* governance controls are found in arrangements on appointments of members to (supervising) boards and *ex ante* controls on certain operational decisions. Examples of *ex ante* controls on decisions can be approval of changes in charters, approval of certain type of investment decisions (WGR:32). Governance structure controls allow the alderman to realise his/her responsibility towards city Council. Second, it prevents boards from restructuring the autonomised organisation without prior consent, resulting in an entity that has no democratic control at all. The last group of *ex ante* controls regards cyclical responsibilities such as the approval or decision on budgets by the minister. These controls include the planning and control system as well as relevant performance indicators. I will discuss these controls in section IV.2 as they are related to *ex ante* controls during operations.

The *ex ante* controls in case of hiving in an entity are realised by changes in charters, funding and financing conditions or eventually forms of contracts in case of tendering procedures. In most of these cases, *ex ante* control in principle means budget authorisation. It must be noted that in case of indirect hiving in, in case of regional co-operation the *ex ante* controls are less strong than in other cases.

#### 4.2 *Ex ante controls after creation of an autonomised entity*

The distribution of responsibilities in terms of normative and governance controls can be monitored once the entity is executing its tasks. During operations, the most prominent of the *ex ante* controls are now found in the cyclical controls (Kummeling *et al.*, 1999) that allow for actively adapting operations to the service levels desired by city Council. The most important cyclical control tool is financial *ex ante* control. Cyclical control tools do not only serve political control, they also provide opportunities

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for accountability towards all other stakeholders of the organisation. There are two basically different forms of financial *ex ante* controls to be identified. First, the annual budgeting procedure is to be mentioned. Second, contract based or rule driven funding is the other option.

The local budgetary process is since 2004 based on the approval of program budgets which include both expenses within local government as well as expenses to be made with respect to associated entities. The BBV-framework allows local governments to disclose information based on their own preferences. It thus depends on the choice of the executive whether or not to disclose more information, including performance indicators, than aggregate expenses for each program. There may be two other sources to find budgets to be spent in relation to associated entities. First, BBV also requires that a separate – risk oriented – section in the budget document discloses information on affiliated entities. This is not necessarily financial information, but it can be. Second, at the executive level, detailed budgets in relation to the programs must be available. Under this requirement, information on expenses and financial position of all affiliated entities is separately required. It is likely, but not covered in BBV – that information of other associated – not being affiliated – entities will also be available in the detailed budgets. Whether the resources are allocated on a classic input budget basis or on a more sophisticated performance related agreement (von Weizsäcker *et al.*, 2005, pp. 7-8) is a matter of political preferences and possibilities for specification of services. Of course, *ex post* accountability can benefit from performance based budgets, rather than from traditional input budgets. As a result of BBV-regulations, City Council only has two sources of information on budgets of associated entities. It can be included in the separate section on affiliated entities in the budget document. Otherwise, City Council must ask the executive explicitly to disclose the information in the program budgets. In both cases, the main *ex ante* control is not in the formal budget authorisation, but in the budget appropriation by the alderman who decides to distribute resources to the associated entity. Again, whether the budget is input or performance based is not essential: it is the alderman who has to decide whether or not to spend the money. The basis for that decision is the approval of the budget as submitted by the associated entity to the local government. I recall that in one case, public co-operation at the local level, the *ex ante* control on budgets for individual local governments is virtually non-existing. The proposed budget of a public co-operation must be submitted to all local councils, but they only have the opportunity to comment on the proposed budget; it is the board of the public co-operation that decides.

In a setting in which public services can be provided from a more market based setting, it is possible to use a form of a contract in which services are specified rather than a mere approval of a budget. von Weizsäcker *et al.* (2005, pp. 7-8) specify a number of contractual forms related to different types of associated entities. This ranges from service contracts with private entities to concessions and diverse intermediate forms of public-private co-operation. Depending on the type of contract, *ex ante* control is on a unique individual basis as is for example the case in a public-private partnership program aiming at urban development. Other types of contracts may have a more cyclical character, for example when tendering procedures for concessions or service delivery are used. The *ex ante* controls are then limited to the program specifications on the case basis and the market mechanism decides which provider has the winning bid. Although such contracts are close to market relationships, there still is a residual

risk involved that can be regarded as a typical risk in case of associated entities. The remaining residual risk refers to the case that the entity that won the tendering procedure fails to provide the service. Government then has to fall back to other solutions – at a certain price – to assure that service-levels towards citizens remain assured. That this is not a theoretical proposition can be illustrated on the case of a nation wide care provider that went bankrupt and where local and national government had to find solutions to guarantee that services were delivered (Parliament, 2008a, p. 2). More generally, the National Court of Audit expresses its concerns on the governance structure of associated entities such as care providers and housing corporations (Parliament, 2008b).

Theory can provide a general remark on *ex ante* controls in these forms of contract based public private partnerships, but an assessment of the actual impact of *ex ante* controls in these cases can only be based on case studies of individual contracts. Therefore I will neglect the *ex ante* controls on contracts in the remainder of this paper.

A final remark to be made is that the risk related to associated entities is not the same in all cases. It depends on the governance structure and eventually existing oversight structures whether or not there is a relevant risk for local government. In the social housing sector, a form of mutual insurance exists to support entities under financial distress. In tendering cases, price competition is crucial and no financial oversight exists. If prices are wrongly calculated, this will emerge during actual operations. Most likely this will result in renegotiating the service contract with a relatively high risk for local government.

In this section, I have discussed the *ex ante* controls available to local government. The most important issue is the distribution of authority at the start-up of an associated entity. After creation of an entity the cyclical authority attributed to legislative body (budget authorisation) and/or alderman are the prominent *ex ante* tools. In Table II, I have summarised these tools. In the next section, I will focus on empirical results with respect to the use of the *ex ante* tools at the local level.

### 5. Empirical evidence at the local level

Local government has the opportunity to create arrangements in which *ex ante* control tools in their relation to associated entities can be institutionalised. The fact that tools

Entity created	Entity hived in
Budgetary funding	Budgetary funding
Contracting	
Performance standards	
Prescribed tools for public co-operation (WGR)	Allowing to apply for recognition Indirect through
City council consent with creation of entity.	participation in other associated entities
(GW)	
Responsibility of alderman laid down in charters	Changes in charters enforced
normative tools	Buying shares
cyclical tools	
governance tools	

**Table II.**  
*Ex ante* controls available with respect to associated entities at the local level

**Source:** Author's compilation

can be available does not necessarily imply that these tools are used in the actual relation between government and associated entity. In this section I will focus on the use of the control tools that are available. Due to the wide range of arrangements, it is not possible to pay attention in full detail to all possible associated entities. I have chosen to focus on affiliated entities as meant in the definitions of the BBV-decree.

In the case of affiliated entities at the local level, I chose for a secondary research approach based on studies by Dutch local courts of audit. Based on an internet search I was able to find 34 reports by local courts of audit on affiliated entities. Table III shows the distribution of the reports that were available. The Appendix (Table AI) lists the local governments that were included in this study.

At the local level, the general impression on the *ex ante* control of affiliated entities is negative. In 70 per cent of the cases the overall conclusion of the courts of audit studies was that local government is not in control with respect to its relation to affiliated entities. Table IV shows the results on the different items described here.

Perhaps the most important conclusion at the local government level is that 70 per cent of the Court of Audit reports mentions a lack of policy documents that can serve as guidance for the relation between affiliated entities and local government. In the individual studies, particularly those that only focus on public co-operation, a part of the explanation is found. The public co-operation is the traditional form of affiliated entity. In general, an individual local government has no direct influence on the

	Number of inhabitants of city			Total
	< 40,000	40,000 < x < 100,000	> 100,000	
<i>Affiliated entities discussed</i>				
All	9	7	1	17
Public co-operation only	2	3	1	6
Cases	4	4	1	9
Privatisation	0	2	0	2
Total	15	16	3	34

**Source:** Author's compilation

**Table III.**  
Affiliated entities  
included in local courts of  
audit reports studied

	Number of inhabitants of city			Total
	< 40.000 (n = 15)	40.000 < x < 100.000 (n = 16)	> 100.000 (n = 3)	
Insufficient use of performance indicators	10	7	0	17
Insufficient integration in P&C-system	8	4	0	12
Insufficient information provision	8	2	2	12
Policy document on managing relation to affiliated entity unavailable	12	9	3	24

**Source:** Author's compilation

**Table IV.**  
Use of *ex ante* control  
tools according to local  
courts of audit

operations of the entity because it has no majority vote. Furthermore, budgetary processes of public co-operations at the level of the individual local government only have a consulting status, which reinforces the idea that political influence is only limited.

Another explanation for the results found here is that the issue of affiliated – or even wider associated entities – at the local level has only been formally on the political agenda as of the introduction of the BBV-decree in 2004. Most local governments had to find their way in making arrangements with these entities and making these arrangements explicit. In some cases, for example in waste management, arrangements are contract based because the services can be obtained in a competitive market. However that is an exception. The data on affiliated entities used here were generally published between 2006 and 2008 and thus reflect the early stages of the control process with respect to associated entities.

In only four cases local governments had organised the ownership and commissioner roles separately. Theoretically the alderman responsible for Finance could act as the one responsible for ownership of associated entities. However, unlike his/her counterpart at the national level, the alderman's portfolio is wider than finance only and also includes at least some policy issues, which may result in conflicts of interest. Furthermore, in public co-operations, the board of the public co-operation entity consists of representatives of local government, again in most cases an alderman. In their role as member of the board of the public co-operation, they have to act in the interest of that co-operation only which may result in a conflict with their role as both owner and commissioner of the co-operation from the perspective of the local government they represent. From a commissioning point of view, there seems to be a lack of awareness on the differences between the services provided by associated entities. In most local court of audit studies reference is made to the insufficient use of SMART performance indicators, but I did not find remarks on differentiation between for example public co-operations that provide services directly to citizens or those that operate on a more abstract level of policy co-ordination between a number of local governments.

The problem with the local court of audit reports is that they generally only focus on the affiliated rather than the associated entities. Only in the report of the Court of Audit Schiedam-Vlaardingem (Rekenkamercommissie Schiedam-Vlaardingem, n.d., pp. 37-38) explicit reference is made to the responsibility local government has to the continuity of service provision and thus to a form of monitoring these associated entities, not being affiliated entities. This omission is relevant because once a contract has been granted to an entity; there is no competition anymore up till the next tendering procedure. If the associated entity fails to deliver its services, government has to find other – often more expensive solutions to guarantee service provision to its citizens. In 2009 only, problems with respect of continuity of at least two hospitals, two care providers, three social housing corporations and a public transport corporation emerged in the national newspapers. In the Dutch context, this is an indication that there may be serious risks involved in controlling associated entities.

Finally, based on the descriptions of affiliated entities in the reports studied, an indication can be given of the type of associated entities in relation to the type of provision of services as identified by Boorsma and Mol (1983). The reports do not always disclose all affiliated entities; therefore presenting quantitative data might be

misleading. I have chosen to give more qualitative labels. Under consolidated and contract provision, most entities mentioned have a public law governance structure, whereas the other three types of service provision generally have a private law governance structure. Main exceptions are waste management which is in many cases private law based and employment services which can also have a private law governance structure (see Table V).

## 6. Conclusion

In this paper I focused on *ex ante* controls with respect to public services provided by autonomised entities in The Netherlands. My research question was:

*RQ1.* What are the *ex ante* control tools available to City Councils to find a match between the level of autonomisation and political control with respect to autonomisation of provision of services in the public domain?

The main topics derived from theory to address control of autonomised government units are the distribution of responsibility, the provision of services and the possible role conflicts between ownership and commissioning role of government with respect to the services delivered. A clear separation between the ownership role and commissioning role allows for improvement of specifications of services to be delivered. This can include the use of performance indicators as an (*ex ante*) standard setting tool by local government. The variety of associated entities at the local level does not allow for a “one size fits all” approach for *ex ante* control at a particular government level. Furthermore, there is no framework that could help creating a governance structure for associated entities.

At the local level, the debate on controlling associated entities is relatively recent compared to developments at the national level. Regulations require as of 2004 that for a specific group of associated entities information should be included in local government’s budget documents. Based on reports of local courts of audit, the conclusion is that in the majority of cases, local government insufficiently controls associated entities. In hardly any case performance based information is available and in the majority of cases there is a role conflict between government as owner and government as commissioner. From an *ex ante* control perspective, public co-operations have a relatively high risk profile because there is no single government that controls the entity. Due to the strict definition of affiliated rather than associated entities in legislation, some groups of entities are not included in

Consolidated provision	Contract provision	Grant provision	Regulated provision	Private provision
Regional cooperation	Waste management	Sports facilities	Business parks	Power supply utilities
Emergency services	Public health services	Theatres	Urban developments	Public transport
Employment disabled people	Social security benefits	Cultural activities		Parking facilities

**Source:** Author’s compilation

**Table V.**  
Typical affiliated entities  
and the corresponding  
type of service provision

budgetary documents, despite possible risks related to them. This seems to be an omission in the control system because City Council has only indirect access to information on these entities if any information at all.

The overall conclusion of this paper is that at least three problems are not solved yet. This regards the specification of services requested including performance indicators, the role conflict between commissioner and owner – particularly at the local level – and the *ex ante* control on associated entities that operate locally or regionally under a national framework.

### Notes

1. Hiving in and hiving off are opposites similar to nationalisation and privatisation. Nationalisation is unusual in a Dutch context (de Vries and Yesilkagit, 1999, pp. 118-119) and would not provide an accurate description of the position of an entity that is hived in.
2. When I refer to legislation, I will use the format: “abbreviated name of law: article-number: sub article-number”.

### References

- Bertelli, A.M. (2006), “Governing the quango: an auditing and cheating model of quasi-governmental authorities”, *Journal of Public Administration Research and Theory*, Vol. 16 No. 2, pp. 239-62.
- Bokkes, W.Th.M. (1989), *Privatisering belicht vanuit de transactiekostenbenadering*, Universiteit Twente, Enschede.
- Boorsma, P.B. and Mol, N.P. (1983), *Privatisering*, Stichting Maatschappij en Onderneming, 's-Gravenhage.
- Boyne, G.A., Farrell, C., Law, J., Powell, M. and Walker, R.M. (2003), *Evaluating Public Management Reforms. Principles and Practice*, Open University Press, Buckingham.
- Christensen, T., Læg Reid, P. and Wise, L.R. (2002), “Transforming administrative policy”, *Public Administration*, Vol. 80 No. 1, pp. 153-78.
- Coleman, A., Gains, F., Boyd, A., Bradshaw, D. and Johnson, C. (2009), “Scrutinizing local public service provision”, *Public Money & Management*, Vol. 29 No. 5, pp. 299-306.
- Dalhuisen, A. (2004), *Op afstand en toch dichtbij. De overheidsstichting binnen handbereik*, Universiteit Twente, Enschede.
- de Vries, J. and Yesilkagit, K. (1999), “Core executives and party policies: privatisation in The Netherlands”, *West European Politics*, Vol. 22 No. 1, pp. 115-37.
- Homburg, V., Pollitt, C. and van Thiel, S. (2007), “Introduction”, in Pollitt, C., van Thiel, S. and Homburg, V. (Eds), *New Public Management in Europe. Adaption and Alternatives*, Palgrave Macmillan, Basingstoke/New York, NY, pp. 10-25.
- In't Veld, R.J. (1995), *Spelen met vuur. Over hybride organisaties*, Vuga, Amsterdam.
- Janse de Jonge, E.J. (1993), *Het Budgetrecht. Rechtsvergelijkende studie naar de begrotingsbehandeling door het Parlement in de Verenigde Staten, Engeland en Nederland*, W.E.J. Tjeenk Willink, Zwolle.
- Kummeling, H.R.B.M., Duijkersloot, A.P.W., Minderman, G.D., van Schagen, J.A. and Zijlstra, S.E. (1999), *Verkenningen van verantwoordelijkheid: ministeriële verantwoordelijkheid voor het toezicht op de financiën van zelfstandige instellingen op het terrein van onderwijs en onderzoek*, W.E.J. Tjeenk Willink, Deventer.



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- Linker, P.J. (2006), *Sturing in de Rijksdienst. Nieuwe inzichten verenigd in het sturingsmodel*, Van Gorcum, Assen.
- Ministerie van Justitie (2006), "Privaatrechtelijke taakbehartiging door decentrale overheden", available at: [www.minbzkn.nl/aspx/download.aspx?file=/contents/pages/88424/privaatrechtelijketaakbehartigingdoordecentraleoverheden.pdf](http://www.minbzkn.nl/aspx/download.aspx?file=/contents/pages/88424/privaatrechtelijketaakbehartigingdoordecentraleoverheden.pdf) (accessed 7 May 2009).
- Niskanen, W.A. (1968), "The peculiar economics of bureaucracy", *The American Economic Review*, Vol. 58 No. 2, pp. 293-305.
- OECD (2002), *Distributed Public Governance. Agencies, Authorities and Other Government Bodies*, OECD, Paris.
- Osborne, D.E. and Gaebler, T.A. (1992), *Reinventing Government: How the Entrepreneurial Spirit Is Transforming the Public Sector*, Addison-Wesley, Reading, MA.
- Ouchi, W.G. (1977), "The relationship between organizational structure and organizational control", *Administrative Science Quarterly*, Vol. 22 No. 1, pp. 96-113.
- Ouchi, W.G. (1979), "A conceptual framework for the design of organizational control mechanisms", *Management Science*, Vol. 25 No. 9, pp. 833-48.
- Parliament (2008a), *Modernisering ABWZ. Brief van de staatssecretaris van Volksgezondheid, Welzijn en Sport. (Kamerstukken II, Vergaderjaar 2008-2009, 26631 nr 290)*, Staatsdrukkerij en uitgeverij, Den Haag.
- Parliament (2008b), *Goed bestuur in uitvoering. De praktijk van onderwijsinstellingen, woningcorporaties, zorgorganisaties en samenwerkingsverbanden. (Kamerstukken II, Vergaderjaar 2008-2009, 31729 nr 1, appendix)*, Staatsdrukkerij en uitgeverij, Den Haag.
- Pollitt, C. and Boukaert, G. (2004), *Public Management Reform. A Comparative Analysis*, 2nd ed., Oxford University Press, Oxford.
- Pollitt, C. and Talbot, C. (Eds) (2004), *Unbundled Government. A Critical Analysis of the Global Trend to Agencies, Quangos and Contractualisation*, Routledge, London and New York, NY.
- Pollitt, C., Talbot, C., Caulfield, J. and Smullen, A. (2004), *Agencies. How Do Governments Do Things through Semi-autonomous Organisations?*, Palgrave Macmillan, Basingstoke.
- Rekenkamercommissie Schiedam-Vlaardingen (n.d.), "Stoppen of doorgaan. Een analyse van de financiële en bestuurlijke risico's betreffende verbonden partijen van de gemeente Schiedam", available at: [www.schiedam.nl/shared/files/nota/organisatie/eindrapport%20verbonden%20partijen%20Schiedam%20DEFINITIEF%202022.1.pdf](http://www.schiedam.nl/shared/files/nota/organisatie/eindrapport%20verbonden%20partijen%20Schiedam%20DEFINITIEF%202022.1.pdf) (1 May 2009).
- van Oosterom, R. (2002), "Netherlands", in OECD (Ed.), *Distributed Public Governance. Agencies, Authorities and Other Government Bodies*, OECD, Paris, pp. 113-32.
- van Thiel, S. (2000), *Quangocratization: Trends, Causes and Consequences*, Universiteit Utrecht, Utrecht.
- van Thiel, S. (2006), "Styles of reform: differences in quango creation between policy sectors in The Netherlands", *Journal of Public Policy*, Vol. 26 No. 2, pp. 115-40.
- Walsh, K. (1995), *Public Services and Market Mechanisms: Competition, Contracting and the New Public Management*, Palgrave Macmillan, Basingstoke.
- Weiszäcker, E.U., Young, O.R. and Finger, M. (Eds) (2005), *Limits to Privatization*, Earthscan, London.

**Table AI.**  
Local governments  
included in this study

< 40,000 inhabitants ( <i>n</i> = 331; 1 Jan 2009) Alblasserwaard	40-100k inhabitants ( <i>n</i> = 75) Bergen op Zoom	> 100k inhabitants ( <i>n</i> = 25) Ede
Bergeijk	de Bilt	Haarlem
Brunssum	Delft	Rotterdam
Franekeradeel	Gouda	
Gorinchem	Hilversum	
Hoeksewaard	Houten	
Kapelle	Middelburg	
Leerdam	Nieuwegein	
Moerdijk	Oosterhout	
Oudewater	Roosendaal	
Pijnacker	Schiedam	
Rheden	Steenwijkerland	
Veere	Venlo	
Waddinxveen	Vlaardingen	
Werkendam	Vlissingen	
	Zeist	

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