

CHALLENGES TO DEMOCRATIC LEGITIMACY, SCRUTINY, ACCOUNTABILITY IN THE UK NATIONAL AND LOCAL STATE

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ABSTRACT

This article suggests that at national and local levels, the British state is seemingly incapable of solving multi-faceted and intractable social, economic and environmental problems alone. It is argued that new national and local governance arrangements, based on new ideas, different ways of working, and approaches to problem solving have brought into a sharper focus on the issues of democratic legitimacy, scrutiny and accountability. All three complex and ambiguous concepts have long been a concern in public administration. This article draws from existing conceptual frameworks to show that traditional forms of legitimacy, scrutiny and accountability are now under threat. It examines the merits of the new forms, with some recommendations for the future.

INTRODUCTION

Like many other nation states, the UK state has undergone massive transformation in the last quarter of the twentieth century, and there is no evidence of a slow down. As the Blair Government continues to foster a managerialist state based largely on neoliberal assumptions and business--like policies, innovative and experimental, reconfigured and re-engineered forms of governance have replaced the traditional top--down, command hierarchies. New arrangements in which state and non-state actors work together across organisational boundaries to achieve commonly agreed objectives have exposed gaps in institutional coverage and challenged the democratic

legitimacy of both state and non- state actors, but more significantly scrutiny and accountability remain key unresolved issues at the heart of modernisation of the British state. State officials are now obliged to draw in personnel, resources and information from non--state actors to share “democratic action spaces”, and new relationships and responsibilities are altering the forms of democratic engagement and patterns of legitimacy.

As the context of governance continues to change, and more and more state functions are contracted out, privatised, or delivered by combinations of state and non--state actors or agencies we need to rethink our views on legitimacy, scrutiny and accountability. While states continue to divest financial and managerial responsibilities and measure performance on market driven criteria such as consumerism, competition, efficiency and value for money questions remain on issues of equity and public interest. If, as is argued here, the British state has undergone massive transformation and national and local governance arrangements are now so completely different to those we have grown used to, this is an apposite juncture to develop new forms of legitimacy, scrutiny and accountability. To examine these new forms it is important to understand some existing debates surrounding the concepts of “governance”, “New Public Management”, “New Public Services”, and “New Public Governance”.

THE CONCEPT OF “GOVERNANCE”

Although the use of the concept “governance” has attained currency within the past decade, at the expense of the concept “government” (Hirst, 2000), and despite its widespread usage, it remains a concept with different dimensions and applications (Salet, Thornley, and Kreukels, 2003:9). “Governance” lacks precision and is used in a variety of disciplines and in different discourses

(Southern, 2003). It is generally perceived as an alternative to government. From a North American perspective it has been variously described as “social self governance”, in association with contemporary ideas on local and global civic societies; as “responsible economic governance”, linked to market economies; or “political governance”; concerning public affairs. The first two are, in part, private forms of governance, facilitated by governmental frameworks, whereas the latter is concerned with the theory and practice of public affairs.

In a European context, some have argued that national governments, during the post Second World War period took a pro-active role in expansion of the Welfare State, whereas during the 1980s, and thereafter, dramatic shifts altered the balance between government and other agencies. The degree of changes to governmental forms across Europe varied between countries, but in the post-1980 period common features such as a reduction in the proactive role of government in the economy and society, diversification of decision making throughout a wide range of organisations and a restructuring of inter-governmental relationships became evident (Salet, Thornley, and Kreukels, 2003:6).

There is no real agreement on why governmental institutions have been replaced by new forms of governance. It is generally thought that rapid global and technological changes and the resultant international inter-dependence, coupled with declining growth rates and increasing competitive pressures within states, have brought about this change. Other influences include shrinking budgets for social programmes, the blurring of boundaries between business and government and dissatisfaction with legal processes for solving complex problems are important reasons for the changes.

Very little, it is argued is accomplished by a single organisation acting alone and in an era when organisational

boundaries are loosening and becoming more complex and problematic, most organisational problems need partners, not only horizontally in alliances but also vertically around relationships with users and consumers (Attwood, Pedler, Pritchard, and Wilkinson, 2003:143). Increasingly, new standards of delivery are now matched by exhortations to join up practice and involve service users (Attwood, Pedler, Pritchard, and Wilkinson, 2003:1). Indeed the UK Labour Government's aim for radical modernisation of public services depends on its ability to make a reality of "holistic" government, "joined up thinking", and achieve better outcomes across a wide range of policy areas, as successive governments have failed to tackle deep-seated problems. In the drive to join up policy areas, however, ever increasing gaps in lines of accountability, scrutiny and legitimacy require further examination.

Hirst offers a definition of governance as "a means by which an activity or ensemble of activities is controlled or directed, such that it delivers an acceptable range of outcomes according to some established social standard" (Hirst, 1997:3). Whereas government has traditionally been thought of as the formal institutional structures of decision-making, new forms of "governance" have blurred the boundaries between the state, the market and civil society (Geddes, 1997). This new system of governance engages a plurality of institutions and organisations alongside state agencies to solve particular problems and multi-agency partnerships are regarded as the most effective means of achieving common goals (Taket and White, 2000:19-20).

NEW PUBLIC MANAGEMENT, NEW PUBLIC SERVICES, OR NEW PUBLIC GOVERNANCE?

NPM (New Public Management) was regarded as a threat to the traditional Westminster bureaucratic model, in which anonymous or neutral civil servants offered objective advice to Ministers. It created a new performance culture, which embodied (apparently) autonomous and accountable managers, and increasingly, with assistance from special advisors, Think Tanks or external policy forums, civil servants became adept at acting in contractual and competitive ways to deliver services. The traditional language of civil servants based on stability, rules, procedures, was replaced by a new vocabulary based on managerialism, change, decentralisation, responsiveness, creativity, innovation, performance outputs and impacts.

New Public Management was adopted as an attempt to shift from funding organisations and institutions to funding performance (Norman, 2003), and public services traditionally delivered through government owned bureaucracies were increasingly delivered through a “mixed economy” (Gray, 1998) of public and private organisations competing for available funds. Government bureaucracies were reinvented in attempts to reduce costs to taxpayers and increase responsiveness to clients and citizens (Osborne and Gaebler, 1992) but amidst the controversy generated by NPM methods there was surprisingly little in-depth information about how they work on practice (Norman, 2003).

Denhardt and Denhardt (2000) presented a new public service (NPS) approach as a viable alternative for the dichotomy between the old public administration and the new public management. It was an attempt to balance the advantages of New Public Management (NPM) with the emerging requirement for greater public participation in public service improvement. NPS theorists emphasize

democratic citizenship, and models of community and civil society. NPS is intended as a viable alternative to both the traditional and the now-dominant managerialist models (Denhardt and Denhardt, 2000). According to this approach, public sector organisations should be structured in such a way that public servants are responsive to “citizens” rather than “clients or customers”. The emphasis in NPS is not on the steering or rowing functions (Osborne and Gaebler, 1992), but on how to build public institutions based on responsiveness and integrity. Denhardt & Denhardt (2000) suggest that NPS is built on seven principles:

- Serve rather than steer, because public policies are no longer simply the result of governmental decision-making processes.
- The public interest is the aim, not the by-product. It is necessary to establish shared interests and shared responsibilities based around a vision for the community and a single set of goals.
- Think strategically, act democratically. Collective effort and collaborative processes should exist within open and accessible government.
- Serve citizens, not customers and have a concern for the larger community.
- Accountability is not simple and involves complex constellations of institutions and standards.
- Value people, not just productivity. Processes of collaboration and shared leadership should be based on respect for people.
- Value citizenship and public service above entrepreneurship.

Schedler (2000) goes further in showing the loss of credibility in New Public Management due to market failure in delivering public services, and sees a future in which citizens, rather than customers achieve prominence, but points out that greater clarification on the role of the

state as guarantor and /or regulator will be vital. A new public governance, it is argued, would strengthen democratic control over decision making and citizen involvement, as well as improving public trust in government institutions and types of services provided. New Public Management, based on a managerial rationality was perceived as lacking sensitivity to the misuse of power, and of ignoring the fact that political rationality has an inherent drive to increase, limit or control power. Lines of accountability are crucial to this process, as the following section illustrates.

CHANGING ACCOUNTABILITIES

Accountability is a concept that has lost some of its former straightforwardness, and come to require constant clarification and increasingly complex categorisation (Mulgan, 2000). Relationships of accountability in the public sector are themselves complex, with public managers expected to be responsive and accountable to a wide range of actors. The terms scrutiny, legitimacy and accountability are surrounded by much jargon and to add to definitional problems the latter is often confused with notions of responsibility. It is therefore more appropriate to adopt a multi-perspective conceptual framework to examine these concepts and their validity in a UK context. We also need to locate the examination within some of the debates surrounding changing national and local governance structures resulting from the realignment between government, the private sector and civil society (Geddes, 1997).

There is general agreement that accountability is associated with the process of being called to account to some authority for one's actions (Stewart, 1992:2), and that public accountability rests both on giving an account and being held to account (Norman, 2003:144). However the

present crisis in accountability is due to emerging patterns of governance which places an ever increasing burden on a single line of accountability. The reality for many public servants is that they are pulled in different directions by varied mechanisms of accountability. Tensions mount as they seek to explain who does what, and more significantly who is responsible for how the “rules of the game” have altered.

The origins of accountability may be political, constitutional, statutory, hierarchical or contractual and may consist of four components: Assignment of responsibilities; an obligation to answer for those responsibilities; surveillance of performance to ensure compliance with direction; and possible sanctions and rewards (Norman, 2003:144). It involves answering the following questions:

- *Outputs*: What has been achieved with resources allocated?
- *Ownership*: Is a department (or part of the government/organisation) well placed to meet the demands placed on it now and in future?
- *Strategic alignment and collective interests*: Are the goals consistent with the government’s strategic goals?
- *Contribution to outcomes*: How well is the organisation doing in contributing to better outcomes? (Norman, 2003; 144).

Accountability in the UK is managed at multiple levels, and traditionally those exercising power were held to account through a line of accountability to elected persons, who were in turn held to account by citizens in periodic elections, and based on a presumption that due processes and the observance of procedures to ensure responsible public action. Most public servants have multiple accountabilities, and their freedom to use discretion is governed by the rules, regulations and guidelines

emanating from central government or a higher authority (Friend, Power, and Yewlett, 1974). Moreover their understanding of the general rules, conditions and knowledge governing their own professional arena (such as land use, social services, education), lead to more complex and dynamic forms of legitimacy, scrutiny, and accountability, at both national and state levels, as we shall now examine.

THE NATIONAL STATE

Within the UK national and local state, the drive to modernise Government and involve variegated communities of interest in decision-making is central to understanding the national state's Modernising Government agenda. This is focused on achieving the twin aims of efficient public services and equity of distribution (Maddock, 2002). Indeed the 1997 Blair Government's three key aims for improving the quality of public services, were (i) modernisation and innovation of services, (ii) renewed social democracy with an emphasis on welfare, and because big Government is dead (iii) partnership as the key to delivery (Blair, 1998). To achieve these aims the Blair government has welcomed, and indeed encouraged new forms of governance, but they have challenged legitimacy, scrutiny and accountability.

Traditionally accountability, at national level, has been through Cabinet Ministers; Civil Servants; Select committees; central departments; Members of Parliament; National Audit Office; the Audit Commission or other regulatory agencies; HM Treasury; the Parliamentary Ombudsman, or locally through Cabinet or Committee systems in local government via local members. Direct accountability in local government was via officials to elected members, and nationally civil servants to Ministers, and indirectly appointed boards were accountable through

Ministers to Parliament and through council members to full council. However traditional forms of public accountability no longer provide a sufficient basis for explanation, and the complexities of public life and the greater demands placed on officials and elected members raise further doubts (Stewart, 1992:4).

In the traditional perspective on national political accountability there is a coherent chain of accountability, from official to official in the Weberian bureaucracy, from official to Minister, from Minister to Parliament, and from Parliament the people, but it is largely illusionary (McGarvey, 2001), Accountability is still at the heart of public policy and politics, but recent changes have created many tensions and difficulties as normal channels of accountability between the governors and the governed become strained, and difficult to disentangle. Nevertheless we should not entirely dismiss the traditional view of accountability, because civil servants still derive their own code of ethics from an understanding of their place in the hierarchy and their relationship to Ministers, other civil servants, parliament, Cabinet, and the general public interest (Chapman, 1993).

Since 1997 the Labour Government has pushed the Modernising Agenda of change affecting many constitutional, structures, practices and procedures. Unlike other countries, the British system of government lacks a written constitution, a Freedom of Information Act or a Bill of Rights and this has enabled the government of the day (Labour has remained in power since 1997 and now enjoys a 160 seat majority in Parliament) to instigate changes that have affected lines of accountability.

Parliamentary accountability has been traditionally through the channel of representative MPs (Members of Parliament) who question the action of the Executive through parliamentary questioning and scrutiny and select committee. The Prime Minister, as *Primus Inter Pares* (first

among equals) is responsible for choosing a Cabinet and the leading government Ministerial teams. Under the current Government the duration of both Cabinet meetings and Prime Minister's Question Time have been shortened, leaving many backbench MPs to use the select committee system as their only legitimate way of bringing the executive to account, and leading many commentators to suggest a more Presidential style of politics than has been hitherto experienced in a British context.

Professional accountability in which public officials drew their codes of conduct from a body of professional knowledge and expertise had been undermined by NPM and the new governance arrangements, as individuals and groups were expected to put aside their professional training and experience in the interests of the public weal. By increasingly working across professional boundaries and in completely new jurisdictions it is clear that the professional perspective on standards and guidance that governs behaviour was in retreat, as professional bodies attempted to offer guidance to public servants working in completely new contexts and environments.

Public servants expect to be vertically accountable by political, managerial, and financial interests and other processes of inspection and regulation, but they are also internally accountable to their own organisational scrutiny and accountability mechanisms, as well as vertical and horizontally to a variety of stakeholders (of an increasingly multi-governance level, multi-professional, multi-constituent, and multi-agency nature)

Until recently, for all day to day purposes, civil servants had loyalty and duty to the Crown and Queen's Parliament, and if they were unhappy with this line of authority they could resign (Chapman, 1993). However, many high profile cases such as the Ponting case in 1985 (a civil servant who leaked information to Parliament because he believed his Minister was lying to Parliament) have increased the

sensitivity for individual civil servants. Ministerial accountability to parliament was of a higher order than nowadays and Ministers rarely resign over issues. Such cases have led to:

- Reforms of Parliamentary Select Committees, where MP s can examine officials and Ministers and probe minute details. Various documents of guidance were issued to civil servants (1977).
- The Croham directive on the Disclosure of Official information, which was followed by the Osmotherly Rules.
- A 1985 statement by Sir Robert Armstrong, (revised in 1987), The Head of the Home Civil Service and Cabinet Office, on the duties and responsibilities of Civil Servants in relation to Ministers.

There is a draft Civil Service Bill presently being considered by the Public Administration Select Committee of the House of Commons, and there are demands for a Civil Service Act, mainly to clarify the relationship and codes of conduct between Civil Servants and Ministers and Civil Servants and the many special advisors or external experts being used by Ministers (House of Commons, 2003).

Decentralisation of decision making and budgets has strengthened the need for central co-ordination and HM Treasury has become more powerful, but there has been a fine balancing act between exercising strong central leadership and fostering a model of decentralisation. On the one hand there is the rhetoric of decentralised decision making, but on the other hand little guidance on how to achieve outcomes. Accountability becomes blurred when the central agencies (in particular when the ultimate funder, HM Treasury, fails to give clear instructions and delivery agencies are left to guess on how to interpret the guidance). HM Treasury remains the most important line of accountability because of the requirement of Accounting

Officers of the spending departments to give regular updates on spending. It has the ability to influence spending priorities in departments. The key role as co-ordinator of overall government spending gives the Treasury and the Chancellor of the Exchequer a powerful role as the key agent of accountability. Many Chief Executives of Next Steps (arms--length) agencies have short-term contracts and have strictly limited room for manoeuvre. This means that they can be removed when necessary, and are continuously challenged to provide an account of their activities.

It has been argued that traditional notions of political accountability are gone forever (McGarvey, 2001:25) but still inform political behaviour. The professional accountability of the post war period in which technical and apparent de-politicised solutions to public services were in fact an attempt to increase resources available to professionals, but went into retreat. Managerialist accountability, based on the notions of New Public Management, replaced both political and professional notions of accountability, and had a core the belief that accountability required a clear statement of objectives and target setting, and that a direct relationship between administrators and users of public services would improve management, and that choice, and empowerment would deliver more responsive, effective and accountable services (McGarvey, 2001:20). However the new governance framework involving non--state actors and agencies is threatening the managerial perspective, and requires a reworking of our traditional ideas and views of the role of the state and the effectiveness of representative democracy (Hirst, 2000: 33). In the meantime there has been an escalation in the types of scrutiny, regulation and inspection, as the following section illustrates.

**SCRUTINY, REGULATION AND INSPECTION:
CHALLENGES TO EXISTING FORMS OF
ACCOUNTABILITY**

Scrutiny through inspection and audit has become more prominent in the UK system and Moran points to the rise of surveillance, audit and regulation (Moran, 2000). Where once the audit function would have been seen as the prerogative of service professionals it is now in the hands of arms length (and supposedly independent) regulatory bodies. The command and control systems of accountability have been replaced by a regulatory mode. There are now public auditors, professional inspectorates and ombudsmen, and in theory they are independent, objective and assess measurable indicators of performance to nationally established standards (Rogers, 1990:129). The regulatory mode of accountability is based on managerialism and control and downplays democracy; pluralism and the conventional view that government ministers are at the apex of democratic accountability and control (McGarvey, 2001:24).

Public service regulation is a control mechanism by which central government seeks to govern the activities of those agencies providing public services. Agencies such as the Audit commission, National Audit Office and central government Inspectorates allow the centre to govern increasingly fragmented governance. They monitor, influence and control the performance of agencies delivering public services (Cope and Goodship, 1999). The Audit Commission has developed an array of performance indicators (and use the Best Value Regime or Comprehensive Performance Assessment to benchmark local authorities against each other); HMI Constabulary issues certificates of efficiency; OFSTED (Standards in schools) constructs league tables of schools; and District Audit, National Audit Office, and the Audit Commission

and IDEA (Improvement and Development Agency) audit the spending and performance of local authorities, with the objective of spreading good practice.

There is a big question mark over where audit ends and inspection begins as regulatory agencies often have different remits, agendas, and styles and compete with each other, resulting in frequent turf wars. Cope and Goodship (1999:14) see moves toward more joined up government hindered by the way in which state agencies are still functionally and vertically organised, and the fact there are still entrenched interests of politicians, bureaucrats and professionals (Cope and Goodship, 1999:14).

Scrutiny processes are likely to stay fractious between central government with its desire for reform, and service providers who are trying to lessen the burden that scrutiny brings, by concentrating their limited resources on service provision. The audit explosion has challenged delivery agencies, increased the tensions, and led to either increased use of management consultancy or prescriptive models of best practice. The future of regulation and audit depends very much on the potential for a lighter touch or the development of greater trust between the parties (Clarke, 2003:157), but undoubtedly measurement as a form of accountability is here to stay. In the next section we examine some current practices.

MEASURING SERVICE QUALITY AS A FORM OF ACCOUNTABILITY

Quality of service improvement is based on the idea that greater accountability and transparency for the consumer will enable them to engage more effectively and demand higher standards. Since the 1980s countless quality initiatives have been introduced by central government, such as Market Testing; Citizen's Charter; Service First; Public Sector Excellence (based on the EFQM, European

Foundation for Quality Management model); CCT; Best Value; IDEA and Audit Commission Reviews; CPA (Comprehensive Performance Assessment); Accreditation of local strategic partnerships (such as local strategic partnerships and New Deal for Communities); and a Partnership Diagnostic that is being developed by Audit Commission.

The context within which these initiatives have taken place include: (a) worldwide competition for shrinking markets; (b) the domination of industrial/technological and managerial ideas by Far Eastern companies; (c) rising demands from a more highly skilled workforce; (d) a shortage of the world's resources; (e) the need to eliminate waste; and (f) a dominant political ideology in the UK focused on a wasteful bureaucratic state, inadequate public service delivery and cradle to grave state dependency.

The need to measure performance against central government targets, against performance in previous periods and against other departments or benchmark against other agencies is at the heart of the performance regime. The aim is to allow organisations to develop benchmarks, norms and targets of their own to improve policy, planning and budgeting, monitor and implement improved standards of service delivery, but at the same time review the distribution of resources, and ensure access to all users. Nevertheless it is clear that the performance management systems imposed on the public sector are also a designed to increase central control and influence over how decisions are taken at the local state level, as we shall now discuss.

THE LOCAL STATE

The Local Government Code of Conduct, like the Civil Service Code of Conduct at national state level, developed as a result of the Nolan principles on conduct in public life.

Moreover, all appointments to public bodies follow Nolan guidelines, and are monitored very closely by the Office of Public Appointments, overseen by the Parliamentary Standards and Privileges Committee. Public Servants are also accountable to their own ethical standards (because accountability is considered to be intuitive), but much of their work is now enshrined in the Nolan principles, of which accountability is but one of the key elements that should guide their activities (the other six are selflessness, integrity, objectivity, openness, honesty and leadership). Accountability may have little validity without some clear evidence that the other six principles, and as well as being accountable to their own professional training, public servants are accountable upwards to central government by regular inspection. Some examples are:

- Audit Commission or District Audit or the Standards Board of England, (in the case of local government);
- The Commission for Health Audit and Inspection and Commission for Social Care Inspection (health and social care systems); and
- HM Inspectorate of Constabulary (the police).

At heart, the plethora of regulation, audit and measurement of UK public services, were designed to minimise misappropriation of funds and reduce occurrences of untoward and unacceptable behaviours.

In terms of local accountability the notion that elected local government has a legitimate and automatic role in making authoritative local decisions on behalf of their communities is severely challenged. In the UK, like most of its Western European counterparts, local governance evolved from earlier nineteenth and twentieth century institutionalised forms, in which public decisions were institutionalised in public bureaucracies and political parties largely created and legitimised by central states, to a “more variegated, independent and more experimental form

of local politics offering the potential for politicians, bureaucrats, interest groups and publics to express their local identities, different from, but complementary to higher tiers of governance (John, 2001:2). As a consequence political authority is now being devolved to groupings of wider agencies, which are exhorted to work in collaboration with formerly marginalized community groups.

Under the Local Government Act 2000 local authorities with a population of more than 85, 000 were asked to choose, after broad consultation, from the following four alternative mechanisms of internal decision-making systems: Streamlined Committee Structure; Elected Mayor/City Manager; Cabinet and Scrutiny Committee/Panel; and City Manager and Administration.

Prior to these changes all local authorities were organised around a Committee structure with members acting as representatives, and officers recruited to offer advice, on the basis of technical expertise. To date twelve UK local authorities have opted for an elected Mayor; one chose a Mayor/Council Manager option; approximately seventy chose a streamlined committee structure, but by far the majority of all local authorities opted for Cabinet Leadership with a series of scrutiny committees or panels (Leach and Norris, 2003). In the latter option the Cabinet makes most of the decisions and has direct overall control of the work of the council. Membership is drawn from the majority or ruling party, and each Cabinet member is designated a policy portfolio. In a departure from traditional committee/departmental scrutiny, portfolio functions cut across council services to encourage joined up thinking.

Many councils have established Area Committees or Panels to bring the council and communities closer together, for the purpose of making decisions on a range of different local issues, such as traffic schemes, parking or

monitoring and evaluating the progress of local regeneration schemes. In some, but not all instances, Area Forums link town and parish forums into a plethora of partnerships, consortia or other joint working arrangements.

The ruling party in each local authority holds cabinet positions, and some even allow a restricted number of opposition representatives to sit in cabinet. Each member has a Portfolio of service responsibility. Unlike the traditional committee structure where committees followed the council departmental structure based on direct accountability, many Cabinet systems are organised along cross cutting themes (such as Life Long Learning, Regeneration, or Sustainability) and cross-departmental boundaries. Lines of accountability are therefore more amorphous and difficult to discern. Under the traditional committee structure, all councillors would carry a case load of ward business and be part of the overall Council decision making body, but under the new Cabinet system, most “backbench” members have lost their intimate role in decision making. Instead, some have been drawn into scrutinising the role of full Cabinet. These new roles have altered the balance of accountability.

The change from having a committee structure directly aligned to service departments, and in which members could call officers to account, has altered the direct relationship between members and officers, and most officers are now deployed in servicing the work of the senior Cabinet members of an authority, leaving few resources for the ordinary backbencher who wants to ask pertinent questions of the Executive of Cabinet members. Most local authorities have established scrutiny panels but there is no real evidence to suggest that they are being run along the lines envisaged by central government i.e. similar to the Select Committees in Parliament with the capacity to call upon expert witnesses, external advice or commissioned research, to bring the Executive to account.

Very few local authorities that have adopted the Cabinet and Scrutiny system have the resources or manpower to service the system. In theory this revolutionary new system was designed to allow the citizen to be brought closer to the governed, but in reality there is little evidence of lay people or community representation on any scrutiny panels as most are led by a backbench member who lacks the officer support or capacity to bring the Cabinet members to account for their actions.

Some local authorities have hired costly consultants, and attempt to have a scrutiny panel to oversee all scrutiny panels, but there is no evidence to show any real independent scrutiny. The main problems are insufficient training of members on what the scrutiny role is supposed to achieve, insufficient funds and poor officer support to challenge decisions. Moreover, although some scrutiny panels can instigate an investigation, in most cases the Chief Officer and Cabinet members will determine the scope of business to be scrutinised, and this rather defeats the object of the exercise. All local authorities also now have Standards Panel to monitor the behaviour of members, and are being asked to carry out audits of governance, and develop procurement strategies to ensure fair distribution of contracts for work. Internally, in addition to Scrutiny committees/panels, local authorities have also established the following: Standards Committees; Regulatory and other Committees; Area Committees/Panels; and Joint arrangements.

Scrutiny committees review all council policies, proposals and performance, but they can suggest their own proposals and consider the outcomes of commissioned research. The Scrutiny Committee can investigate and decision of Cabinet, under procedures known as call--in procedures. This allows for a group of six councillors, three ward councillors, the Shadow Cabinet or other opposition groups to investigate and scrutinise any area of local

government work, providing the Scrutiny Committee is in agreement.

Each local authority has different types of scrutiny committees, and they all differ in size, scope of activities and resources devoted to them. For example, Ealing Borough in London, has a borough scrutiny committee to investigate physical or infrastructure policies; an area committee scrutiny panel to respond to local needs (normally they are chaired by councillors and can involve community representatives); a regulatory committee to make decisions on planning, trading standards, consumer protection or environmental health. This latter body oversees the work of all regulatory bodies and acts as a link between the bodies and the council; and a planning committee that scrutinises all planning applications. Joint arrangements committees allow Cabinets to enter into arrangements or collaborate with any person or body to promote the economic, social or environmental well being of its area.

Rules governing the conduct of local government council members are enshrined in the Standards Board of England's guidelines, and every local authority must adopt specific Codes of Conduct to guide behaviour. Many local authorities have also established Standards Committees for promoting and maintaining high ethical standards and investigating allegations that member's behaviour may have fallen short of required standards. Every local authority was required by May 2002, to develop a Code of Conduct setting out the expected behaviours of members. This Code covers all elected, co-opted and independent members of local authorities, including parish councils, police, fire and joint authorities and National Park authorities. The Code requires individual members to have rules and procedures governing abuses of power and position, as well as responsible use of authority resources. Additionally there are rules governing disclosure of

interests and withdrawal from meetings due to vested interests or poor behaviour. A record must also be kept on all financial and other interests. The Standards Board for England oversees the process and deals with any disputes or specific transgressions, by instigating procedures, nationally or at the local level. Local lay people and external experts are appointed nationally to serve locally, and they act as a quasi—legal mediator in any disputes.

Turnout in UK local elections is low (generally below 30%) but central government is experimenting with new electronic forms of voting (and recent evidence has shown that this can improve voter turnout). Local government has few powers to raise taxes, other than council tax and business rates, so there is still a reliance on a block grant from central government for 50% of spending, though Beacon councils and others that receive high ratings on Best Value and Comprehensive Performance Assessment will be given greater financial freedoms after April 2004. The low turnout at elections, coupled with the overarching financial dependency leaves local government still highly accountable to its central government “master”.

There is also panoply of other regulatory and inspection mechanisms to maintain standards, transparency and good governance. These are all aimed at improved service, customer orientation and value for money, and in addition to Best Value and Comprehensive Assessment; Area Panels and Area Committees; Local strategic partnerships, New Deal for Communities or other partnerships, and Primary Care Trusts (to identify local health care needs) have recently been established. Democratic accountability is also facing huge challenges, in particular as local members and officials are expected to work in collaboration with a variety of partner organisations to achieve commonly agreed objectives. This is true in the case of Local Strategic Partnerships where all main agencies in a particular locale are brought together for the purpose of mainstreaming

funding to satisfy local needs within nationally determined floor targets. Traditionally local members would act as the funnel of representative views to the council, but as many decisions are taken out with the council chamber it has become increasingly difficult to determine who is responsible and accountable for actions. Moreover, the question of who has legitimacy to make decisions is of crucial importance.

One of the major problems facing anyone attempting to oversee and scrutinise the work of local authorities or health bodies is the fact that much of their business is conducted in partnership, collaboration, consortia or joint working arrangements that cross traditional boundaries. Most local authorities took an early lead in bringing together partnership agencies to work in completely new ways to achieve the central tenets of the Modernising Agenda, but the partners are also required to work within a Best Value regime and develop suitable PSA (Public Service Agreements) and measurable targets based on UK Treasury floor targets. Furthermore during the summer of 2002 150 upper tier local authorities were subjected to a “Comprehensive Performance Assessment”. This public scrutiny may have profound implications for elected local government, as their legitimate and automatic role in making authoritative local decisions on behalf of their communities becomes threatened. A central question is “if local authorities lack the corporate capacity to drive the new agenda, how can communities make up that shortfall?”

Government has urged community engagement and empowerment, however the extent to which community participants are allowed into mainstream policy making structures is still rather limited. Representatives of the community may be self-selecting, and not always connected to, or representative of the wider community. Some breakthroughs have been made, within some local strategic partnerships, however as far as the citizen moving

centre stage, generally local authorities are still the dominant force, so one needs to ask whether it still represents its communities, given the low turnout at elections. The Improvement and Development Agency (2001) showed that nationally elected members are predominantly male (71%), and aged over 45 (86%), and it is debatable whether the voluntary and community sectors are more representative of the community than elected members (Improvement and Development Agency, 2001). There are enormous problems in switching from a local authority-led approach to one controlled by communities, not least because communities currently lack the capacities to take on these new challenges (Miliband, 1999). Indeed local politicians are sceptical, because community representatives are seen as self-interested individuals seeking resources, mainly monetary, for the furtherance of their own goals (Hutton, 1997). Community partnerships are diverse but still have only a small number of people assuming leading roles, and they are held in overall low regard by officers in public sector agencies (Colenutt and Cutten, 1994).

There are practical difficulties of community involvement and some way to go before citizen-based advocacy becomes the norm. To involve people is extraordinarily difficult, in part because there is no agreed methodology on how to achieve this. Many local authorities have made efforts to increase community capacities, however local politicians are very realistic in managing aspirations in communities for fear of not being able to deliver against new, higher expectations: Some politicians have seen the new structures of local governance as a slow erosion of local democracy and concern is already being expressed that care needs to be taken not to create an alternative democratic system. Many politicians see themselves as community activists responding to views and issues within their communities, and this has changed the

role of elected members who now spend less time in cabinet or other committee meetings. The shift from representative to participative democracy is not entirely proven, as some members believe that their legitimacy comes from working on behalf of communities. The ballot box is still seen as a useful mechanism of accountability, but the growth in community partnerships and networks calls for other forms of legitimacy, scrutiny and accountability:

On the positive side of partnership working, there are various attempts to unite around a shared agenda, and delegate responsibility for delivery nearer to communities. Less positively, some public servants are only just starting to cross their own organisational boundaries, despite the fact that future judgements about local government's success will be based on its ability to work in partnership (North, 2001). Partnerships can be very effective in communities as a way of harnessing energy, they also allow agencies and communities to share agendas and constraints, or to receive feedback on plans. Joint working is essential if issues are to be addressed holistically, but undeniably there will be conflicts between partners (Balloch and Taylor, 2001).

There are local politicians who welcome the opportunity to provide "grass roots" views and enlighten communities. Conversely partnerships can detract from strong leadership and increase demands. Furthermore unwilling partners adopting a passive stance can sabotage progress. There is a real concern that local authorities continue to dominate and a desire to see more active involvement from the voluntary and business sectors, and local strategic partnerships are being encouraged to involve broader representation. They were created to agree a common set of priorities based on an understanding of an area's specific difficulties; as a springboard for creative ideas; and, as a way of joining up services at a local level

whilst acknowledging the difficulties this presents. Moreover some local authorities think that the partnerships exist to validate their hastily made decisions, or to access new funds.

Government policy is directed towards increasing levels of community participation in policy making, but a proven methodology is lacking and existing approaches conspire to limit aspiration and nurture dependency. Community leaders are increasingly being given opportunities to voice opinions, but there is a tendency towards community “consultation” and limited signs of “involvement”. Delegation of responsibility is rare and occurs at the margins of policy making, or in discrete and relatively small-scale community regeneration initiatives. The number of active community leaders varies and may be defined by existing initiatives, and they need mechanisms for validating their personal leadership role and the mandate they represent. There are considerable barriers that continue to exclude them from active participation.

Local authorities remain the dominant organisations, but legitimacy is challenged due to low voter turnout and demographic profile of councillors. Elected members have emerged as community representatives, but they do accept that benefits can accrue from community involvement. There are links between participative and representative forms of governance. The need to regenerate impoverished locales has resulted in more partnership working spanning different sectors, however most are concerned with the sharing of information and plans, or consultation with other partners or communities. Actual decisions about activities tend to be made intra-organisationally rather than inter-organisationally. Little progress has been made on joint planning, commissioning or procedures; there is no discernible shifting resources or responsibilities.

The slow pace of progress, coupled with the concerns on measuring performance of partnership working is a real

concern with a distinct need for rationalisation and clearer objectives. Some partnerships provide the opportunity for financial gain, while others provide opportunities for under represented groups, but good leadership is essential to manage inclusivity. In future how well individual local authorities work in partnership will be a key criteria on their overall performance.

Local strategic partnerships are a main plank of UK government policy and through active community involvement they are designed to overcome a perceived culture of dependency. They are acknowledged forums to agree shared priorities relating to an area's specific problems, and provide a mechanism for joining up public services at a local level, but they will take some time to mature, but the requirement for a positive impact is immediate.

As has already been discussed, these partnerships are forms of local governance, based on new ideas, different ways of working and approaches to problem solving. As such they have blurred existing boundaries, and challenged our existing notions of legitimacy, scrutiny and accountability.

CONCLUSION

This article has located the complexities of legitimacy, scrutiny and accountability within the new forms of national and local state governance. Like other European states, the UK has undergone massive transformation with the drive towards modernising its public services, and the traditional lines of accountability are ever more complicated, and are now as blurred as the boundaries within which state actors are exhorted to work alongside non state actors.

The managerialist state based largely on neo--liberal assumptions and business--like policies, innovative and

experimental, reconfigured and re-engineered forms of governance, fostered by the Blair administration, and given expression through New Public Management, has replaced the traditional top-down, command hierarchies, but increased the ambiguities on which agencies or individuals should provide an account of activities, and to whom must they be accountable.

New arrangements in which state and non-state actors work together across organisational boundaries to achieve commonly agreed objectives have exposed gaps in institutional coverage and challenged the democratic legitimacy of both state and non-state actors, as scrutiny and accountability remain key unresolved issues at the heart of modernisation of the British state. As state officials now draw in personnel, resources and information from non-state actors and share “democratic action spaces”, the new relationships and responsibilities have altered democratic engagement and patterns of legitimacy.

Many of the problems facing the British state cannot be solved solely by state agencies, and the multi-faceted social, economic and environmental nature of intractable problems, the rapidity of global changes, the escalation in citizen and consumer demands, and broader variety of partnerships have apparently become the new drivers of effective and efficient resource distribution. However, the need to encourage more creative and innovative ways of working and new approaches to problem solving have challenged how we view democratic legitimacy, scrutiny and accountability, by bringing them into sharper focus.

The article has argued that despite the on going conceptual debates surrounding democratic legitimacy, scrutiny and accountability, there is evidence to suggest that as the context of governance continues to change, more and more state functions are contracted out, privatised, or delivered by combinations of state and non-state actors or

agencies we need to rethink our views on legitimacy, scrutiny and accountability. While states continue to divest financial and managerial responsibilities and measure performance on market driven criteria such as consumerism, competition, efficiency and value for money questions remain on issues of equity and public interest.

It has been suggested that New Public Service or New Public Governance models offer viable alternatives to counteract the dichotomous relationship between the traditional public administration and New Public Management. They highlight the challenges to existing forms of legitimacy, scrutiny and accountability. The emerging requirement for greater public participation in public service improvement enhances democratic citizenship, community, and civil society, and provides a model quite different from those traditional bureaucracies controlled by top-down mechanisms.

Both NPS and NPG are viable alternatives to the traditional bureaucratic and more recently dominant NPM, because they both emphasise that public sector organisations should be organised in such a way that public servants are not responsive to 'constituents and clients', nor to 'customers', but to 'citizens'. With citizens at the forefront, the emphasis in NPS should not be placed on either steering (NPM) or rowing (public administration) the governmental boat (Osborne and Gaebler, 1992), but rather on building public institutions marked by integrity and responsiveness. Because accountability involves complex constellations of institutions and standards, there is a need to collaborate on shared decision-making, but this must be based on a notion of strengthening democratic control and increased citizen involvement, as well as improving public trust in government institutions and types of services provided.

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