

LOCAL LEADERSHIP AND PUBLIC TRUST: OPENNESS AND ACCOUNTABILITY IN LOCAL AND LONDON GOVERNMENT

Introduction

1. In December 2008, the Committee began an inquiry into leadership and accountability in local and London-wide government – the London Mayor and Assembly. The intention was to review the impact of changes in the form of leadership and decision-making structures on observance of the Seven Principles of Public Life. This inquiry was subsequently suspended in March 2009 to allow the Committee to conduct a separate inquiry into MPs' expenses, the results of which were reported in November 2009.
2. By the point of suspension the Committee had received a quantity of valuable written and oral evidence. We are very grateful to all those who took the time and trouble to produce it. The evidence is available on the Committee's website at <http://www.public-standards.org.uk>.
3. There have been a number of developments in the period since the evidence was collected which overtake some of it. These developments include, for example, the Local Democracy, Construction and Economic Development Act 2009 and the publication of a Corporate Governance Framework for the Greater London Authority (GLA) Group¹. More recently the London Mayor has made proposals to abolish the London Development Agency and make a number of other changes to London government.
4. The Committee has therefore decided not to resume the inquiry and to focus instead on some of the other issues currently demanding our attention, not least the funding of political parties.
5. However, the issues which the inquiry was intended to address remain of considerable importance. Good governance is a vital part of local democracy. It is clear to the Committee from the evidence that there are a number of issues relating to the Seven Principles of Public Life which demand attention. The purpose of this note is therefore to summarise the main points arising from the evidence which we believe need to be addressed if public trust in local government, and in local politicians, is to improve. Depending on progress, the Committee may want to return to some or all of these issues later. We may also want to comment on the implication for standards of the proposed abolition of Standards for England when the alternative arrangements for promoting standards become clearer.

¹ GLA Group Corporate Governance Framework Agreement, May 2009

6. The three main themes to emerge from the evidence that the Committee received on local government generally were:
 - The continuing weakness of the arrangements for overview and scrutiny.
 - The need to devise and implement better and more consistent arrangements for the accountability of partnerships; and
 - The importance of the tone set by the leadership in promoting openness and accountability.
7. The Committee received a smaller number of responses to its request for evidence on London-wide government through the London Mayor and Assembly. But a number of important issues were raised about:
 - The effectiveness of scrutiny in London Government.
 - The roles and responsibilities of Mayoral appointees; and
 - The operation of the standards framework across the GLA Group as a whole.
8. The rest of this paper explores these themes in more detail.

LOCAL GOVERNMENT

Background

9. The Local Government Act 2000 significantly altered the way in which local authorities in England and Wales are governed. Most local authorities are now required to adopt an executive form of decision-making in which responsibility for most of the council's functions is vested either in a leader and cabinet or in a directly elected mayor.² The overwhelming majority of local authorities in England and Wales have adopted the leader and cabinet model. There are, however, currently 11 elected mayors leading councils in England, and there are now plans to increase the number of elected mayors in major cities.
10. The new decision-making structures were seen as a way of making it possible for stronger leadership to be shown in addressing the many difficult issues faced by local authorities, while at the same time improving transparency and accountability for the decisions that were taken. In some circumstances there might be a tension between the two objectives.
11. As a counterbalance to the increased authority of leaders or elected mayors, each local authority was required to set up an overview and scrutiny committee. The then Government's original intention was that scrutiny committees should solely be a mechanism for holding the executive to account – mirroring the functions of select committees in Parliament. But as the 1999 Local Government Act went through its legislative phases the House of Lords added to their remit a policy overview and development function.

² The Act introduced three models of decision-making (a) leader and cabinet, (b) elected mayor and cabinet and (c) mayor and council manager. The third option was withdrawn by the Local Government and Public Involvement in Health Act 2007.

The need to improve the quality of scrutiny

12. Many of those who submitted evidence to us agreed that the new arrangements have, as intended, provided greater clarity about the decision-making process. It is now more obvious than it was under the previous committee system who is responsible for making decisions and who is responsible for holding decision-makers to account. Where there is a directly elected mayor there is perceived to be a more direct link between the electorate and the local political leader, at the potential cost of weakening the link with individual councillors.
13. In addition, the openness and transparency of local decision-making have been increased by the Freedom of Information Act 2000 and by the opportunities that provides to journalists and others.
14. However, there is little doubt that in practice in many local authorities the scrutiny function is not working as effectively as intended. This appears to be particularly the case in those authorities where, perhaps for understandable reasons, scrutiny committees have focussed more on policy development than on questioning or challenging decisions. Other factors cited in the evidence included:
 - Political culture, particularly in authorities with large majority parties where questioning of decisions taken by members of the same party does not always come naturally.
 - The expertise and experience of members of scrutiny committees.
 - The lack of dedicated officer support for scrutiny committees.
15. The last point may require some elaboration. Key officers are often expected both to assist the executive in developing a policy and to support scrutiny committees in examining it. This can often put them in a difficult position with conflicting loyalties. In the Parliamentary system, select committees have the support both of the National Audit Office, which reports to Parliament not to the executive, and of specially appointed advisers. The Local Democracy, Economic Development and Construction Act 2009 has now introduced a requirement for each authority to have at least one post solely dedicated to support overview and scrutiny committees. But it remains to be seen how much resource will in practice be devoted to this function, and whether the roles will attract officers of the quality and experience needed.
16. It is the Committee's view that effective scrutiny is an important part of local democracy. It has a key role to play in promoting the Seven Principles of Public Life as well as value for money. Where undertaken intelligently it can also help to maintain public trust. **The deficiencies in the present arrangements are therefore a matter of some concern. In the Committee's view it is important that the effectiveness of the scrutiny process is regarded as a priority by all local authorities, and should be looked at particularly carefully in any peer review or other audit or inspection process.**

The accountability of partnerships

17. Local authorities are increasingly working in partnership with other public sector bodies, with the voluntary sector and with the private sector. This is usually in response to recognition that some important areas of public policy cannot effectively be addressed within the silo of a single organisation.

18. Local partnerships vary enormously in their roles and responsibilities. Some have consultative or advisory roles. Others are in effect contracts for the provision of services. Some partnerships – local strategic partnerships in England, for example – are increasingly expected to take a leading role in planning and commissioning services and allocating public resources.
19. Partnership working is seldom straightforward to implement and can risk the creation of new sets of silos. But where done successfully it can have enormous advantages in terms of bringing a focussed and coherent approach to dealing with issues that cross organisational and geographical boundaries. It is widely accepted, for example, that reducing local crime depends not just on the actions of the police but also on those of other organisations such as the NHS and local authorities. The creation of Local Crime Reduction Partnerships by the 1998 Crime and Disorder Act is generally seen as having delivered considerable success.
20. Precisely because they do cross boundaries, however, it is important that partnerships should have a similarly coherent approach to accountability. The principles of public life clearly need to apply to the activities of the partnership as a whole as well as to those of its constituent parts.
21. We were not able to investigate this area in great detail for ourselves. But the evidence that we received suggested that performance is patchy, and best practice by no means universal. We were told, for example, that most local strategic partnerships routinely publish their agendas and minutes. But that, by itself, may often not be enough. Such partnerships are taking important decisions about the allocation of resources. People affected by them need to be able to find out how and by whom such decisions are being taken, how they can influence them, how they can complain if they think something is going wrong and how to seek redress if it does. They can find the governance systems of partnerships confusing and sometimes difficult to penetrate.
22. The extension of the remit of local authority overview and scrutiny committees to include crime and disorder matters and local area agreements has in principle improved the arrangements for scrutinising the activities of partnerships.³ But any weaknesses in the effectiveness of such committees in scrutinising the activities of their own local authority would be expected to show up also – possibly to a greater extent - in their scrutiny of partnerships.
23. Some respondents contrasted the statutory requirements placed on local authorities to ensure openness and transparency of decision-making with the lack of rules with similar statutory force for partnerships that can be making equally important decisions. But most of the responses we received cautioned against a nationally imposed single model of accountability for partnerships. We agree. The framework of accountability for a partnership should be commensurate to the significance of, or risks inherent in, a partnership's activities.
24. We do think, however, that **each partnership should be obliged actively to consider how well their governance and accountability arrangements measure up to best practice, and take steps to rectify them if they do not.**

³ The Police and Justice Act 2006 extends the powers of overview and scrutiny committees in England and Wales to crime and disorder matters. The Local Government and Public Involvement in Health Act 2007 extended the remit of overview and scrutiny committees to local area agreements established by the same Act.

25. There are of a number of improvement tools that have been developed to assist them to do this.⁴ Basically they need to be able to provide credible answers to the following questions:
- What arrangements does the partnership have for ensuring transparency?
 - What access does the citizen have to the rationale of decisions and proceedings?
 - How effective are the arrangements for scrutinising the partnership's decisions?
 - How coherent are the arrangements for holding the partnership to account?
 - Is there a single point which can be accessed by an individual who is aggrieved by a decision or an action of the partnership?

The role of leadership in ensuring high standards of behaviour

26. One of the questions that the Committee specifically sought to address through this inquiry was whether one form of decision-making – committee system, elected mayors or the leader and cabinet model – better supported the Seven Principles of Public Life. Prior to the introduction of the new arrangements in 2000 there were fears, in particular, about the implications of the concentration of power in a single individual in the directly elected mayor model.
27. The evidence that the Committee received did not suggest that these fears have in practice proved to have been justified. The single most significant failure in governance in recent years has occurred in a local authority led by an elected mayor. But there are examples of councils being led by elected mayors that exhibit high standards of conduct and examples of other councils led by leaders and cabinets that that have exhibited poor standards (as well as some that show the opposite).
28. An important thread running through much of the evidence to the inquiry was that the skills and behaviours of individuals filling the key leadership role are more important in ensuring adherence to the Seven Principles than the particular model of governance adopted. From the evidence the Committee received, and consistent with the Good Governance Standards for Public Services,⁵ the key requirements appear to be:
- Leaders with personal integrity who can devise and operate systems that support open, transparent and accountable governance and that encourage rather than inhibit scrutiny and challenge.
 - Mutual understanding of the respective roles and respect between councillors and officers of the council, in particular the senior officers; and

⁴ They include the *CIPFA/Solace Governance Framework*, the *Hallmarks of effective partnerships* produced by the Home Office, and *Working better together? Self-assessment questions - improving the governance of local strategic partnerships* published by the Audit Commission.

⁵ The Independent Commission on Good Governance in Public Services, *The Good Governance Standard for Public Services* [May 2004]

- A system for monitoring and actively promoting high standards of behaviour in the local authority.

29. **Local authorities and leaderships that possess these attributes are more likely to exhibit high standards of conduct irrespective of whether they are governed by the committee system, a directly elected mayor or the leader and cabinet model.**
30. It is worth noting that some positive mayoral examples appear to have emerged where the elected mayor has previously been a council leader and would therefore have taken the experience of working with councillors in his own party and (through the committee system) across party boundaries into the new role. This will not necessarily be the case with the next generation of mayors.

LONDON GOVERNMENT

31. The top tier of local government in London, the Greater London Authority or GLA, is different from anywhere else in the country – though under the new Government’s plans city-wide elected mayors may now be replicated in other major conurbations. The key features are a directly elected Mayor given powers intended to enable the post holder to provide strategic leadership to London as a whole and a directly elected full-time Assembly of 25 members to scrutinise the Mayor’s activities. The Mayor and the Assembly are both supported by a staff of permanent officials headed by a chief executive. In addition the Mayor has the power to appoint 12 mayoral advisers.
32. As a strategic body the GLA does not deliver services itself. It operates mainly through four key organisations which together with the GLA are known as the GLA Group – Transport for London (TfL), the London Development Agency (LDA), the London Fire and Emergency Planning Authority (LFEPA) and the Metropolitan Police Authority (MPA). The Mayor appoints all members of the boards of the first three bodies and 12 members of the board of the Police Authority (in the last case from nominated members of the Assembly). At present he chairs Transport for London. The Police Authority is chaired by the deputy mayor, who is also an Assembly member. The Mayor has recently made proposals to abolish the London Development Agency and bring its functions in house.
33. The Mayor and members of the Assembly, the Police Authority and the Fire Authority are all subject to the local government standards framework. They each have an independently chaired standards committee to oversee the arrangements for enforcing the elected member code of conduct. The LDA and Transport for London are not subject to the same framework. The GLA Group has published a corporate governance framework which incorporates the Seven Principles of Public Life⁶. Under the framework each member of the group is to “*ensure that its decision-making and decision-reporting systems are open and transparent, going beyond the basic statutory requirements where possible, in order to ensure that the requirements of democratic accountability and the public interest are met in full.*” Following a

⁶ GLA Group Corporate Governance Framework Agreement [May 2009]

recent audit of ethical governance in the GLA undertaken by the Audit Commission⁷, the GLA's monitoring officer has been given the role of ensuring consistency on standards issues across the group as a whole.

34. Many of the responses we received to our request for evidence commented positively about the effectiveness of the arrangements in London. But a number of issues were raised about the powers of the London Assembly, about mayoral advisers and about the consistency of standards regimes across the group as a whole.

The arrangements for scrutinising mayoral decisions by the Assembly

35. The London Assembly has powers to summon witnesses, to demand disclosure of documents relating to the work of the GLA Group and to hold non-binding confirmation hearings on a range of mayoral appointments. The Mayor is required to consult with the Assembly on his draft strategies for London. But he is not required to follow their recommendations. The only power the Assembly has to alter a mayoral decision other than through persuasion is that it can veto the Mayor's budget through a two-thirds majority vote for an alternative.
36. This is not an accident or an oversight. It was Parliament's intention in creating the Greater London Authority to give the Mayor sole responsibility for decision making, with the Assembly's role being that of scrutiny. Some of the criticisms which have been made of the weakness of the Assembly's powers may therefore to a greater or lesser extent reflect an aversion to this form of constitutional model placing executive power exclusively in the hands of the Mayor.
37. But there are also two structural concerns.
38. First, Assembly members can and do sit on the boards of the functional bodies. In one case an Assembly member is also both chair of the Police Authority and a deputy mayor. There ought not to be any conflict of interest in being a deputy mayor or other mayoral appointee and sitting on the board of a functional body. The functional bodies are there to implement the Mayor's strategies. But to be a member of an executive and simultaneously be a member of a body charged with scrutinising the executive's decisions and the way they are implemented is a very unusual arrangement.
39. In evidence to us the GLA's Standards Committee argued that, while preventing Assembly members from sitting on functional bodies has merit in maintaining a clear executive/scrutiny split, it may not be in the best interests of London if it affects the calibre of politician seeking election to the Assembly.⁸ We understand the argument. But we do not find it entirely convincing given the potential conflicts of interest that can arise. **In our view the justification for continuing to allow members of a scrutiny body (the Assembly) simultaneously to perform roles supporting the Mayor or sitting on the boards of the functional bodies should be subject to further critical examination and, if necessary, proposals for reform brought forward.**

⁷ Audit Commission, *Greater London Authority: Delivering Ethical Governance*, presentation to GLA Standards Committee 9 March 2010; <http://legacy.london.gov.uk/assembly/stndsmtg/2010/mar09/item14b.pdf>

⁸ Ev33, Standards Committee of the Greater London Authority

40. The second potential issue is the scrutiny of the Mayor's responsibilities for appointments and strategy development in a number of London organisations that fall outside the Assembly's remit. The London Assembly does not have corresponding powers to obtain information or cooperation from those bodies unless they establish a contractual relationship with the GLA or receive grants from the GLA. **There is an argument for extending the Assembly's remit to all public bodies either in receipt of funding from the GLA group or with a role in delivering the Mayor's priorities, in the same way as the remit of overview and scrutiny committees in local government are being extended to the activities of local authorities' partners.**

Mayoral advisors

41. The Mayor has the power directly to appoint 12 mayoral advisors, who are classified as GLA staff. Two of these appointments are political appointees who according to statute do not have to be appointed on merit. The other ten appointments are required to be made on merit⁹. Mayoral advisors have an important role to play in supporting and promoting the Mayor's agenda.
42. Following some earlier criticisms, the Mayor has established a protocol under which all mayoral advisor posts are now required to have job descriptions and to have an independent element involved in their appointment.¹⁰ The GLA has also published a scheme of delegation which sets out the authority given by the Mayor to other persons and bodies, including direct mayoral appointments and other officers within the GLA.¹¹ These are both positive steps. But in the light of past controversies **it is important in the Committee's view that that the arrangements are kept under review to ensure that they are working as intended.**
43. There is also an issue about whether the standards of conduct expected of mayoral advisers have been appropriately defined. At present they are subject to the GLA officer code of conduct. There must at least be a question as to whether this is appropriate in light of their particular status. The GLA Standards Committee has suggested that they should be held accountable via the same code which applies to elected members of the GLA.¹² An alternative would be a distinct code of conduct for mayoral advisers. **In the Committee's view further consideration should be given by the Mayor to the appropriate code of conduct to be applied to mayoral advisers, and to the means of monitoring its observance.**

Consistency of standards in the GLA Group

44. The present arrangements for promoting and monitoring standards across the GLA group are fragmented. There are three different standards committees and three separate codes for the Mayor and London Assembly, the Metropolitan Police Authority and the London Fire and Emergency Planning Authority. Because of their different constitutions the Development Agency and Transport for London are not subject to the local government standards

⁹ Greater London Authority Act 1999

¹⁰ Protocol on Mayoral Appointments <http://legacy.london.gov.uk/about/corp-gov/docs/mayor-appts-protocol.pdf>

¹¹ Mayoral delegation scheme

¹² Ev33, Standards Committee of the Greater London Authority

framework at all – though for the Development Agency that will presumably change if its functions are brought in-house.

45. As mentioned earlier, attempts have been made by the GLA to introduce coherence and consistency through the GLA Group Corporate Governance Framework. But there are limits to what can be done within the existing statutory frameworks for the different bodies. So the potential for inconsistencies remains and the arrangements must be potentially confusing to members of the public and not very cost effective. **The Committee believes that consideration should be given to legislating so as to make it possible to simplify the current arrangements by introducing a single unified standards committee (or other standards regime) and monitoring process to operate across the GLA, Metropolitan Police Authority and London Fire and Emergency Planning Authority and to bringing Transport for London and the London Development Agency into the same arrangement.**

CONCLUSION

46. This inquiry set out to look at the arrangements to promote openness and accountability in the relatively new governance structures in local government in England and Wales and London-wide government for two main reasons. First, openness is one of the most powerful tools for ensuring that public business is transacted with propriety and there were concerns that the new arrangements may have reduced levels of openness. Second, and related to the first, while ultimate responsibility for conforming to the Seven Principles in Public Life rests with individual public office holders – elected mayors, Assembly members, councillors and officers – the governance framework in which they are required to operate should support them in discharging their individual responsibilities and reinforce the standards expected of them.
47. The evidence that we received suggested that in the promotion of high standards the tone set by the top and the behaviour of leaders was as important as the governance structures. Other common themes that emerged included the need to strengthen the quality of scrutiny by overview and scrutiny committees and by the London Assembly, and the importance of the system of checks and balances evolving to reflect changes in the way public services are delivered and commissioned, such as the increasing influence of partnerships in local government or mayoral influence over other pan-London bodies in London government. Curtailment of the inquiry meant that we did not reach the stage of producing firm recommendations. But we did identify a number of issues which we felt required further active consideration. We have identified those in the text in bold. The Committee will continue to keep these areas under review.

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