

Local Leadership and Public Trust

Submission to the Committee on Standards in Public
Life

March 2009

Contents

Contents	2
The Audit Commission's memorandum	3
Local Government	4
Greater London Authority	12
Appendix 1 – References	15

The Audit Commission's memorandum

The Audit Commission is the primary auditor of local public services. We appoint auditors to provide assurance and promote value for taxpayers' money across local government, health, community safety, fire and rescue and other public services.

The Commission also undertakes national studies¹ on a wide range of topics to examine the economy, efficiency and effectiveness of local public services. We carry out research and provide independent analysis to give insight into complex social problems and best practice in tackling them. We make practical recommendations for policymakers and people delivering public services. This often includes recommendations to central government relating to its interaction with the bodies that provide local public services.

This memorandum draws on evidence and information from our audit and inspection work and from our national studies.

Summary

- 1 The Audit Commission is pleased to send evidence to the Committee on Standards in Public Life's inquiry into local leadership and public trust.
- 2 This memorandum seeks to respond to the issues and questions raised by the inquiry. As the inquiry has posed questions on local government and the Greater London Authority (GLA) separately, we have set out our response in this format. The structure of this response follows the issues set out in the Committee's issues and questions paper.

¹ Details of current and published studies can be found at <http://www.audit-commission.gov.uk/nationalstudies>

Local Government

Leadership and decision-making in local government

- 3 Our experience of working with councils, before and since the implementation of the new executive models for decision-making, suggests the change has had a broadly positive impact on councils' leadership capacity and decision-making. However, the skills and behaviour of the individuals filling the key leadership roles are more important than structures. Effective political leaders and managers have shown themselves able to drive high levels of performance and standards of governance in all types of local authority and within each of the current models for decision-making.
- 4 Each of the new models for decision-making has brought advantages but also challenges. Elected mayors generally enjoy high levels of local visibility. The personal mandate created by direct election to the role can be used to provide clear leadership on important issues. The elected mayor model is also well-suited to the increasing emphasis on the role of the council in leading the local community in partnership with public, private and voluntary sectors. Despite the fears expressed by some that the elected mayor model concentrates too much power in one role, we have not detected evidence that the model has weakened standards of governance. Where the mayor is committed to publishing and explaining decisions, for example on the internet, the model provides for transparent and accountable local decision-making.
- 5 Our experience of the leader and cabinet model has also been broadly positive. The role of cabinet portfolio holder can help to bring a strategic political focus to important areas of the council's work. We do have some evidence to support the well-rehearsed concern that the move away from the committee system disempowers councillors not in the cabinet and has deprived them of development and learning opportunities. Some councils find it difficult to help councillors without a specific role to develop the skills to equip them for a leading role. Of course this issue applies whether the model is an elected mayor and cabinet or leader and cabinet.

Openness and accountability in local government

- 6 We believe that accountability can be broadly defined as the way in which organisations in all sectors, and individuals in positions of power within them, are answerable in an honest and open fashion to other organisations and individuals.
- 7 This includes being accountable for how well they are:
 - using their powers and carrying out their functions and duties;
 - using the resources entrusted to them;
 - acting on suggestions, requirements or criticisms made of them; and
 - putting things right when they go wrong.

- 8 For local government, the prime accountability is clearly to the local electorate through local elections. For the purposes of this submission we focus on overview and scrutiny arrangements and standards committees.

Overview and scrutiny

- 9 An effective overview and scrutiny committee is only one of the ways that councils demonstrate their commitment to openness and public accountability. We believe the role of overview and scrutiny committees is to encourage and provide constructive challenge of the local authority and partner organisations. An effective scrutiny committee improves the organisation's overall performance. It reviews policy and provides challenge on whether the executive has made the right decisions when delivering policy goals. We would want scrutiny to be judged against these criteria.
- 10 We have found individual examples where public scrutiny is working well in councils. But this can be because individual lead members, individual chairs of overview and scrutiny committees and individual lead officers are working well together. Together they demonstrate their commitment to public scrutiny and public accountability. We strongly believe the challenge function can often be the most demanding role in any organisation, but it does not always attract the people with the greatest insight and experience in local councils.
- 11 Opposition party members can also use scrutiny as a way of making party political points and to undermine the approach of the council. They do not always see scrutiny as a positive process which is about improving delivery for the benefit of local people. Overview and scrutiny is not always adequately resourced and can be vulnerable to cuts when the council budget comes under pressure.
- 12 Our experience suggests that for councils to have effective scrutiny they need to be committed to the function. The behaviours and culture of the organisation must encourage it. Structures and processes alone will not deliver it.
- **Councillors and officers in more councils could benefit from a greater understanding of how scrutiny can improve the effectiveness of the organisation and deliver better outcomes for local people.**

Standards committees

- 13 Standards committees vary in their effectiveness and impact. We look at how well local councils demonstrate a strong ethical framework and culture as part of our annual assessment of their use of resources. Our ethical governance survey results¹ suggest that 73 per cent of officers consider the standards committee adds value to their council. However, only 36 per cent of officers consider the standards committee makes a positive difference to the way that people outside the council view the organisation. The survey results for members are more positive.
- 14 One survey respondent told us:

¹ The survey is carried out as part of our Ethical Governance Diagnostic. The tool was developed with the Standards Board for England in 2005 to assess the effectiveness of ethical governance arrangements in local authorities following from the Local Government Act 2000, Part III.

'Although I have had no reason to take a direct interest in the standards committee's activities, its existence provides me with reassurance that the Council's ethical standards are being properly and formally considered, documented and managed'.

15 Another told us:

'Both the code of conduct and standards committee documents are available on the website, although a member of the public would currently struggle to find this through the search engine. Members of the standards committee decided not to put the question of a web based register of interests to the wider membership and it is not available on the web'.

16 It is clear from our work with a wide range of individual standards committees that most have a clear focus on the behaviour of councillors and how individual councillors measure up against the members' code of conduct.

17 Far fewer standards committees consider how well the whole organisation is living the principles of public life. Most standards committees do not consider they have a role in taking on a wider brief. Minutes of standards committees across the country will confirm this. For example, standards committees will consider whether a councillor has behaved improperly about a planning issue. It will usually not consider the way the council demonstrates that it behaves with integrity and objectivity.

18 However, one survey respondent did tell us:

'The standards committee is active on policy issues such as antifraud and whistle-blowing, member-officer protocols and other policy areas. It also has reviewed the constitution. It is still a relatively new committee with new members who are keen to undertake this work'.

19 And there are examples where standards committees have had an important role in the wider improvement of councils, for example in the London Borough of Hackney. Members recognised that they had to build trust in the local community. They invited local people to sit on their standards committee and to challenge the council to be open and accountable. It was one of the key improvement levers in the impressive recent history of that council.

- **Standards committees should focus as much on promoting an ethical culture and adherence to the principles of public life across the council as on compliance with the members' code of conduct in individual cases.**

Role and accountability of local government officers

20 We believe that it is for councillors to hold officers to account for their performance. There are many ways of doing this. The single most important factor is the clarity of roles between officers and councillors. Only one in twenty people report that they know much about their local council (**Ref 1**). Some citizens remain confused between the role of elected members and the role of paid officers.

21 We have observed in some councils that officers also seem confused about their role and the role of councillors. Some are unclear about delegation arrangements and

about the issues that are specifically reserved for elected members. In the councils surveyed as part of our ethical governance diagnostic, only 11 per cent of officers consider they are always clear about the roles and responsibilities of lead politicians. This compares to 50 per cent when asked about the roles and responsibilities of the chief executive.

- 22 There can be improvements in role clarity when this is recognised as an issue. One survey respondent told us:

‘The authority had undergone a huge transformational change in terms of clarity about roles and responsibilities. My own personal experience is that of moving from when individual members interfered with day to day operational decisions weekly, to a position when I can’t really recall it happening now. This enables staff to make and take decisions in a more business like manner without having to cover their tracks all the time. In my opinion the Council is a much better place to work in these days’.

Local government accountability and partnerships

- 23 Partnership working is essential if councils are to play an effective role in tackling the most important issues affecting local areas, including public health, regeneration and community safety.
- 24 In 2005, the Audit Commission published *Governing Partnerships – bridging the accountability gap*. At that time public sector organisations in the UK were involved in about 5,500 different partnerships. Our study highlighted three key findings about local partnerships:
- They do not guarantee value for money.
 - They bring risks as well as opportunities.
 - Finally, and most importantly for this consultation response, governance can be a problem.
- 25 The Audit Commission reviewed the functioning of local strategic partnerships (LSPs) in 2007 and early 2008 (**Ref 2**). We found that it has proved difficult for LSPs to be openly accountable for the way they spend public money.
- LSPs are accountable to their member organisations and through them to local people. Governance arrangements do not always reflect these accountabilities.
 - LSPs are voluntary, unincorporated associations but they do not always recognise their strategic, executive and operational roles and organise themselves appropriately. LSP success depends on the cooperation of partners that have different interests, resources and responsibilities.
 - There is little evidence that councils are using overview and scrutiny arrangements to hold LSPs, and partners, to account.
 - Performance management and influence has developed unevenly across LSP activities. LSPs do not have common performance measurement and reporting systems to help them understand performance and progress against shared

objectives. Shared systems need time to develop and require common data quality standards.

- Government departments' different planning and reporting cycles can make it difficult for local agencies to make their performance and resource management systems work together and for them to be consistently and coherently open about their success and failures.

- 26** We found that a number of factors contribute to ensuring effective accountability and open decision making. These include the style and leadership of the LSP; cooperation of partners; the messages conveyed by choice of chair; the role of the local authority chief executives; consistency and stability; and whether there is a culture of challenge or not.
- 27** Each LSP chair is appointed locally, and most LSPs are chaired by the council leader. This choice has become more common since the introduction of statutory LAAs with the Local Government and Public Involvement in Health Act (LGPIH) Act 2007. The executive (cabinet) of the relevant local authority formally agrees the appointment.
- 28** The style and leadership of the LSP is important. We found a clear correlation between the style of the LSP and its willingness to challenge performance. The style of an LSP is demonstrated through the chair's approach to LSP leadership. The physical organisation of strategic and board meetings and the issues they discuss are also important.
- 29** How the LSP deals with the challenges of multi-tier working; relationships between the partners; and the LSP's profile and promotion, are also a sign of style. Moreover, we found that competent leadership is critical to the success of any multi-member joint working arrangement and councils are expected to provide direction and leadership.
- 30** Furthermore, evidence illustrates that LSP success depends on the cooperation of partners that have different interests, resources and responsibilities. LSPs are voluntary, unincorporated, associations, but they do not always recognise their strategic, executive and operational roles and organise themselves appropriately. In the most successful LSPs, partners have good relationships.
- 31** Related to this point, we found that LSPs with fewer partners, coterminous boundaries, and a relatively small geographic area have fewer problems than those in larger areas with more partners and different boundaries. LSPs for London boroughs and metropolitan districts have the added advantage of more experience of joint working.
- 32** We have found that the choice of LSP chair is important as it can send positive or negative messages to local stakeholders. There is not a single right answer to the selection of the LSP chair. The LSP, however, should be aware of the implications listed below, when taking this decision.

Chairing the LSP and public accountability (Ref 2).

Type of LSP Chair	Positive message	Negative message
Council leader	Democratic accountability	Council domination.
Private sector	Independent of party politics; businesslike.	Lack of public accountability.
Other public sector manager	Not council dominated; general commitment of local public services.	Public sector domination
Faith representative	Independent of party politics consensus building.	Lack of public accountability.
Third sector representative	Independent of party politics; concern for local people.	Lack of public accountability.
Elected Mayor	Democratic accountability.	Council domination.
Other	Independent and above partisan politics.	Lack of public accountability.
Other cabinet member	Democratic accountability.	Council domination, but not important enough for the leader or mayor.
Council officer	Strong commitment to getting things done.	Council domination but not important enough for an elected representative.

- 33** LSPs are democratically accountable to local people through councillors' roles in the LSP and in partner organisations (police authorities, regional development agencies, and passenger transport authorities for example). Councillors are accountable through their role in representing communities and neighbourhoods; and by participation in overview and scrutiny of LSPs and LSP partners.
- 34** Evidence from our work suggests that the arrangements for holding LSPs and partners to account are underdeveloped. The LGPIH Act 2007, and the Police and Justice Act 2006, give councils power to scrutinise the activities of LAA named partners. This builds on earlier powers in the Local Government Act 2000 and Health and Social Care Act 2001 to scrutinise the work and impact of other agencies.
- 35** Overview and scrutiny of LSP activity can:
- focus on one-off activities or events;
 - review LSP systems and risks;

- assess performance in different LSP themes; and
- review performance data from LSPs and partners.

36 Councils are not always clear about their objectives for overview and scrutiny of their LSP. Some areas have developed scrutiny processes that reinforce the democratic oversight of the different layers of collaborative working. Council overview and scrutiny can overcome some of the challenges of multi-tier working. For example, the City Partnership in Derby has jointly trained partner representatives and scrutiny members so they can improve LSP performance and risk management. The case studies below outline two examples of local authority scrutiny of partnerships:

Case study: Oldham MBC's scrutiny of partnerships (Ref 2)

In late 2006 elected members in Oldham reviewed their overview and scrutiny arrangements. Members agreed that previous arrangements were inward-looking and had no links to the Oldham Partnership. The council agreed a new structure in early 2007.

Oldham now has three elected member scrutiny bodies (Scrutiny Management Board, Performance and Value for Money Select Committee, and a Project Board). The Scrutiny Management Board decides on the issues to cover and its remit includes the LAA and the Oldham Partnership (the LSP). The chair of the Oldham Partnership is a member of the Scrutiny Management Board.

The 2007/08 work programme included scrutiny reviews of underage drinking and the impact of vacant and derelict land on neighbourhoods. It enabled councillors to inject new ideas into, and develop policy for, the LSP theme groups and operational partnerships.

The review of vacant and derelict land recommended the completion of a 'land bank' of vacant and derelict land and buildings; and the transfer of council-owned sites to social or community use.

The new structure costs about £42k a year to run - the same as the previous arrangements.

Case study: Dorset County Council's approach to partnership scrutiny (Ref 2)

In Dorset the chairs and vice-chairs of the scrutiny committees of the county council and the six district councils meet as an informal networking group. In November 2006, the group decided to undertake a joint scrutiny of the Dorset Strategic Partnership (DSP).

The County Council's Audit and Scrutiny Committee led the scrutiny, and the six district councils participated. The group met monthly to scrutinise the support and development of the Dorset Strategic Partnership. It also looked at performance management arrangements of the DSP and the LAA. Community strategy implementation, DSP governance and use of resources and the future role of scrutiny to monitor and develop the partnership were also on the agenda.

The review recommended a DSP communications strategy to raise its profile and achievements (including regular information to all elected members in the county). It also recommend training for DSP board members to increase their understanding of resources, a performance framework for the thematic partnerships and a programme of reviews of each district LSP and its community planning capacity.

The LSP and partners accepted the recommendations. The LSP has now developed a communications strategy and work is continuing to develop a performance framework.

- **Leadership; decision-making; scrutiny; and systems and processes, such as risk management, are all underdeveloped in partnerships. Clearer accountability is needed between partners to produce better accountability to the public, including redress when things go wrong. Local public bodies should be much more constructively critical about partnership working: it may not be the best solution in every case.**
- **The governance of partnerships should promote good internal accountability between partners and better external accountability to service users and taxpayers. Shared responsibility should not mean diminished accountability.**
- **Partnerships need to be clear about what they are trying to achieve and how they will achieve it by working in partnership.**
- **LSPs need the support of suitable systems to enable accountability and ensure decisions are supported by data. The most important LSP systems cover: accountability; performance and finance information; reporting; and planning. Successful LSPs need these because they work through the different LSP layers.**
- **Central government should improve the integration of financial accounting frameworks and regulations to enable organisations working in partnership to report on joint expenditure and financial activity. This will allow public bodies and their partners to align strategic and operational activity and will be essential for the development of effective performance management systems and processes. It will also provide a better basis for assessing value for money.**

Greater London Authority

Leadership and decision-making within the GLA

- 37** We believe the role of Mayor of London, supported by the GLA, has been effective in providing a voice for London. Our work shows the Mayor provides high-profile, strong and decisive leadership. In our view the position of Mayor of London has been effective at voicing and promoting an identity for London as a world city that is enriched by the diversity of its communities.
- 38** Stakeholders from business and the community recognise the leadership shown by the Mayor of London. A notable and widely cited example is the Mayor's work to support and promote the 2012 London Olympics bid. The GLA model was set up to enable speedy executive decision-making and there is a well-developed structure to the Mayor's decision making powers. All the Mayor's decisions are formally and openly documented. In addition, the GLA has well-structured plans that provide a robust and clear strategic-level framework for action.
- 39** Nevertheless, Londoners are confused about the role of the Mayor and the London Assembly, and what decisions the Mayor and the functional bodies can take. In a survey carried out for the GLA (**Ref 3**) only 23 per cent of Londoners said they knew the Mayor sets the budget for the functional bodies and only 17 per cent knew about his role in deciding major planning applications. Twenty-three per cent of Londoners thought that the London Assembly co-ordinates the work of the London boroughs. Some even thought the Assembly sets the council tax rate across London.

Accountability of the Mayor and Assembly

- 40** In the GLA there are formally agreed structures and processes to hold London's Mayor to account. There is clear accountability to Londoners through the Assembly and through the four yearly democratic process. The role of the London Assembly is to scrutinise the Mayor and comment on his policy. The Assembly also has the power to alter the GLA budget by a two-thirds majority vote. We believe this a clear demarcation of duties.
- 41** The standards committee of the GLA is well established and proactive. Since its inception in 2000, the standards committee has helped the GLA to be open and accountable. There is a clear ethical framework and members adhere to acceptable standards of behaviour. The committee takes a broader view of its role compared to standards committees in many other councils. Members of the committee took an early decision to make the Mayor's and Assembly members' register of interests available to the public following open government principles and well before legally required to do so. More recently it has considered the GLA Corporate Governance Review, politically restricted posts, and a planning code of conduct.

- 42 The GLA does expose itself to internal and external challenge. As well as challenge provided by the London Assembly, the previous Mayor held televised annual State of London debates during which Londoners were able to challenge him, as they were at the twice yearly People's Question Time sessions. The web cast of the Mayor's Question Time is available to view on the BBC. The GLA is challenging internally. It does consult widely on its strategies. It includes external challenge in its best value and efficiency reviews. It also seeks out and implements good practice.
- 43 Our work with public bodies shows the right structures and processes alone do not make for effective accountability. Accountability is only a positive process where there is the right culture, behaviours and understanding among all the parties involved. It works well where there is a focus on the benefits that openness and accountability bring to the community. It can lead to improved decision making, both for the individual and organisation, and also in terms of public trust, including in the democratic process.
- **It is important that the culture of the GLA encourages openness and accountability.**
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Appointments within the GLA

Appointments process

- 44 It is up to the Mayor to decide whom to appoint to his team and up to the senior staff of the GLA to decide if the processes are reasonable. The current Mayor has four deputy Mayors, seven directors, one advisor and one special appointee. The GLA has used an independent element in the recruitment and appointment of all the Mayor's appointments to make a judgement as to whether a Mayor could have reasonably appointed the person to the post. But the process of appointment and terms of office of the Mayor's team have not always been clear.
- **The GLA should have a publicly available protocol which covers the appointment of the Mayor's team. Officers should undertake all the checks relating to the applicants before any appointment is confirmed.**
 - **The terms of office of members of the Mayor's team members should be aligned with the term of office of the Mayor.**

The Mayor's advisers

- 45 The Mayor's Policy Directors both advise the Mayor on policy and lead and direct, for the Mayor, the implementation of policy across the GLA Group. This has meant that Policy Advisers are closely involved in operational issues. This has led to confusion about role and a general lack of clarity and openness.
- 46 The Mayor's current team does however complete the register of interests and job descriptions and terms of employment of the Mayoral directors are available on the GLA's external website. But it is unclear how to complain about alleged breaches of GLA codes of conduct – whether to the standards committee or through the normal channels for officers.

47 Some of these questions were raised in the GLA's standards committee as far back as 2000 and there remains a general lack of clarity about the roles and powers of the Mayor's team members.

- **There should be greater clarity about the accountability arrangements for the Mayor's team and applicability of codes of conduct to team members.**

The GLA and the four functional bodies

Governance arrangements

48 Accountabilities and responsibilities across the GLA group are complex and these complexities do not help when holding the GLA with its functional bodies to account. The functional bodies are different from one another in character, history, structure and purpose. The Mayor works through them in ways that reflect these differences and the legislation. For example, the Mayor and his deputies chair some of the functional bodies but not all. Assembly members serve on the boards of some of the functional bodies but not others.

49 While there are open decision making processes and declarations of interest in the GLA these are not replicated in the functional bodies.

50 There are further differences in the way in which complaints about board members of the functional bodies and London Assembly members are managed.

- **The GLA, the Mayor's team and the boards of the functional bodies should all be held openly to account through formal scrutiny arrangements.**
- **The functional bodies should be subject to the same levels of scrutiny as the Mayor in the GLA.**
- **The role of the GLA's standards committee should be extended to cover ethical behaviour across the whole GLA family. There should also be GLA Group-wide declarations of interest policy and a GLA Group wide whistle-blowing scheme.**

Appendix 1 – References

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