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**Response to the Committee on Standards in Public Life Consultation
Document: Local Leadership and Public Trust: Openness and
Accountability in Local and London Government.**

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Response to the Committee on Standards in Public Life Consultation Document: Local Leadership and Public Trust: Openness and Accountability in Local and London Government.

Introduction

The paper is produced in response to the Committee on Standards in Public Life inquiry into: Openness and Accountability in Local and London Government. The paper takes a selective approach to the issues and questions raised in the consultation document. First the paper makes some general comments about English local government to set a very broad, overall context for the consideration of openness and accountability. The section considers: council size, the service providing – politically representative dichotomy, the introduction of political executives into local government and the party political base of local government. The section is not intended as a comprehensive contextual analysis of local government, rather as setting a broad context; second, the paper will address the following specific issues raised in the consultation document: paragraph 2.19, paragraph 2.37 and paragraph 2.40; and, third it will suggest how the openness and accountability of local government could be improved by giving voters power over councillors and councils.

The Context

England (and Britain) has some of the largest local authorities in Europe, with the *'average population of shire districts over 10 times the average of the lower tier in Europe'* (Stewart, 2003, p.181). Indeed, the search for an optimum size for English local government has resulted in units that are often artificially created, reflecting administrative convenience and technocratic necessities, rather than reflecting some identifiable and cohesive community. Stewart reminds us that:

the scale of UK authorities reflected the dominant concept of local authorities as agencies for the provision of services and associated assumptions of sizeism dominant in government and public administration. It was widely assumed that size was associated with efficiency, despite the reality that investigations have failed to find any clear link between size and efficiency and/or effectiveness (Stewart, 2003, p.181).

While the search for efficiency may be driving the size of English local government, the case has not been conclusively made for a consistent link between large scale and efficiency. The findings of research indicate that council size does not have a consistent relationship to efficiency or effectiveness: big councils can be inefficient and small councils efficient (see, Muzzio and Tompkins (1989, Travers, *et al*,1993). Yet, what has become clear from research, with far more consistent results than the links between large scale and efficiency, is that the larger councils become the more damage is done to the political and democratic base of local government. Large size appears to have a fairly consistent negative impact on issues such as: Turnout at local elections, direct citizen contact with councillors and officers, citizen attendance at council or public meetings, political discussion, citizen perception of influence over local affairs, trust in local councillors and officials, citizen identification with the local council and levels of political engagement, all of which have been found to decline in larger councils when compared to smaller units (Oliver 2000, Denters 2002, Ladner 2002, Larsen, 2002, Ladner, 2002, Rose, 2002, Baglioni 2003, Laamanen and Haveri 2003, Kelleher and Lowery 2004). Yet, some have found that as population size increased, citizen involvement increased – up to a point and then began to decline (Keating 1995, Cusack, 1997, Rose, 2002, Frandsen, 2002). Indeed, Keating (1995) comments:

The 'right' size for a municipal government is a matter of the local circumstances and the value judgements of the observer. Like so many issues in politics, this involves matters of ideology and interest' (Keating, 1995: 117).

Nielsen (1981: 57) is rather more definite in the conclusions made: *local distrust, local lack of efficacy, and local lack of saliency are systematically higher in medium - large municipalities than in smaller ones... the size factor may be a warning against far-reaching amalgamation.*

English local government is a dual purpose institution. First, it provides an additional layer of democracy, political representation and engagement to Parliamentary politics. Secondly, it is responsible for the provision of public services vital to nations where the state has taken the major responsibility for welfare and social cohesion. Yet, that dual role generates a tension, as it can not be assumed that the roles are

mutually compatible or that they respond to the same stimuli. Nor can it be assumed that political representation and decision-making, or the expression of local values and views can be achieved through a set of institutions designed, primarily to run and provide public services. Debates about local government are required to reconcile these competing tensions or to come down on the side of either the service providing or democratic and representative roles of local government (see, Young and Rao, 1997); in re-organisations of local government, technocracy has won out over democracy.

What this very brief consideration of council size in England and of the tensions between technocracy and democracy shows is the context within which considerations of openness and accountability are set. It also indicates the difficulties of securing openness and accountability within a system that has characteristics – large size and a service orientation - that are inherently prone towards an approach to decision –making that distances itself from citizens.

Local government openness and accountability sits in the context of the introduction, by the Local Government Act 2000, of political executives (or cabinets) the scrutiny function and the introduction of directly elected mayors. While the creation of a seemingly more powerful group of councillors may appear to make openness and accountability more difficult to secure, the notion that it is much clearer who made decisions, when and how, means that executive arrangements provide a basis from which to enhance openness and accountability. They also allow for a different style of local politics to emerge and for councillors to specialise in facets of the policy-making process. Indeed, the introduction of the scrutiny system has considerable potential in enhancing openness and accountability – a potential which has not yet been fully realised (see, Leach and Copus, 2004).

Accountability and openness is not secured however, by changes in the architecture of local political decision-making alone. Such changes need to be underpinned by changes in perceptions by those engaged in the system about their role and purpose. The domination of English local government by the three main political parties hinders the process of change in perception. Over 18,000 of England's councillors, close to 92 per cent, come from one of the three main UK-wide political parties:

Conservative, Labour and Liberal Democrats. That means that the interpretations, practices, attitudes and approaches to politics held by national parties are prevalent in local government. The key factor that determines party behaviour are notions of party loyalty and discipline. It is of no doubt that one of the major barriers to enhancing openness and accountability in local government and to the executive-scrutiny distinction providing for a more robust system of ensuring political responsibility, is the long-standing patterns of party political behaviour. Group cohesion, loyalty and discipline have major implications for any moves to ensure openness and accountability in local government and undermine the intentions of the 2000 Act (Copus, 1999, 2004).

The Committee defines accountability and openness, thus: **Accountability** - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office. **Openness** - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands (HMSO, 1995)

The government have defined accountability and transparency (the latter is linked concept to openness), thus: **Accountability** – where people can measure the actions taken against the policies and plans on which those responsible were elected to office; **transparency** – where it is clear to people who is responsible for decisions (Detr, 1999)

These definitions set a guideline for making public judgements about accountability and openness but these concepts are about much more than being called to answer for ones actions. They concern matters that are at the heart of responsive, discursive and mature politics and which are vital developing a political culture of engagement between citizen and councils (see, Schedler, *et al* ,1999, Mulgan, 2000).

Para 2.19: The Committee would like to receive views and evidence on whether certain models of leadership or decision-making in local government (elected mayors, leader and cabinet, committee system or other models) better support the Seven Principles of Public Life.

The directly elected mayor provides a clearer and more obvious link between the voter and the local political leader than does the indirectly elected leader and cabinet model. In the former system of local government where the voters themselves choose the mayor the potential for enhanced openness and transparency is obvious. The election can focus much more strongly on the policies and importantly, the personal qualities of the individual mayoral candidates than the purely party based campaigns under the leader and cabinet model. Moreover, the electorate across a council area can reward or punish an incumbent mayor at an election.

The leader of the council under a leader and cabinet model is protect from such direct electoral accountability as only those voters in the leader's ward have any direct electoral link with him or her. The link between the leader and the voters of the council area is attenuated by being chosen by only those councillors from the majority group. Thus, it is to that party group – or rather a majority within it - to whom the leader is most closely linked and whom the leader must keep happy to stay in office. Under the indirectly elected leader system the main direction of political accountability is towards the leader's party group and not the public. Party groups themselves, make decisions and hold the council leadership to account in closed, private and secret group meetings from which the public are excluded: accountability under this system is largely and oxymoronically a closed and private affair. Once groups have taken decisions the leader and rest of the group are bound by them to act in particular ways, in public.

Despite the national parties agreeing that group discipline and group 'whips' are incompatible with the scrutiny process – there remains considerable reluctance by councillors in scrutiny to act other than from a party political perspective (See, Leach and Copus, 2004). Direct whips may not be imposed in scrutiny but long-standing patterns of party political behaviour do not appear to have radically changed. The indirectly elected leader system places accountability and the power to appoint the

leadership in the hands of the group – which is why most councillors favour that model.

Openness and accountability under mayoral governance is not only enhanced, when compared to the indirectly elected leader system, by direct election alone. The high public profile accorded to elected mayors – attested to by the mayors themselves and by public surveys (see, Copus, 2006) provides for an additional openness and accountability. Public knowledge of who the mayor is and that he or she is responsible for certain decisions forges a strong link of accountability between citizen and mayor. Simply put, the notion of the public knowing who made certain decisions is far more easily achieved under a mayoral system. Moreover, when decisions are taken by the mayor, although these may, in some cases, be made away from the public gaze, public attention still focuses on the mayor because of the profile of the mayoral office.

One aspect that has emerged from mayoral governance is that the public will expect the mayor to be responsible for – or have some power over – issues that are not their – or the council’s direct responsibility (Copus, 2006). In addition, mayors, while not completely separated from their own party groups (if they are party mayors) have looser relationship with the group than the indirectly elected leader and are focussed outwards towards the need to be open and accountable to a wider electorate, rather than the party group (Stoker, *et al*, 2003, Rao, 2005, Copus, 2006, Back, *et al*, 2006).

Conclusion: Openness and accountability to the electorate is enhanced by the mayoral model and has greater importance and effect in this system of governance than under the indirectly elected leader model.

Para: 2.29 The Committee would like to receive views and evidence on how well the provisions to support openness and accountability in local government work in practice.

The section focuses on the use of the scrutiny function in local government as the main mechanism by which the openness of decision-making and the accountability of

decision-makers is meant to be secured. Many of the reports produced on the development of the scrutiny function allude or refer to the ‘potential’ of scrutiny when it comes to holding the leadership of a council to account (Snape, *et al*, 2002, Leach, *et al*, 2003, Stoker, *et al*, 2005). Scrutiny provides a forum in which councillors can question, challenge, criticise and debate with those responsible for taking decisions and do so in public. It is the public aspect of the process which conflicts most with the long-established patterns of party political behaviour and with notions of group loyalty and discipline, which eschew disagreement within a party being expressed in public.

The way in which parties conduct their business and the business of the council, conflicts with the openness required for true accountability to be secured and conflicts with the need for scrutiny to act as a robust – and public – setting in which the leadership of the council is held to account. That is not to say that scrutiny has failed in securing the accountability of the council leadership in some palaces. Rather, that there is no settled pattern of scrutiny being an effective tool for accountability across the whole of local government. In many areas councillors in scrutiny, that are members of the majority party, are reluctant to hold the council leadership – which comes from their own party – up to the full potential of scrutiny; some opposition groups use scrutiny for party political point scoring.

In mayoral authorities there is evidence to suggest that, because of the loosening links between elected mayors and their party groups, scrutiny is developing as a more robust scrutiny mechanism. Yet, councillors remain to be fully convinced of their own effectiveness in this regard (see, Copus, 2008).

It may be that the passage of time and turn-over of councillors results in a change of political culture in local government, which in turn allows scrutiny to develop its full potential as a mechanism for accountability and openness in local political decision-making. Scrutiny relies on a less adversarial approach to party politics but also on councillors seeing themselves as scrutiny members first, rather than members of an administration or opposition party above all else. Scrutiny also relies on not being seen by councillors as a stepping-stone into the council cabinet and leadership – rather as a political career in its own right. Without such a view emerging amongst

councillors, scrutiny will never achieve the parity of esteem with the leadership and cabinet that it requires and without that esteem councillors will wish to move from scrutiny to the leadership – those that do not wish to follow such a career path will still be bound by group loyalty and discipline.

The mechanisms for securing openness in the political decision-making process rests on, but is not achieved solely by, the publication of a council forward plan, key-decisions and a wide range of public consultation exercises undertaken on a range of service and policy issues. Indeed, it is questionable how far these contribute towards openness – which is a quality secured through a systemic approach and also through the culture of politics and the way in which councillors conduct politics. The process of decision-making may be open and accessible to the public, but more important is the knowledge that a decision has been made and by whom. Few people know exactly when and where ministers in government took a decision and the formal or informal settings in which they acted. It is simply the knowledge of which minister was responsible for which decision, on which the system rests. A parallel approach of ministerialism in local government is a logical conclusion of the introduction of local cabinet government. Thus, council cabinet members do not need to take decisions in the open, or even through a structured process, rather openness and transparency is secured by the knowledge of when, who and why a decision was made and how they are to be held to account.

Public consultation exercises, which proliferate across local government, may make the public aware of various issues or policy proposals put forward by a council and can thus contribute to a culture of openness. The timing, purpose and use of the results of such exercises however, are crucial to how and whether openness can be generated through consultation. Consultation can be formulaic, artificial and too late and be often little more than a marketing exercise. To contribute to openness and accountability those consulting the public must do so before a policy decision is taken and before the political parties decide on their positions in regard to any policy development. With out that the oft heard cry from the citizenry of ‘you’ve already made you’re minds up’ is so often true.

Conclusion: Generally, scrutiny has yet to reach its full potential as a mechanism for securing the accountability or openness in local government. There is a scattered pattern of development of scrutiny as a mechanism of accountability across the country. Political culture and the way in which parties conduct politics is a key component in securing openness and accountability – either through formal or informal mechanism and settings.

Paragraph 2.37: The Committee is interested in receiving views and evidence on whether the roles and responsibilities of senior officers are clearly defined and understood by the public; how well senior officers are held to account; and their role in supporting the accountability framework.

There is a potential in certain settings for the role of the councillor and senior officer to become blurred in the mind of the public. Often it is the officer rather than the elected councillor that is the public face of the council; senior officer will make press statements, conduct television or radio interviews, or front public meetings or events – in many of these settings councillors will either play a secondary role, or be absent altogether. The blurring of roles causes a problem for accountability and there is of course, no direct line of accountability between officers and the public - even robust questioning of officers at public events is not an effective mechanism of accountability. Councillors need to be more and more the public face of the council, but even if this was the case there remains the issue of officer accountability for the advice and information they provide to members.

Part of the role of the councillor is to hold officers, as well as other councillors, to some form of public accountability. But, the closeness of the relationship that can develop between officers and members – particularly from the majority group – may hinder a robust accountability relationship. While this is not by any means always the case, the powerful role senior officers have and the public face of the council that they present raises important accountability questions. Senior officers are the major – if not the only – source of advice and information for councillors. The far from fully developed scrutiny role has yet to provide councillors, generally and regularly, with direct access to sources of advice, information and support from outside of the officer structure. Councillors are therefore dependent for support and advice on the very

officers they need also hold to account. These circumstances are not a product of the changes introduced by the 2000 Act. Rather, they are a product of a power and resource imbalance between councillors and officers that has long-existed in local government. As local government now has an executive – scrutiny structure that reflects the executive - legislative distinction in central government, the logic of this needs to be followed and councillors need support and advice from an independent officer core; independent that is from the officers which manage and run the services the council provides and independent from the Chief Executive. While some councils have well resourced scrutiny units, this is not the case in all councils; neither are such units independent of the Chief Executive.

Anecdotal evidence suggests that the ethical framework introduced by the 2000 Act and the role of the Standards Board in particular, can be used by offices to prevent robust probing of their actions by councillors. Complaints by officers of bullying by members may in some cases be used as a way of preventing an assiduous investigation, or close questioning of officer activity and advice. It should be a condition of employment by officers at a – to be determined - senior level, that they forfeit the right to complain to the Standards Board.

Councillors can be held to account at the ballot box – at least by the voters they represent in their wards and divisions. There are, of course, no comparable mechanisms for senior officers. Given the influence and power officers wield, the inadequacy of scrutiny in holding officers to account and the public face of the council that senior officers often present, more robust systems of officer accountability need to be developed. Such mechanisms would require input from councillors and the public and provide both with opportunities to seek explanations and justifications from officers. Council meetings and scrutiny do provide councillors with a ready forum to challenge officer advice and activity but research is needed into understanding how far a reasonable level of officer accountability is secured in these settings. It is easy to be either too complacent or too critical of council and scrutiny when it comes to holding officers to account. But, given the resource imbalance between officers and councillors it would be easy to mistake a robust exchange of views in a council meeting for accountability. More resources for scrutiny and a greater focus on developing the scrutiny role of the councillor would assist in

enhancing officer accountability, as would clarifying the duty of officers –at all levels – to attend and answer questions at scrutiny.

There are precious few formal and regular opportunities for the public to challenge and question officer advice and activity or the role of the officer in the policy and decision-making process. Today it is inadequate to leave securing officer accountability to councillors alone. The public should be able to question officers in council meetings, scrutiny events and at specially convened events held at the call of the public.

Conclusions: Officers are a powerful public face of the council and the main, if not only, source of advice to members when it comes to policy and decision-making. Stronger mechanisms of officer accountability are required, such as strengthening the scrutiny process and providing the public with opportunities to question and challenge officers. Currently senior officers are shielded from too rigorous a public examination of their activities – although in truth, many senior officers would disagree.

Paragraph 2.40: The Committee is interested in receiving views and evidence on how local authorities ensure openness and accountability when working in partnership.

The explosion in partnership working and the likelihood that such an approach will continue for the foreseeable future brings particular issues in securing accountability. Despite the wide-spread and continual development of partnership arrangements, there is scattered pattern when it comes to council activity in securing the accountability of partnerships. In some areas partnerships receive little or no direct questioning or provide scant accounts of their activities to councils or the public; in other councils, scrutiny will explore the activities of some of the major partnership bodies or the LSP. But, the latter is not a commonplace experience.

Securing the accountability of the partnership regime requires a complete, publically available map of all the partnership arrangements entered into by a council. It also requires scrutiny to recognise its role in holding partnership arrangements to account. All partnerships with which a council is engaged should be open to the same detailed scrutiny process as that conducted by county and unitary councils in regard to the

health service. Yet, not only is there occasionally a reluctance amongst councils to undertake such an accountability role in regard to partnerships, doubt exists as to whether councils could carry out such scrutiny. While the same legal relationship between partnerships and scrutiny as that between scrutiny and health, do not exist, that does not preclude scrutiny from examining the work of any number of partnerships.

Conclusion: Securing the accountability of partnerships and partnership agreements is not as developed across local government as it should be. Scrutiny requires more powers to be able to question and challenge partnership formation, membership and activities.

Accountability Through a Powerful Citizenry

The government's vision of powerful local political leaders – either directly or indirectly elected – and powerful local councillors holding the political leadership to account was given shape by the executive-scrutiny distinction introduced by the Local Government Act 2000. The notion that scrutiny councillors would hold executives to account has been shown as flawed, not least because of patterns of party loyalty and discipline and the nature of adversarial party politics in local government. Powerful councillors require mechanism of accountability to rest with a powerful citizenry.

Simple political mechanisms would be put in place to ensure accountability and citizen sovereignty over the activity of councillors and councils.

- All councillors to be subject to public recall petitions and to recall elections. Thus, enabling the public to end the term of office of a councillor during that term
- A similar recall power for citizens over the entire council membership. Thus, giving citizens the power to call a full council election outside of the normal cycle

- Citizen propositions: the right of citizens to place their own suggestions and ideas before voters and to call a referendum on the issue which would be binding on the council
- The right for citizens to call a referendum on any major policy suggestion by a council and for the results of that referendum to be binding on the council
- A reduction in length of the term of office of councillors from four to three, even two years
- Term limits for councillors – the limit to depend on the length of the term of office

In other words, political accountability within a local representative democracy would benefit from a large dose of direct democracy. There is no more powerful mechanism for keeping elected representatives close to those they represent, and accountable to them, than the electorate being able to remove politicians from office between elections. Similarly, if councils are to be powerful political institutions in their own right, then shorter terms office are required to provide the electorate with opportunities to cast a judgement on the policies of the council. Shorter terms, alongside terms limits would bind councillors more closely to the communities they represent as would powers for citizens to remove councillors, or entire councils, from office; voting in binding referendums either on citizen inspired propositions or on council policy, places decision-making firmly in the hands of the citizen.

Conclusions

The large size and scale of English local government makes securing effective political accountability a vital process within local democracy. As large councils are remote from people and as they often have a deleterious affect on the democratic health of a locality, robust and effective mechanism of accountability may help redress a democratic deficit and malaise created by large units of local government.

The direct link of electoral accountability between elected mayors and citizens provides for a stronger bond, greater visibility and heightened public knowledge of the activities of the mayor, than that possible with the indirectly elected council

leader, whose constituency is in reality his or her party group. Moreover, greater openness and transparency is achievable under mayoral governance precisely because of the direct link with the electorate, as it is the voter not the party group, to whom the mayor must make the widest possible appeal. Moreover, a greater public recognition by voters of the mayor places him or her more firmly under the spot-light of public attention. Decisions may not necessarily be made in the open to be transparent if local people know – or believe – that it was the mayor who was responsible for those decisions and that they can cast a direct verdict on the mayors actions in a way to which a council leader is immune.

The scrutiny role of the councillor and the scrutiny function in general is the key mechanism through which the accountability of local political leaders was to be secured. Scrutiny however, has been hampered by long-standing patterns of party loyalty and discipline and by patterns of inter and intra party political behaviour. It has also been weakened by the adversarial nature of much council politics across England. Scrutiny lacks power, an ethos and parity of esteem with council cabinets; without these factors developing scrutiny is unlikely, generally across local government, to reach its full potential as the prime mechanism of local government accountability and openness.

Senior council officers have considerable influence and power within the framework of local political decision-making. Indeed, they are often more the public face of the council than elected members. Officers provide advice, policy options and information to councillors which is almost unchallenged by other, independent, sources of advice. The relationship between officers and members is not as simplistic as ‘officers advise - councillors decide’ as councillors often decide what they are advised to decide. Policy options presented by officers are of course, refined to suit the political preferences of members. Such a brief and simple description of the relationship between officers and members needs to be understood as a much more complex and detailed set of interactions. But, it would be fair to generalise by saying that in most cases the weight of resources and expertise rest with the senior officer which gives officers a privileged position in regard to local democracy. Such a position requires robust exchanges within a scrutiny setting and opportunities for the public to question and challenge officer advice and policy options.

Accountability and openness in local representative democracy would be enhanced by a transference of political power from councils and councillors to citizens and by a healthy dose of direct democracy. Recall petitions and elections, shorter terms of office and term limits for councillors and binding local referendum, would draw councillors closer to those they represent and make them more accountable to the public.

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