

**New Options
for Political Management in Local
Government:**

A Perspective from INLOGOV

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PREFACE

Following the general election in May 2010, the context in which local government must operate has changed markedly. The localist agenda is becoming firmly established and although the economic climate and financial stringency is presenting huge challenges for councils across the country, it is clear that local authorities will be able to enjoy new freedoms to choose how they organise themselves and how they respond. It is accountability at local level that now matters most. Local government performance will be judged on the basis of its success in engaging with local communities, in building public confidence and trust, in responding to and addressing local priorities, and in capacity-building for the Big Society.

While inevitably most attention is currently focused on the new context for local government, there will also be freedoms to introduce new internal political management arrangements. That is what this publication is essentially about. It reflects and builds upon INLOGOV's long track record of research on political management, particularly since the advent, more than a decade ago, of the cabinet and scrutiny committee structures and ways of working.

The new climate of freedom includes the option of returning to the old committee system and so, once again, engaging (all) councillors more fully in both policy making and oversight in relation to key service delivery functions. But this is only one possible reform. As our publication emphasises, there are other ways through which councils can become more open and inclusive, and more in touch with the issues of most importance to local communities, so strengthening locally accountability. Accordingly, this paper explores the strengths and weaknesses of different models of the committee system; it examines the range of possible options for political management now open to councils, and it considers how to ensure strong accountability for executive decision-making in local government. In so doing, it reflects on the varied experience of 'overview and scrutiny' over the past decade and draws out some key lessons to be considered carefully as local government looks forward and seeks to do its best in the much changed political and economic climate.

I want to thank my four colleagues who together have authored and compiled this publication - Simon Baddeley, John Cade, Ita O'Donovan, and particularly Andrew Coulson (whose idea it was in the first place, and who has expertly edited the final manuscript). All four are Associates of the Institute, three being former members of staff. Their combined expertise in political management, and the significant amount of consultancy work they continue to do with us, is invaluable in helping to sustain INLOGOV's reputation not only as the leading academic centre for developing practice in local government but also as a champion of localism.

We very much hope that you find our publication not just of interest, but also of real help to you and to your local authority.



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This paper is written to assist local authorities and others who will wish to respond to the Government proposals relating to changes in governance arrangements and the roles of politicians. The authors are all associated with INLOGOV, the Institute of Local Government Studies, based in the University of Birmingham, which for more than 40 years has been advising both local authorities and government departments on how they best relate to each other.

The Coalition Government has far reaching plans to give local government new freedoms to choose how it organises its activities. One of these will be the freedom to return to the committee system, posited in the Conservative Party's "Localism" Green Paper of February 2009¹ and subsequently included in the Coalition Agreement between the Conservative and Liberal Democrat Parties². There are also proposals to require specified councils to be governed by directly elected mayors, to have directly elected police commissioners, to allow voluntary and other not-for-profit groups much more involvement in services presented run by local authorities (part of a wider project described in general terms as *The Big Society*), at the same time giving them enhanced strategic responsibilities for land-use and planning decisions, public health and aspects of social care, and economic development (working with private sector interests in Local Enterprise Partnerships), and a "general power of

competence" which will make it easier for them to be involved in trading or profit-making activities and to transfer legally defined responsibilities to other bodies in the private or voluntary sectors. Key aspects of these commitments will feature in the Decentralisation and Localism Bill expected in late November. This legislation is also expected to bring to an end the Audit Commission, the nine Regional Development Agencies, and many other quangos, and make councils themselves, rather than a national Standards Board, responsible for policing councillors' behaviour.

Other commitments or innovations may be implemented without legislation. For example, the proposal, in speeches by the Secretary of State, Eric Pickles, to permit local authority Leaders to take on some or all of the powers held by Chief Executives would not require legislation if the legal responsibilities were taken on by other officers. If, however, a Leader or elected Mayor became the Head of Paid Service, that would require amendments to various local government Acts.

The Coalition has promised to revisit the work of Sir Michael Lyons on the balance of funding between local and central government, with a view to enabling local authorities to raise locally more of the money they spend.³ Taken as a whole, this is the most fundamental revisiting of the basis and functioning of local government for 30 years.

Local government is, at its heart, political. It is directed by elected politicians. These may be those elected to represent local areas (electoral districts or wards) who collectively comprise the council for the

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¹ *Control Shift: Returning Power to Local Communities*, Responsibility Agenda, Policy Green Paper No.9, Conservative Central Office, February 2009

² *The Coalition: Our Programme for Government*, Cabinet Office, May 2010

³ Local Government Finance Review to 'happen next year' says Pickles, *Public Finance*, 14 September 2010

area and elect a *Leader* who chooses a *cabinet* or *executive* from the body of the elected councillors. Or political leadership may be provided by a *mayor* directly elected by the voting population, working with a cabinet selected from the elected councillors. Or, in some councils in Wales⁴, and some of the smallest councils in England, political leadership may be delivered through the “*fourth option*”, a “streamlined” committee system, involving a Policy Committee, a small number of other committees or sub-committees, and regulatory committees.

Important decisions are still taken by committees, notably those responsible for the regulatory functions of development control, the award of licenses, enforcement of regulations governing environmental health, standards and probity among councillors. The political management of the police, fire and rescue, and other services where the administration involves more than a single council, is conducted by joint boards, or committees, of councillors.

Councillors who are not members of an Executive are involved in *Overview and Scrutiny Committees*, of which all councils must have at least one, with powers to interview senior members, officials, individuals outside the council, and to invite Executive to reconsider decisions, although in practice their bread and butter work has been policy reviews, looking in depth at specific areas of policy and making recommendations for improvement.

Local government responsibilities include many services which are of great interest and concern to central government – state education, social care, responsibilities for

social housing, roads (other than motorways), subsidies for public transport, the police, and the fire rescue and civil defence and emergency planning (to name but some). These may be delivered by agents outside the council (the governors of academy schools, organisations which provide accommodation for elderly people, housing associations, police or fire and rescue authorities, bus and train companies, energy companies, or any other kind of private or not-for-profit organisation) but local government retains important co-ordinating responsibilities, and in many cases provides the channel for the resources which make these activities possible. As councils contract or commission services from the private sector, and sometimes from the voluntary sector, as they are likely to do even more in the near future, new issues of accountability and co-ordination arise.

There is a tension between the desire to decentralise and delegate and to make local government as free as possible from central control, and the concern to implement policies of national importance to national standards, i.e. avoiding the “post code lotteries” where standards of service differ across the country. However, as Sir Michael Lyons pointed out, the concept of local choice implies an acceptance that provision will be different in different council areas, where some areas will choose to spend more on particular services, or on their provision as a whole, than others. The Green Paper argues – correctly - that central government should minimise its influence over local government and give councils the freedoms to be responsive.

The writers here, like the Coalition, are committed to local government - concerned that too many of its powers have been lost, that its focus has become

⁴ A similar system can be found in some Scottish councils, e.g. Aberdeenshire.

unclear, that it neither speaks effectively for the people it represents, nor delivers (or facilitates the delivery of) many of the services they need and value.

That is the context in which the proposals to allow councils to return to the committee system need to be appreciated. They will enable councils to think not just about how they deliver services, but also about how they relate to their electors. Councils will have opportunities to consider how they can best relate to their people, but also how their people can best understand not only what they do but how they make decisions.

A return to committees is not the only possible reform. There are many other ways through which councils can become more open, more user friendly, more accountable to those in their areas. This paper is written to help councils looking for a meaningful future to think through what is best for them.

There are three sections. The first considers the strengths and weaknesses of different variants of the committee system. The second examines the possibilities opened up by a much wider range of options for political management. The final section considers how executives may be held to account and in particular what has been learnt in the past ten years about “overview and scrutiny”.

2. The Strengths and Weaknesses of Committees

The paragraphs which follow look first at the criticisms of the committee system which led to the creation of cabinet and strong Leaders. They go on to consider the strengths and weakness of cabinet governance, suggesting that there may be means whereby the best of both committees and cabinets may be gained, through a streamlined committee system.

When it legislates, the government should take the chance to clarify and strengthen the role of the Full Council, as the parliament for the local area and the ultimate body that holds the decision-makers to account.

From the time Central Government started taking an interest in Local Government, through the Municipal Corporations Act of 1835, and the subsequent Acts of Parliament that created County Councils, District Councils, London Boroughs, Parish Councils, and finally Metropolitan Borough Councils, councils in the United Kingdom were governed by committees of elected councillors. In most councils, their decisions took effect when they were confirmed at the regular meetings of the full council. Earlier than that, parish vestries, workhouses, and the many charitable bodies that ran schools, hospitals, and even toll roads were governed by boards of guardians, trustees or commissioners that, like committees in local government, took collective responsibility for their decisions.⁵

⁵ David Eastwood, *Governing rural England: tradition and transformation in local government, 1780–1840*. Oxford: Clarendon Press, 1994.

Thus the Local Government Act 2000 which effectively ended the committee system was revolutionary. But it did not come out of the blue. For, while there were many enthusiastic defenders of the committee system,⁶ it also had critics who argued that it entrenched departmental interests, and was clumsy, time-consuming and slow,⁷ until in 1990 the Audit Commission argued that “We can’t go on meeting like this”.

Those who promoted the 2000 Act were influenced by models of leadership that stressed the individual charisma of “change agents” and favoured directly elected Mayors. However, when it came to implementation all but a handful of councils chose indirectly elected Leaders. Subsequent legislation – the Local Government and Public Involvement in Health Act 2007 - strengthened the powers of these leaders, and moved them a step nearer directly elected mayors, by requiring them to appoint their own cabinets, although still from the elected councillors.

The two sections which follow compare what we know about how committees worked with more recent practice.

The Committee System

Contrary to much rhetoric, committees, and boards, are not comprised of equals. The Chair, and sometimes the Vice-Chair, are in a privileged position. They are involved in creating agendas, and in many informal meetings with officials. A Chair collaborating with a strong official (such as

⁶ See John Stewart, *The Nature of British Local Government*, Macmillan, 2000 pp.43-5

⁷ John Stewart ‘The Functioning and Management of Local Authorities’, in Martin Loughlin et al (eds) *Half a Century of Municipal Decline 1935-1985*, George Allen and Unwin, 1985, pp.108ff.

a chief officer or strategic director) is in a position of power, and will seldom place matters before the committee where the outcome is in doubt. This is less the case if the council is hung, so that no political party has a majority. There are occasions when a committee will refuse what is put in front of it, but, as Friend and Jessop observed in 1969, these situations are rare and usually depend on one or more members of the committee having a particular interest in, or knowledge of, a matter under consideration.⁸ A strong chair of a traditional committee had as much power and influence as a cabinet member does today.

What explicit criticisms of the committee system led to this radical change? Firstly, that it was an inefficient use of time – especially when there were complex structures of committees and sub-committees. Minor matters which were not strategic and did not need member involvement would be discussed at length. Strategic issues would go the rounds of many meetings, and end up for a debate in the full council where most of the same arguments were repeated before a position was finally confirmed. As a consequence it was slow – although when councils really had to move fast, emergency arrangements could, and were, used to get things done quickly. More fundamentally, it enshrined silos, as each committee praised its own successes, guarded its budgets jealously, and resisted loss of powers to partners or other committees. (Cabinets can also involve silos, when an individual cabinet member argues for the department he or she represents, but if this is overt a strong leader and effective cabinet can more easily clamp down on it.) It was, in the last

resort, in most circumstances an officer-driven system – hardly surprising given that chief officers, senior professionals at the pinnacle of their careers, were dealing with amateur and generally part-time councillors. Decisions were sometimes taken against the advice and better judgement of these senior officials – but in the main the papers came to the agendas because officials put them there, and the decisions taken were what they negotiated with their chairs before those papers were finalised.

The committee system had many strengths. It was, or it gave the appearance of being, inclusive, in that almost all the elected councillors sat on at least two committees and took part in decision-making. In practice that meant that they listened while proposals were summarised, had opportunities to ask questions (both in public at the committees, and, often more forcibly, to the leaders of the party groups on that committee at the private pre-meeting which took place before it met), and could make suggestions, and occasionally had some influence over what was decided. More often they acted as a sounding board, forcing the officials to distil and summarise their proposals in clear language, and to make them convincing. If a particular group, or a part of the council area, feared that it would lose from a proposal then the chances were that at least one councillor would articulate their concerns, and these might be picked up by the press, even if this did not change the actual decision. There were times when committees developed powerful expertise and acted as lobbies for their service areas – for example social services committees whose members visited establishments, talked to clients, promoted new activities and

⁸ J K Friend and W N Jessop, *Local Government and Strategic Choice*, Tavistock Publications, 1969, p.57

defended social services from any proposed cuts; or economic development committees which campaigned in favour of job creating or job saving investments. Committees were educative, in that councillors who were new to the council could learn from what was presented, learn how decisions were made, and learn how to ask questions that would draw out the consequences of decisions. It was a system in which councillors worked collectively, and took responsibility when difficult decisions had to be made. They were places where councillors from Opposition parties could sometimes contribute – in contrast to cabinets where the norm is that all the members come from a majority party.⁹

The system was open to abuse. Thus while many committees sat for long hours, some dealt with long agendas in just a few minutes, when the Opposition was late arriving or had little to contribute. Chairs, or chief officers, who feared trouble in committees, had various tactics, such as moving items to the “confidential agenda” where they would be discussed after all the other business, at a time when many members were getting tired. For controversial matters a separate small sub-committee, of carefully picked members, would be created. Sometimes the emergency powers, to take urgent decisions in private between formal meetings, could be invoked. It was not easy being an Opposition member of a committee whose chair was determined to drive an agenda through – and sometimes equally difficult being a minority member of a majority party if it meant arguing against a powerful committee chair. Committees were often not as open and participative as they appeared.

The Cabinet System

Any discussion about the future needs to recognise the benefits of the cabinet system. In particular, it has made co-ordination easier where matters cross departmental responsibilities. Under the committee system, these would have been discussed by the relevant committees separately, and perhaps also a Policy and Resources Committee, and it was often hard to get changes accepted. With a cabinet, if one cabinet member takes a self-serving position, the rest of the cabinet can ensure that the department concerned takes a wider view. It has raised the status of the politicians over that of the officials. Even so, it is popular with officials because they largely deal with a single cabinet member and the Leader, whereas before they would have dealt with the whole committee and an official could never be completely sure how a decision would work out. It is easier to work in partnerships with outside bodies, since either the Leader or a cabinet member can speak for the Council.

But the cabinet system also has serious limitations. It gives single-party cabinets decision-making powers at meetings where the Opposition is excluded, or at most permitted to attend and ask questions but not to vote. It puts a great deal of pressure on a few individuals, who may not be equipped for the job. Or they may become so dependent on, and close to, their chief officers that departmental policies have little challenge, and silos continue. Cabinet members may be chosen for reasons other than their being the best for the job. The system is secretive, in that single party cabinets inevitably hold most of their discussions behind closed doors, and have little incentive to open up discussion or controversy in public. Cabinets are not

⁹ *ibid*, Ch.3

easily held to account. They exclude the majority of the elected councillors from most decision-making, and there is a strong risk that these councillors never fully understand how their council works or what it does.

Options for the Future

Some councils will return to a full system of committees and sub-committees. But probably not many. Most cabinet members, as individuals will see it as a loss of power and responsibility. Senior officers would find themselves attending many more meetings, and more uncertainty. The councillors of today do not expect to be involved in that level of detail, and, with reflection, most would concede that it was not a particularly good use of their time.

It would be possible to move to a system similar to the “fourth option”, with a policy committee and a small number of other committees or subcommittees (for example if children’s services, or adult social care, are council responsibilities, then it is natural to have separate committees for these.) From the Government’s perspective, relatively straightforward amendments to the Local Government Act 2000 would make this possible.

It would be possible to co-opt in, with or without voting rights, key players from the community – broadly those involved in Local Strategic Partnerships or their key committees dealing with crime and disorder, economic development, children, adult services, and the environment. If co-optees are given voting rights, there will be issues about probity and accountability; but those could be addressed if final responsibility for decisions (or decisions involving spending) takes effect only when

they are confirmed at the next meeting of the full council.

There are intermediary possibilities. Thus cabinet members can have advisory committees that meet regularly and consider matters that are subsequently discussed by the cabinet. Some councils use scrutiny committees in this way, though this was not how the scrutiny function was envisaged in the legislation. Information is shared, but the role of the non-executive councillor is not fully satisfactory, because nothing done in their advisory committee is ever final.

Or committees can be set up for specialised purposes, and given delegated powers. Thus under the old system Birmingham had an Arts Committee, constituted as a sub-committee of the four main committees which impacted on the arts: leisure, economic development, education and finance. Its members were nominated to the boards of the main arts organisations supported by the city council. They gained unrivalled expertise over the issues facing these organisations, and were supported by a charismatic Head of Arts. In contrast, in the present cabinet system, the arts is a small part of the very wide portfolio of the Cabinet Member for Leisure. The political input has been diminished and the skills and experience of a range of councillors has been lost. Birmingham could again set up an Arts Committee, and find a way of enabling it to influence expenditure.

Some of the thinking that preceded the Local Government Act 2000 assumed a stronger role for the full council than was enshrined in the eventual legislation. It assumed that cabinets would report to meetings of the full council, and that important decisions would be confirmed by

the full council. It also assumed that the scrutiny process would be more independent of cabinets, seen as part of the function of the full council in holding executives to account, rather than, as it is in most councils, largely freestanding or in the pockets of executives. The legislation gives full councils the power to amend documents which form part of the strategic plan, though few councils use these powers – which makes debates on these strategic documents almost entirely artificial.

With hindsight, the failure to provide more than the minimally necessary powers to the full council was the glaring omission from the 2000 Act. As a consequence, cabinet meetings are often dull and short, and often irrelevant, while most full council meetings have little meaning because few votes affect decisions. The new government should take the opportunity provided by new legislation to revisit the responsibilities of the full council, which should revert, as much as is possible, to its original function as an assembly, or gathering, or parliament, of representatives elected from local areas, with the interests of the wider area at heart, coming together to confirm key decisions and reflect the concerns of their constituents.

The scrutiny process is discussed in a subsequent section of this paper. But here the point can be made that scrutiny committees find it almost impossible to hold a majority party executive to account if they report to the cabinet, and, to have any influence, must maintain a close working relationship with that cabinet.

Their position contrasts with that of the parliamentary select committees who are the creation of the Parliament, report to the Parliament, have powers and staff given to

them by Parliament, whose chairs are elected by backbench MPs from all political parties on the basis of their strengths in the Parliament, and whose independence and integrity is guaranteed by Parliament.

So when the government decides how to legislate, and councils decide whether or not to take advantage of the new freedoms to organise their political managements as they wish, they will have to be aware of both the strengths and the weaknesses of both cabinet and committee systems.

The majority of councils are likely to stay with a cabinet system in some form, e.g. with advisory groups of councillors advising each cabinet member, and with more use of ad hoc or short life working groups. A full scale committee system, as of old, is likely to be seen as wasteful both of councillor and officer time. But some councils, will be attracted by the wider involvement, specialisation and strength in numbers that come with the committee system.

If they go down that road, then the challenge will be how prevent the re-emergence of the silos that often characterised the committee system in the past. This can be done if there is some kind of strong political executive with powers to force departments to work together, probably in the form of a small but effective Policy Committee with the chairs of all other committees as members. This suggests the simple reform, suggested above, of opening the “fourth option”, with its streamlined set of committees, and a continued scrutiny function, to all councils. In terms of Green Paper’s commitment to widen the means by which councils may be governed, this is the most straightforward reform that could be implemented.

3. A wider range of alternatives

The 2009 Green Paper proposed much wider possibilities for experimentation than just a return to the committee system. This part of the paper discusses some of the other ways in which local government can be directed, drawing on discussions from when these were last considered at the end of the 1990s.

All these systems need to find ways of combining political leadership, competent and capable administration, and up to date informed technical knowledge and information. It is unlikely that these will overlap in a single person. Much better to think in terms of three kinds of leadership, or skill, overlapping, with very close day to day personal relationships between those involved.

The Coalition Agreement *Our Programme for Government* included the commitment to “allow councils to return to the committee system, should they wish to”. However, *Control Shift*, the much more detailed “localism” green paper of February 2009, is more ambitious:

Germany, Switzerland and the United States have a high level of devolved political and administrative power built into their systems of government. And while the Labour Government has been determinedly centralising as much power as possible in the hands of Whitehall, much of the rest of Europe has been moving in the opposite direction by devolving more rights and responsibilities to local governments. By decentralising power and control to local communities, countries like France, Spain, Sweden and Denmark have successfully revived civic life.

From this starting point, it offers local government a range of alternative political arrangements that go far beyond a return to the old committee system:

A Conservative government will therefore amend existing legislation to ... allow councils to decide what particular structure they wish to adopt – including a return to the Committee system if they wish. The council will then need to get a democratic mandate by putting their proposed changes to their citizens, either in a referendum to be held at the same time as local elections, or by advocating such a change in the manifesto on which they stand for election.

In recent years, this kind of open thinking has been largely noticeable for its absence. So what kind of alternative arrangements might be possible? What would be their strengths and weaknesses? And what issues do they raise?

In 1996 a House of Lords Select Committee chaired by Lord Hunt of Tanworth called on the Government, as a matter of urgency, to legislate to enable local authorities to experiment with alternative forms of internal management arrangements. The 1997 general election came before John Major’s government could act on this. But in 1998, with support from the newly elected Labour government, Lord Hunt introduced the Experimental Arrangements Bill which offered councils “new possibilities as time limited experiments”. “Volunteering authorities” would be able to try out a range of decision taking models including:

- **a formal single party advisory committee**, that would make recommendations to the authority as a whole;
- **a lead member system**, with responsibilities delegated to individual councillors, but not collectively to an executive committee;
- **a single-party executive, or cabinet**, with executive responsibilities delegated to members both individually and collectively;
- **an executive mayor**, elected either by councillors or directly by the electorate.

The Government would approve each pilot before it was adopted by an authority, but nevertheless hoped that a wide variety of pilots would spring up.

The Institute of Local Government Studies (INLOGOV) was active at the time, and saw its role, as we do now, as one of clarifying the consequences, positive and negative, of a wide variety of possible arrangements. Thus a paper by Professor John Stewart on "*the role of councillors in the management of the authority*" considered an even wider range of possibilities: small directly elected executives of possibly less than ten members elected at large for the area of the authority; strong mayor systems where a mayor is directly elected and appoints his own executive (as in parts of America), or mayors elected by the council from their own members, as in France. It pointed out that an executive could be an individual, a group responsible collectively, or a group of individuals each with special powers, and that in some systems, e.g. in many parts of Germany and French *communes*, a leading politician also heads the administration, with the legal and financial responsibilities and risks that invokes. It

also suggested that proportional representation would be appropriate for local government in the UK.

Unfortunately for the debate in the UK, the enthusiastic encouragement of a wide variety of time-limited experiments in 1998 proved as fleeting as the English summer, and before the parliamentary summer recess, the White Paper, *Modern Local Government: In Touch with the People* switched to a more authoritarian tone and proposed only three alternatives - the two forms of directly elected mayor and a leader/cabinet system - which were eventually enshrined in the Local Government Act 2000.

All of the above are interesting possibilities, and most operate somewhere in the world. There is no space here to consider all of them. But to contribute to the debate in the spirit of the Green Paper, the sections which follow bring out some of the issues raised by just five possibilities:

- **the French system**, where a *maire* is chosen by the councillors but also heads the administration;
- **directly elected commissioners;**
- **a very small council acting as a cabinet;**
- **strong mayor systems**, as in some US cities;
- **mayors and council managers.**

There are reasons for choosing these. Eric Pickles has suggested that the duties currently undertaken by chief executives could instead be undertaken either by a Leader or Mayor, or by other officers. This is close to the French system, though in discussion he used an example from Nordrhein Westfalen in Germany.¹⁰ The

¹⁰ Eric Pickles, speech at the Local Government Association Annual Conference, 6 July 2010, and

Government is proposing that police authorities be headed by a directly elected politician; it is a small step from this to electing a small cabinet to run the public services in an area. The Coalition Agreement is proposing that a version of the strong mayor system will be recommended to the electors of the 12 largest cities outside London and voted on in referenda (suggesting, incidentally, that the Government may be more favourably disposed to the charismatic leadership of individuals than the distributive and participative leadership of the committee system.) A discussion of council manager systems, which are the norm in small or medium scale local authorities in the USA, and were for a time an option here, allows consideration of the roles of senior officials and their relationships to elected politicians.

French maires

France has more than 36,000 *communes*. It is often stated that the UK has, in comparison, only around 400 councils. But that is to neglect 9,000 English parishes, the majority of which have town or parish councils. Many of the French *communes* are in terms of population similar in size to our parishes. They have most of the powers of our shire districts, with the exception of housing. In practice much of their energy goes into planning and licensing matters, and what we might call economic development or regeneration, which is one reason why most French small towns and villages have retained their character and the quality of their buildings. The important universal services of refuse collection and road maintenance are contracted for by *agglomérations* –

more or less compulsory groupings of small *communes*, at one time facilitated by the prefect (*préfet*), or central government civil servant appointed to overseas matters in an area, but now almost freestanding. In practice a few very large private companies – now multinationals who are also principal contractors for many similar services in the UK – tender for these contracts, and there is concern about whether there is sufficient competition. A *commune* pays its *maire* what it can, which in the case of a very small *commune* will be expenses only, whereas for a larger *commune* it amounts to a salary for several days' work in a week. In most places, the *Maires* are elected by the other councillors. But since, as in our parishes, the councillors are elected for the *commune* at large, and often without much competition, voters normally know who the *maire* is likely to be – often a retired professional or a local grandee. Some *maires* are younger and ambitious, and stand with the intention of serving on the governing boards of *agglomérations* or the higher levels of local government, the *départments* or *regions*, or becoming *deputies* (Members of Parliament) in the French Assembly, meanwhile continuing to hold the other posts, including being their local *maire* – a process referred to as the *cumul du mandats*, which has the advantage of ensuring that senior politicians are extremely well rooted in local politics. There are issues of corruption at local levels, particularly over planning matters, but in small places these are fairly transparent and the French have learnt to deal with the conflicts of interest. They become more serious in big cities where there large financial resources are at stake. In terms of service delivery, the quality is often high, but it is not particularly cheap. Its great strength is that local people are represented by someone who can get things done, either him or herself,

interview with Michael Burton in the Municipal Journal the same day.

or by liaising with officials or politicians at higher levels in the system.

Government by Directly Elected Commissioners

The Government is proposing to require those living in the area covered by a police service to elect a politician who will chair the governing body – which may or may not continue to be called a Police Authority. In principle, the people living in an area could also elect a Commissioner for Children’s Services, and one for Leisure, and Transportation, and so on – and these commissioners could work together, probably with a directly elected mayor, to run the services.

The main problem with this system is that the commissioners may find it hard to work together. They have each been elected to run a service, and it is on that that they will be judged. So they are likely to be extremely hard-nosed when it comes to collaboration. Each will appoint senior executives who broadly share their political views, and the combination can easily lead to entrenched silos, buck-passing, and an inability to deal with the really hard “wicked” issues.

Very Small Councils

Some of these problems are avoided if there is a very small council, elected by the population at large, with the actual responsibilities divided among those elected after the election. The electors vote for politicians proposed by political parties or any other groups (either a formal list system in which each elector votes once for a party list, or, if voting is for individuals, those on more or less official slates put forward by parties).

Systems similar to this are found in some of large US cities, e.g. Columbus Ohio with a population or around a million, where three positions are directly elected (mayor, attorney and auditor) and seven councillors are elected on an at large basis and divide the portfolios between them. If one of them drops out for any reason the others co-opt someone to fill the vacancy until the next election is due. Councillors do not represent wards – which have no direct local representation - nor is there any form of political scrutiny.

Councillors could, theoretically, be elected for much smaller geographical wards, alongside the executives elected at large. They could be given constitutional rights, working as select committees, to hold the mayor and executive to account, but they would have very little power in this role, and probably little access to information. As things stand, the representational role, the right of a small community or suburb to elect local representatives who will look after their interests and lobby for them in circles of power, which is a feature of most central and southern European systems of local government, is absent. The system is also very vulnerable to being taken over by the big party machines, since most voters will have little knowledge of the councillors as individuals, and very local issues play little part in the elections.

Strong mayors

A directly elected mayor, and cabinet members, will want to appoint officials with whom they can work. If there is a change of mayor, or a change of party political control, former officials who have the trust of the new regime will be retained. They have the great advantage of understanding recent history from the inside. But many others will be new, allowing radical changes in policy to take place.

The arguments for and against directly elected mayors have been well rehearsed. On the one hand a mayor is a figurehead for the area, and a spokesperson and advocate in national and international debates. On the other hand there are arguments for more pluralist forms of leadership: a single person cannot represent every group in an area, or every geographical part, or every local organisation, without being overwhelmed, and a mayor who falls out with colleagues, or the central government, is in real trouble. In the UK since 2001, 13 areas have voted for elected mayors, but their experiences have been mixed. The successes are well known; but Doncaster is in special measures, Stoke has given up its mayor, and it is far from self-evident that several of the others are better off with elected mayors than they would have been without. Meanwhile cities such as Manchester and Sheffield, with strong leaders and/or strong chief executives but without directly elected mayors, have succeeded in regenerating themselves and bringing in outside investment.

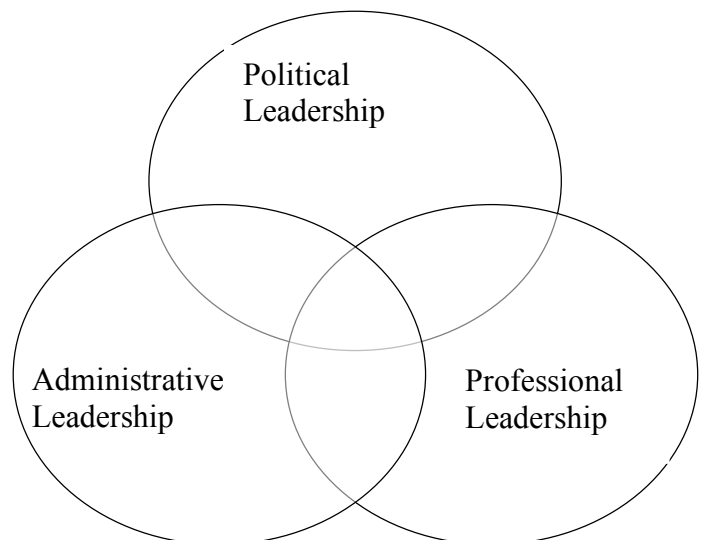
Mayors and council managers

Only one UK area voted for a mayor and council manager, Stoke-on-Trent, and, following its far-from-happy experiences, the last Government removed it as a formal option. On the other hand, in America it is extremely common, especially for the smaller “cities” (in most parts of America, a city is a local authority area with population greater than 10,000, which means that many small suburbs on the edge of, or sometimes within, conurbations are “cities”). In this system, a mayor is elected and gives political direction, but the decision-making powers are in the hands of the council manager and other officials.

A discussion of this system allows consideration of the distribution of power in local government systems. Simon Baddeley’s research over the past 25 years has involved interviews, or in recent years discussions, with successful leaders and chief executives (and other senior politicians and the officials these closely relate to) about the relationships between them.

This research is predicated on there being three roles, or in his words “spaces”: the political, the administrative, and the technical. The political involves taking decisions and taking responsibility for those decisions. The technical, as in accountancy, or law, or town planning, or social care, involves a professional knowledge built up over many years and up-to-the-minute contact with professional development and the latest research; the administrative involves ensuring that matters are conducted properly, that records are kept, that the best people available are employed and supported. These three “spaces” overlap – but for success all three are usually needed.

Figure 1: Leadership in the public sector



The research demonstrates the development of close relationships between the people at the top in successful organisations. Thus a chief executive, in discussion with a leading politician, can put him or herself in that politician's shoes, and appreciate the constraints. The chief executive appreciates that the politician has to win political support before a decision is taken, while the politician will expect the chief executive to do what is necessary to put that decision into effect.

In the UK, from the 1850s onwards, the Northcote-Trevelyan reforms created a civil service where appointment and promotion was by merit rather than by patronage; the political and the executive were separated. The consequence was a civil service outside politics, where civil servants would serve the government of the day, of whatever political persuasion.

Several of the proposals above challenge the principle: French *maires* are politicians who also hold administrative positions; directly elected mayors will want technical and administrative staff who share their political values (though there is little evidence that many of them want to do away with administrative support altogether, and take on themselves the administrative burden of managing an establishment which may run to hundreds or possibly thousands of individuals); the mayor and council manager system makes the division of labour transparent.

It may be that the chief executive role, as distinct from that of "Clerk" or "Head of Paid Service", can be downplayed. In terms of local government history, it is relatively recent – dating from the reforms of 1974 which led to a smaller number of larger local authorities, and the reports of

the 1967 Maud Committee which proposed fewer committees and more delegations to officers and the 1972 Bains Committee which promoted "corporate strategy", bringing together the heads of hitherto separate (and often competing) departments into a single "management team" chaired by the chief executive.

It is correct, as Eric Pickles has pointed out, that the formal tasks carried out by chief executives can be taken on by other senior officers – although whether that will attract the best people to work for that council, or provide the leadership needed to negotiate with leading employers in the private sector and with the government, or to sell a vision for the area, is, to say the least, open to question. It is also highly doubtful that we would wish to go back to the days of powerful chief officers, with politicians who backed them, who protected their own departments but who found it difficult to work with anyone else. The present climate, with severe cuts and reorganisations, and complex negotiations to be conducted with bodies outside the council, is not a good time for managing without a senior and experienced "chief executive" who has an overview of the whole situation, contacts outside the council, and a fine sense of what is legal and financially prudent.

Thus a senior officer, to be effective, has to understand and manage a fluctuating boundary between the political and the apolitical. Being a good officer means being acutely sensitive to the political domain without being drawn into it. Its complement in elected members relates to an equally delicate separation between a robust grasp of managerial work, especially local government finance and law, without interference in operational detail. So long as that separation, and its

accompanying complementarity is practice by all involved, the actual location of the boundary between politics and administration is moveable.

What complicates any re-adjustment of political-management working relations is that, despite the formal rules, fitness for purpose in local government depends on a constantly negotiated *overlap* of political and managerial roles. Senior local politicians and managers describe their working relationship as “a bridge”, “an exchange”, “a blend of political and administrative contributions”, “a trading space” divided by a line that should not be crossed, but, now and then, is. Cheryl Miller’s 2005 SOLACE Commission, which examined the challenges for CEOs of working in a political environment, heard this confirmed by witness after witness – politicians and officers at the top of local government.¹¹ Mouritzen and Svava’s ten year research programme surveying “Leadership at the Apex” in local government’s across the Western world and Australasia¹² – established that it is the combined dynamics, what the SOLACE report called “Leadership United”, of political and managerial spheres of action and their joint relationship to the professional core that offers the best hope of good government – at any level.

Conclusions

There are – allegedly – many ways of skinning a cat, and many ways of

understood and enshrined in codes of organising local government. The discussion above touches on some of these. Some of them emphasise participation and distributed leadership – as in the right of every settlement, however small, in many parts of Central Europe, to have its own council and to elect its own mayor. Or the position in France where there are more than 36,000 *communes*. Or the committee system where decision-making is spread among councillors elected for geographical wards. Others stress the value of concentrating leadership in one or a few charismatic individuals, a directly elected mayor, a strong leader, a small group of politicians elected to form a cabinet. Experiences from around the world show that all these and many other systems can work.

In each there are issues to watch. Any discussion of local government in a complex society has to take into account access to technical expertise, as well as the managerial or administrative skills needed to run large organisations, and the political or strategic direction. If the scale is too small, there are inefficiencies, and very small councils are unable to provide complex services. If the political and administrative spaces overlap too much, there is a risk of inefficiency or corruption, and the situation can be demoralising for senior staff. Strong, charismatic leaders are not always successful: they can be very wrong as well as right, and directly elected leaders are hard to replace. Whatever political structure is chosen, it must also recognise the need for sound administration and technical knowledge and excellence, and make possible close working relationships between the three. Remedies are needed for when leadership breaks down: votes of no confidence, or rights to recall mayors or councillors who do not perform.

¹¹ *Leadership United*, SOLACE Commission, Chair Cheryl Miller

¹² Poul Erik Mouritzen and James Svava, *Leadership At The Apex: Politicians and Administrators in Western Local Governments*, University of Pittsburgh Press, 2002

Thus the proposal in the Localism green paper to enable councils to experiment in the ways they are governed and managed is to be welcomed; but the point of an experiment is to learn from it, to learn what protections and constraints are needed, to learn the conditions under which a system works well, and to play down expectations that the grass is always greener on the other side of the hill.

4. The unrealised potential of Scrutiny

Scrutiny was an intrinsic part of the Local Government Act 2000, the fundamental way in which the new single-party cabinets would be held to account. But right from the beginning it struggled, in the face of control by political parties, the fears of chief officers and cabinet members, and the lack of legal protection for scrutiny in the legislation.

However, it has become part of the system in most places, and very successful in some, though more in terms of policy development than holding to account. This part of the paper concludes that scrutiny should be retained whatever decision making arrangements are adopted, and sets out what is needed to entrench scrutiny more strongly in council constitutions.

In the early days after the implementation of the Executive/Scrutiny split following the Local Government Act 2000 it was hard to find a councillor with a good word for scrutiny:

I felt like I had been relegated, not just by a couple of divisions, but to a different league altogether.

My constituents elected me to participate in decision making, not to be a bystander.

Ten years on, whilst no one would claim that there have been wholesale dramatic conversions there are some significant voices recognising the contribution that scrutiny can make:

Reflecting on the old committee system, I recollect that, apart from the Chairman of the committee, none of us really had any influence over the recommendations and decisions taken.

The Whip just told us what to do.

Scrutiny has given me the opportunity to probe into the background why a recommendation is made and to challenge this if I feel it has not been adequately thought through.

I have at last been able to put Senior Officers on the spot.

Over the last decade the experiences of Overview and Scrutiny have been very mixed. As CPA/CAA inspections have shown, in many Authorities scrutiny has been at best insipid, at worst non-existent. The gap between good scrutiny work and outcomes, and poor scrutiny, has been wide indeed.

When we look at the different reasons for this it is clear that Overview and Scrutiny needs certain prerequisites to be effective:

- It needs an organisational culture which is prepared to accept the legitimacy of scrutiny probing and challenging.
- It needs a level of maturity within the organisation to accept criticism and learn lessons.
- It needs scrutiny to adopt a responsible approach and not just be about point scoring.
- It needs to recognise that you can't do scrutiny by just turning up to a meeting; proper preparation is essential.
- It needs to be appropriately supported and resourced.

When these conditions prevail, as the annual awards given by the Centre for Public Scrutiny demonstrate, positive outcomes can be achieved by scrutiny. This seems particularly to be the case when scrutiny is given the opportunity to help shape policy development.

But, when these positive conditions are not in place it is hardly surprising that scrutiny fails to live up to expectations.

As we now enter a period when it is likely that a more permissive approach to scrutiny might well be taken, with Central Government giving Authorities more discretion, it is important that this is done in as impartial and evidence based fashion as possible.

All councils are different. They differ greatly in terms of size, responsibilities, challenges, the roles and behaviours of political parties, and leadership, especially, as discussed in the previous section, how this is distributed between members and officers. What works well in a big city may be completely impractical in a small rural district.

Local Authorities must, therefore, fashion their relationship between Executive and Scrutiny in the context of what is right for their own Authority. But, this must not be done in a vacuum. Given that current legislation puts decision making firmly in the hands of the Executive then there is the risk that the role of Scrutiny can be emasculated unless there is some statutory guidance and protection for its work. Some steps have already been taken in this direction, for example the requirement for there to be a Statutory Scrutiny Officer in all Unitaries and Counties. This now needs to be built upon around the Government's intention to develop localism. Scrutiny is a powerful

mechanism for allowing local community concerns to be brought forward and, if appropriate, questioned by their locally elected representatives.

Scrutiny is most challenged when it is expected to "hold to account" powerful leaders. It is only in extreme cases that councillors will confront, in public, senior figures in their own political parties. It is much more comfortable to have that kind of debate in the privacy of a party group meeting. And if scrutiny becomes the property of the Opposition, then the Executive will ignore it.

That is one of the reasons why scrutiny works best when it reviews policies, or conducts investigations, often through "short life working parties" or "task and finish groups". This is done using oral hearings or evidence-taking sessions – but also site visits, workshops, web-based blogs or networks, or public meetings. The resulting reports may be critical, but they will also be positive and point the way ahead, and as such will be welcomed and adopted by Executives, or taken into account in their own reviews. That is the way that scrutiny has most influence, looking into a small number of topics in depth, and making proposals for improvement.

This is similar to much of the work of the Parliamentary Select Committees, and, like them, it depends on good quality officers or clerks who will take the evidence and put it into a clear draft report, to be understood, fine-tuned and then adopted by the scrutiny councillors.

There are times when scrutiny committees get involved in issues of immediate concern – when they ask the relevant cabinet member to come and answer questions about a current crisis, or "call in"

a decision which has just been taken by the Cabinet. But as things stand at present, if this becomes too confrontational the Cabinet can walk away, and the scrutiny members can only take matters so far.

The contribution of scrutiny must also be firmly placed, not just in the context of its own Authority's governance arrangements, but also in the increasingly important complementary work of its Partners. Whether it is through 'place-based solutions' or other local strategic, partnerships, scrutiny has a key role in ensuring that policies add value to one another and are not a series of fragmented initiatives.

It is currently anticipated that significant changes will be made to a number of Partner Services for example Health and Police Services. It is imperative that any new structures do not confuse and mix up the respective roles. To provide community-respected independent challenge it is essential that there is a clear delineation between those who are the decision takers and those who are expected to scrutinise and challenge those decisions with impartiality.

It is also important to remember that one of the criticisms of the "old" committee system was its sometimes obscure and bureaucratic nature with high maintenance costs. At a time when the Public is very sensitive to the cost of MPs' and Councillors' expenses it is important that any return to Committee arrangements is not viewed as a cost increasing exercise.

So when the government legislates, it should endeavour to strengthen the scrutiny function. This could be done at the same time as giving enhanced powers and responsibilities to the full council, as

the parliament for the area, because scrutiny should be constituted as an arm of the full council, just as the select committees are arms of the national Parliament.

It would also be an opportunity to put in place a requirement that Scrutiny chairs should be elected by the full council, on the basis of party proportionality, just as the chairs of the select committees are now elected by the House of Commons.

Above all, whether or not councils choose to conduct their affairs through committees, they should be required to retain the scrutiny function and to resource it appropriately. For committees, or for that matter cabinets (and cabinets are, in the last resort, just single party committees), covering long and complex agendas based on the most positive approaches to what they want to do, are no substitute for the analysis of an issue or service in depth which can be the subject of a scrutiny investigation, and where an input from politicians can bring out choices and alternatives that otherwise might never see the light of day.

5. Some Conclusions

This is a short paper.

Its conclusions are inevitably superficial, and in some ways provisional.

Its purpose is to start from the ambitious commitments of the Coalition Agreement in relation to local government, and the even more ambitious ideas of the 2009 “Localism” green paper, and to show some of the avenues where these ideas may lead, and some of the pitfalls which might arise on the way.

The Government will legislate, and even before its legislation has completed its stages through parliament it may well encourage experimentation. The early experiments will define what is practically possible, and those who pioneer will learn from their experiences. Above all they will want to make decision-making as local as it can be, as responsive as possible, and as efficient as possible.

If anyone who reads this wants to take the ideas further, we hope they will come back to us at INLOGOV. We have been studying council structures and reorganisations for more than 40 years. We can provide explanations, and advice, either informally or on a consultancy basis. We can draw on work done on these matters in the past. We can recruit individual advisors, or a team that will work through ideas with you.

For discussion of any of the ideas in this report, please contact:

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