

The State of Accountability in 2013



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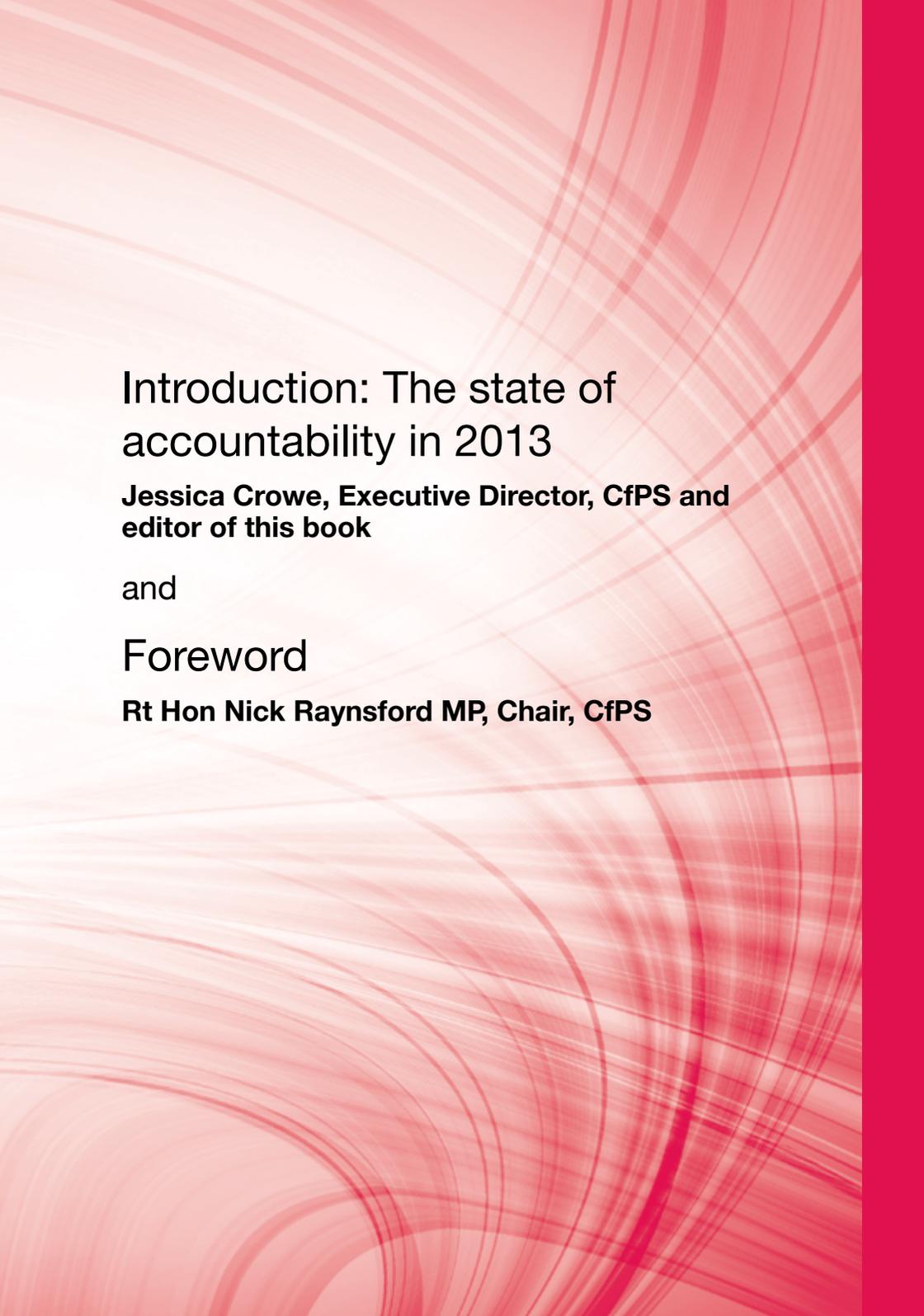
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Introduction: The state of accountability in 2013

**Jessica Crowe, Executive Director, CfPS and
editor of this book**

and

Foreword

Rt Hon Nick Raynsford MP, Chair, CfPS

Introduction: The state of accountability in 2013

Jessica Crowe, Executive Director, CfPS and editor of this book

I'm delighted to introduce this collection of essays commissioned for the Centre for Public Scrutiny's 10th anniversary. They are a powerful reminder of why the Centre exists and why public scrutiny and accountability are more important now than ever. I am struck by the fact that despite all our excellent authors coming from a wide variety of disciplines, sectors and backgrounds, there is a powerful commonality in the arguments that they make. Our Chair, [Nick Raynsford MP](#), highlights in his opening contribution the potential for a collection such as this to enable cross-fertilisation and learning between sectors and different tiers of government. Nick also provides a parliamentarian's perspective on the importance of keeping our public institutions – and their scrutiny and accountability arrangements – up to date and responsive to new challenges created by our changing environment.

In editing the collection, I have grouped the essays into three sections, covering themes which together sum up the challenges and opportunities facing those of us interested in accountability and good governance – specifically in England although with relevance for other jurisdictions too – today:

- Clarity – defining and translating concepts into practice
- Communication – building dialogue between the public and public services
- Complexity – accountability across the public, private and voluntary sectors

Clarity

[Tony Wright](#), the Centre's first Chair, provides an opening challenge asking what kind of accountability we want. Simply calling for "more" accountability is too woolly and could result in the "wrong" kind of accountability, damaging relationships between those held to account and those holding to account. Tony argues that three things are necessary for good scrutiny, good accountability and good government: requiring an explanation, weighing evidence and ensuring consequences.

Jane Martin and Joanna Killian both emphasise the importance of organisational culture and leadership responsibility to secure “good” accountability and improve services. Willingness to listen AND hear is crucial as service planning and delivery becomes more complex. This is starkly illustrated by Robert Francis’s recent Inquiry and report about the governance, delivery and accountability failure at Mid-Staffordshire NHS Trust, demonstrating that accountability cannot be viewed as ‘red-tape’ getting in the way of professionals doing their job. Being genuinely transparent and accountable underpins what it means to be a professional and a leader in the public service. In fact, these are not concepts restricted to the public sector or public services, so our essays will go on to explore what they mean in a range of different sectors and services.

Councillors Sir Merrick Cockell and Rob Garnham remind us of the 13 year journey of local government scrutiny:

- looking outwards not just inwards
- forward looking not just historical
- area based not just council based
- in the community not just committee rooms, and crucially
- listening to experiences not just looking at inputs.

Scrutiny is at the heart of all councillors’ roles – on council executives, in overview and scrutiny committees or as frontline councillors acting as community champions – and must be about ensuring outcomes for local people. These practically focused pieces reinforce Tony Wright’s argument for mutual respect and responsibility in the accountability process, to secure the right kind of scrutiny, not necessarily just more of it. Responding to public demand and a local mandate, scrutinising where there are genuine prospects for influence and tailoring the approach to the subject will help make scrutiny fundamental to the task of rebuilding public trust in politicians and politics.

Communication

A free press is often championed as a crucial check and balance on power, but Brian Cathcart’s piece provides a powerful indictment of a press culture that lacks responsibility alongside its own power and influence. He describes the Leveson inquiry in terms that resonate with scrutiny – giving people a voice to share their experience, weighing evidence about real life experience against theory and principles, and making recommendations to re-balance power and accountability.

Teresa Perchard picks up on the issue of people's experience of public service and how they are treated when they try to get problems resolved. She emphasises the role that local advocacy, based on listening to and learning from people's real experiences in communities up and down the country, can play in actively empowering and strengthening accountability to consumers.

Richard Vize and Catherine Howe discuss the contribution of social media, new technology and the internet to public accountability, looking towards a different kind of "networked accountability". The rise of "hyperlocal" bloggers enables the "personalised impact of the big idea" to be explored in a way that gets more under the skin of policies and service delivery than traditional journalism ever could, even before the decline of the local paper. Qualities and behaviours which are inherent in the online world – speed, meritocracy, creativity, openness, networks, collective action – need to be embraced by government to enhance our ailing traditional democracy.

Digital scrutiny, with the public (consumers, victims, service-users, residents, communities) able to set the agenda and use a range of data to help weigh evidence, could provide a good way to start to change our democratic culture to better reflect the online world and increase public trust. Again, communications must be two-way – "the need for more effective listening goes hand in hand with open data" – and more does not necessarily mean better. The quality of communications, information and scrutiny is more important than the quantity – and leaders being prepared to listen and act on what they have heard comes through strongly in the essays in this section.

Complexity

Our essays demonstrate the rapid pace of change, the growing complexity in service delivery and the development of new governance models across public services – not just the public sector but in the widest sense i.e. services that the public use. This poses challenges for accountability but also opportunities for new thinking and collaboration across silos of policy and practice. Paul Hughes, Sir Michael Marmot, Rick Muir and Mark Burns-Williamson all explore the implications for political, professional and managerial behaviour in different public services of "shifting the boundaries of the relationship between the individual, communities and the state".

Despite various processes and schemes for performance management and governance across all our public services, as Paul argues, “if the culture doesn’t support good governance, process redesign will not fix it”. They all highlight tensions created by recent reforms but also common and growing policy trends nationally and internationally towards a learning form of accountability through collaboration, partnership and a focus on outcomes for people and communities. Echoing the conclusions from the essays in our middle section on the importance of listening in a healthy democracy, Michael Marmot quotes Amartya Sen:

“democracy has to be judged not by the institutions which exist but by the extent to which voices from diverse sections of people can actually be heard”.

Across the key public services of health, education and policing there are striking links and similarities in the importance of effective accountability in achieving the social outcomes that government wishes to see. A growing body of evidence demonstrates that social inclusion and healthy democracy are key to improving the “social determinants of health” because they enable people to gain a voice and take control and responsibility for their own lives. The trend in education internationally to more collaborative and learning-based accountability – not ever more punitive forms of performance management – echoes Francis’s call for whole system care for patients. The drive for individual, personalised accountability in policing with the introduction of Police and Crime Commissioners still requires collaboration, openness and relationship building if it is to succeed.

Finally, Jim Clifford, Adam Phillips and Jim Bligh remind us about the importance of an accountable culture, regardless of structures or sectors. The charitable and voluntary sector, increasingly providing public services, has long historical origins in the concept of public benefit. Echoing moves in corporate reporting and accountability, the voluntary sector should express its work through “interpretive accountability” not “boilerplate compliance” – telling stories not just reporting data to demonstrate the difference it is really making to all its stakeholders. Across all sectors, ethical leadership, transparency and a culture of self-policing accountability to consumers is crucial to foster innovation and learning, and because strong competition coupled with weak regulation may risk driving down standards and consumer confidence – and the economy and growth will suffer.

Conclusion

These essays demonstrate that public accountability is even more important to the success of our society and economy than when the Centre was founded back in 2003. There may be powerful forces against good scrutiny, good accountability and good government – resistance of people with power and influence to challenge; lack of response, learning or improvement when individuals or communities suffer – but we should be optimistic about the future of accountability. Our essays point to:

- the power of new technology to drive a different and more open culture;
- trends in public service reform towards more shared learning and collaboration; and
- a growing body of compelling evidence for the pressing need to restore trust in institutions shaken by governance and accountability failures – from Savile and phone-hacking to Hillsborough, Mid-Staffs and Libor.

If the Centre has learnt anything over its ten years' experience, it is that structures, procedures and regulation cannot make people own a sense of accountability. These are mechanisms through which people and organisations express their values. So accountability has to be cultural, in the DNA of individuals, organisations or sectors – the way they do business, the expectations they set and how their people are rewarded, in reputation as much as financially.

A lesson I have drawn from editing these essays – and something which it is possible for us to contribute to because of the Centre's unique cross-sector experience and position – is the need for more cross-sector learning. If trends in education are towards a more formative, learning-based accountability, what can local government – which urgently needs to breathe new life into its reliance on accountability through democracy – learn from this? If new technologies provide opportunities for a different, more transparent and inclusive culture in local government, what does this mean for healthcare provision and indeed our financial services system? And how can the public feel a greater sense of connection to all our public-facing institutions – something which can surely only come from those who currently have power in these institutions recognising their responsibility to exercise it responsibly and with an eye always on the end-user?

I think our essays issue a powerful call to all those planning, commissioning, monitoring or providing services to the public to restore a sense of collective responsibility. Some used to call this the “public service ethos” but the complexity of new relationships between citizens, the state and all points in between requires that this be modernised. We are not calling for a return to a mythical public sector golden age. Explicitly incorporating values of accountability, transparency and inclusion will provide all services used by the public – regardless of the sector or provider – with the clarity, emphasis on two-way communication and ability to respond to complexity that our essays have highlighted – today and in the future.

I would like to conclude by thanking our sponsor, accountancy, audit and business advisory firm Baker Tilly, whose generosity has made it possible for us to publish this collection. I also need to provide the usual disclaimer that all views expressed are those of the individual authors, and do not constitute the views or policies of CfPS, unless explicitly stated in this introduction. However, I would like very much to thank all of our contributors for giving us the benefit of their combined wisdom and experience and contributing such a fantastically rich collection of essays. I hope you enjoy reading them as much as I have enjoyed editing them, and I look forward to the Centre for Public Scrutiny continuing to thrive for another ten years and more.

Jessica Crowe is the Executive Director of the Centre for Public Scrutiny, a government-appointed Intervention Commissioner in Doncaster, and a former councillor in the London Borough of Hackney.

Foreword

Rt Hon Nick Raynsford MP, Chair, CfPS

The Centre for Public Scrutiny is 10 years old. Looking back a decade, it is difficult to avoid the conclusion that CfPS was the product of a much more optimistic climate of opinion than today's. At the start of the new millennium it was expected that the extension of transparency (Freedom of Information Act 2000) and scrutiny (Local Government Act 2000) would contribute to better and more accountable government, centrally and locally, and enhance public trust and confidence in our democratic structures and public institutions. Fast forward 10 years and the picture looks very different. A series of scandals and exposés have rocked many of the country's leading professions. It hasn't just been the usual suspects. The media and politicians have certainly had their fair share of unwelcome publicity. But so too have the banks, the police, the NHS, the armed forces, social services and a raft of other bodies that might traditionally have expected to be held up as shining examples of probity and good practice. Insofar as it is possible to rely on polling data, the evidence suggests a serious decline in public confidence not just in politicians, but in many of our leading institutions.

Too much scrutiny? Don't shoot the messenger

Far from leading to enhanced trust and respect for democracy and those in public life in Britain, the promotion of transparency and the extension of scrutiny appears to have coincided with a sharp fall in public esteem. This in itself is a sobering reality check. But is there a causal link? Is it the case, as some former supporters of the reforms seem to believe, that the enhanced opportunities provided by Freedom of Information and extended scrutiny have had malign consequences, opening the door to malicious muck-raking and destructive attacks on the institutions which should form the bedrock of our society? Or might it be that the more sceptical climate of opinion in which we live today is the product of other forces, not just in this country but worldwide? Certainly the explosive influence of new technology and social media has played a part. So has the continuing erosion of traditional deference to those in authority.

And might the behaviour of powerful individuals and groups have contributed to declining public confidence in them? There is a real danger that we draw the wrong conclusions and blame the messenger rather than the message. If some MPs had not been tempted to fiddle their expenses and some police officers had not thought it acceptable to take money from journalists or fabricate evidence, these malpractices would not have been there to be exposed.

Nor should we lament the difficulty of holding public office in an age which is less forgiving of personal weaknesses than in the past. Lloyd George and Churchill, whose foibles might have caused them greater embarrassment today than a century ago, no doubt themselves looked back enviously to the 18th century when sexual indiscretions and intemperate drinking among holders of high office would have been expected if not actually applauded. Individuals and institutions have to operate within the climate of their times. So while we may regret the tendency of some bloggers and newshounds to go searching for incriminating evidence under every stone, we have to accept that this is part of early 21st century life. The genie cannot be put back in the bottle.

Instead we have to focus on how to develop the processes of scrutiny and the mechanisms by which we hold our leaders and institutions to account to best effect. Scrutiny, transparency and accountability are fundamental to a properly functioning modern society. The challenge is to improve and refine the ways in which they are carried out so they have the most positive impact.

This brings us back to this collection of essays. By their very nature, they present a range of different perspectives. So they are not a 'blueprint' for the future. However a number of key themes emerge, as Jessica Crowe highlights in her editor's introduction. The tone is set brilliantly from the outset by my predecessor as Chair of CfPS, Tony Wright, when he rightly emphasises the need to focus on better scrutiny rather than just more information. As he and other contributors stress, there is a world of difference between effective scrutiny and a blame culture. Good scrutiny has to be about improving outcomes not just the process. It has to be about creating a positive culture, not just box ticking. It has to enable the public to play a role rather than merely observe a process being performed by others. If we get it right, and this collection of essays helps point us along some of the routes we need to go down, the outcome should be that elusive goal of greater public trust and confidence in our democracy and our institutions.

Nowhere is this more important than in Parliament. Here we face a dual challenge. The first is to put behind us the corrosive era that was symbolised (and book-ended) by cash for questions and the expenses scandal. These will continue to cast a long dark shadow over the reputation of Parliament, but we know the remedies – transparency and a culture of probity. More problematic, not because the issues are as toxic, but because there are less obvious solutions, are a series of questions about how Parliament can function more effectively, particularly in its relationship with government and other tiers of government, including local authorities. There are five challenges in particular which I would highlight.

Parliament's role in holding the executive to account

First is the perennial question of how Parliament can best hold the executive to account. This is more difficult to resolve than it might first appear because of the long-established convention that the government must be made up of members of the two Houses of Parliament. This inevitably creates potential conflicts of interest where back-bench MPs or Peers may feel reluctant to push their criticisms to the point of voting down the policy, if that might endanger their own prospects of promotion or even their or their party's survival. Some progress has been made through the development of Select Committees, which have on occasion shown an admirable determination to pursue scrutiny ahead of partisan interest. But few parliamentarians can feel entirely comfortable with existing arrangements in which governments can still too easily override unwelcome scrutiny with the help of the Whips.

A related issue, which has temporarily gone on the back-burner, but will almost inevitably emerge again in future years, is the extent to which the Prime Minister, when forming a government will wish to supplement the talent pool within Parliament, by bringing in outside experts. The GOATs (Government of all the Talents) as they were unkindly described during the 2007-10 Gordon Brown government, did not, despite individual successes, make a sufficient impact overall to merit an extension of the experiment, which in any case threw up a real constitutional dilemma. In practice the only option for a Prime Minister wishing to bring outside experts into government is to secure them a berth in the House of Lords: if applied more extensively, this would reduce the number of ministers in the elected House, posing different but very serious issues of accountability.

Better scrutiny of legislation

Second, is how to extend the real advances made through the Parliamentary Select Committees to the more traditional processes still adopted for the scrutiny of legislation. There have been some improvements in the way in which Parliament examines Bills, notably the introduction of pre-legislative scrutiny and evidence sessions at the start of Public Bill Committee stages. But these relatively modest changes have not yet achieved the necessary impact in improving the quality of legislation and ensuring that government is held properly to account for inappropriate or ill-drafted Bills and Statutory Instruments. The latter in particular pose a huge problem because of their volume and the tendency of ministers and civil servants to make inappropriate use of order-making powers (including the so-called Henry VIII clauses) permitting sweeping changes in legislation without detailed Parliamentary scrutiny. We have also made insufficient progress with ensuring effective post-legislative evaluation and impact assessment. As a consequence, many potentially valuable lessons on why specific Acts of Parliament failed (or succeeded) in meeting their stated objectives have not been learned.

Accountability and responsibility of the civil service

The third challenge is how to ensure that senior civil servants are held properly accountable for matters which are their responsibility without undermining the fundamental doctrine of ministerial responsibility. Ministers must remain responsible overall for government policy, but the era of Crichel Down, when a minister felt he had to resign over an administrative decision of which he had no knowledge and certainly no control, has long since passed.

However there are serious risks in seeking to make civil servants more directly accountable to Parliament, including blurring lines of responsibility, undermining the ethos of an impartial civil service there to serve the government of the day, and providing an easy opt out for ministers seeking to avoid criticism. Recent incidents involving the Home Secretary and senior staff in the UK Border Agency, and the Secretary of State for Transport and civil servants responsible for the West Coast Main Line franchise failure, highlight the risks of a blame culture developing where lines of responsibility are either unclear or not accepted by all parties. This is an area where the words 'tread carefully' need to be displayed prominently, but not to the point where they block reform.

Accountability in complex service delivery partnerships

Fourthly, we need to recognise that the much more diverse pattern of public service delivery, in which a range of private and voluntary sector agencies are involved in areas which previously were the preserve of the public sector, requires changes in the way in which scrutiny operates. Not only should those responsible for delivering specific services be answerable directly for their performance, but the complex partnerships that are increasingly being created must not be allowed to provide easy channels for concealing unwelcome or embarrassing information. The mantra of 'commercial confidentiality' can too easily be deployed to shield details of financial arrangements which would never be allowed the cloak of secrecy in a purely public sector procurement process. As such partnerships are likely to continue to feature prominently in the coming years, we need to develop clear protocols and understanding about where responsibilities for reporting lie, and which partner is to be accountable for each part of the arrangements. None must be allowed to disappear 'off-limits' or fall between the cracks.

Scrutiny and accountability are not barriers to devolution

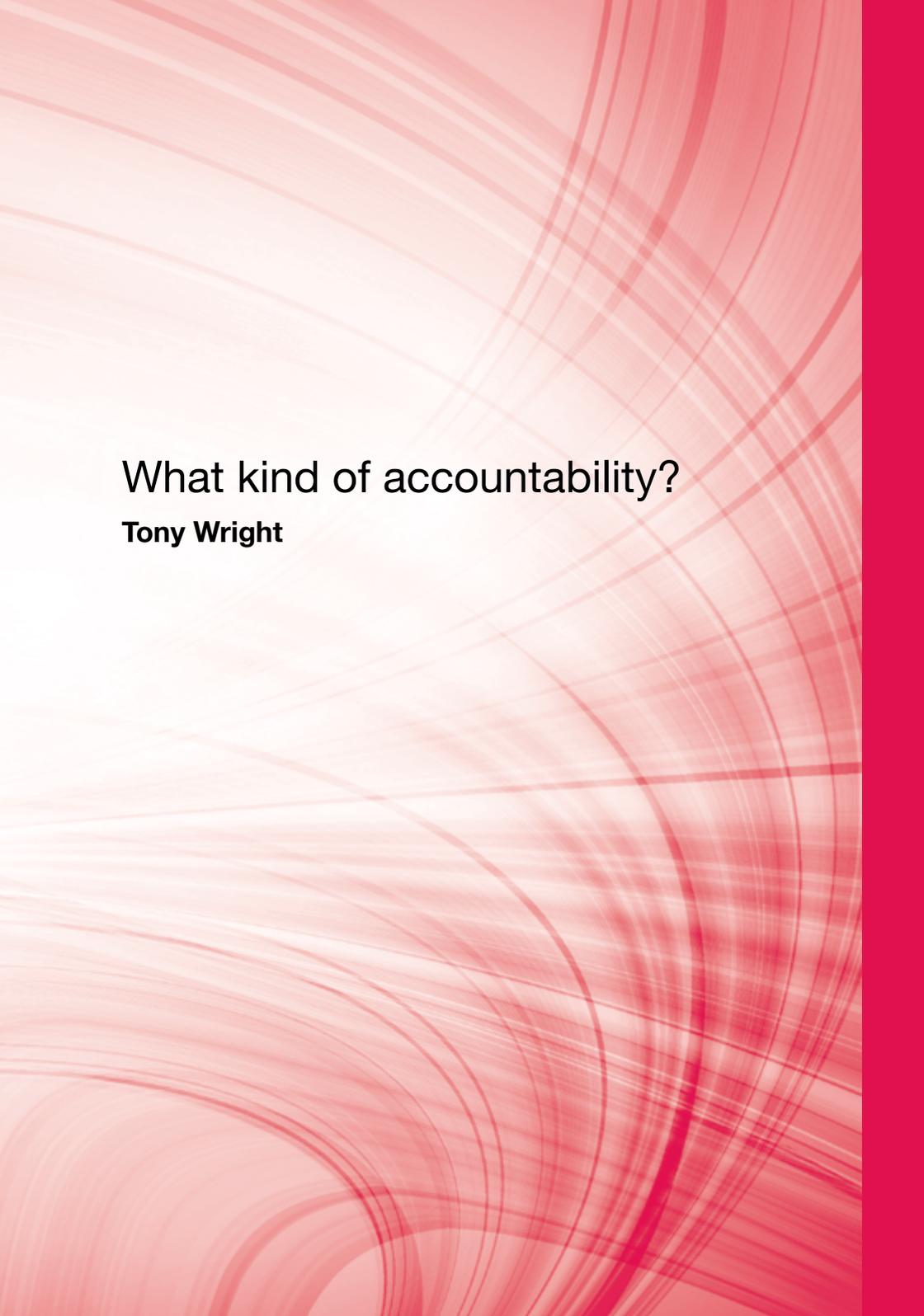
Fifthly we need to beware the danger that scrutiny and accountability can be used as reasons for opposing devolution or delegation. We live in one of the most centralised states in Europe where efforts to devolve powers to a local level are often thwarted, not just by those with power at the centre holding on to it, but also by the insidiously persuasive argument that without being able to control the levers, it will be impossible for the minister (or civil servant) to deliver the outcome for which they are held accountable. As Local Government Minister in the early 2000s, I was constantly told by colleagues in other government departments that while they understood my wish to allow more discretion for local decision making, this would make it more difficult if not impossible for them to meet their targets, whether in education, personal social services, refuse collection and disposal, environmental or leisure services. Accountability for meeting nationally set targets or aspirations was regularly deployed as a reason for resisting greater devolution of power or resource.

Nor is this just a central government problem. Local authorities can argue just as powerfully against devolving more power or money to neighbourhood bodies, tenants and residents' associations, parish councils or other local groups, on the grounds that this would potentially restrict their ability to deliver services to the whole community or guarantee the proper use of funds for which they are accountable. Of course devolution of powers or resources must go hand in hand with appropriate accountability, but if we are to become a less centralised state, we must resist the temptation to use scrutiny and accountability as an excuse for not letting go.

Conclusion

One of the real benefits of a collection of essays from a range of different perspectives is the scope for cross fertilisation. Lessons from one area of activity can help drive advances in others. Experience from one tier of government can inform developments in others. I hope that this collection will help prompt that process of sharing and learning from the experience and insights of others. It certainly demonstrates that there is a wealth of expertise and a healthy appetite for innovation among those actively involved in scrutiny today. At CfPS we will draw on the contributions in this volume and the responses which they will hopefully elicit from others to inform and shape the agenda and priorities for our second decade.

Nick Raynsford is MP for Greenwich and Woolwich, a former Local Government Minister and Chair of the Centre for Public Scrutiny

The background of the slide is an abstract pattern of overlapping, wavy lines in various shades of red and white. The lines are curved and flow across the frame, creating a sense of movement and depth. The colors range from light, almost white, to deep, vibrant reds.

What kind of accountability?

Tony Wright

What kind of accountability?

Tony Wright

The problem with accountability is that everyone is in favour of it (or say they are). It has become one of those warm glow words that make people feel better just by saying it. Hardly a day goes past without a demand that somebody should be 'held to account'. Along with this goes the assumption that, as accountability is a good thing, then more accountability will be an even better thing.

I want to challenge this kind of lazy thinking. I do this as someone who has spent a political lifetime arguing, on a number of fronts, for more effective accountability. When we set up the Centre for Public Scrutiny our mantra was 'better scrutiny for better government'. This implied that there could be good and bad scrutiny and that only good scrutiny would contribute to good government – and that both could, and should, be better. It is this perspective that I want to reclaim here.

Accountability is an umbrella word. Sheltering under it is responsibility, answerability and much else, which can make it a linguistic and conceptual minefield. For example, civil servants are said to be 'accountable' to ministers while ministers are said to be 'responsible' to Parliament.

The practical difficulties with this are evident. It is best not to get bogged down in these nice distinctions and concentrate on the core idea. This is that those who exercise power need to account for it to those on whose behalf it is exercised. That is what makes it a basic ingredient of democratic government. Moreover this accounting should not be merely episodic, as with an election, but form part of a continuous process.

This is why accountability was installed by the Nolan Committee (on Standards in Public Life) as one of its seven principles of public life in its first report in 1995:

'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'.¹

Quality not quantity of accountability

So scrutiny is the key mechanism that makes accountability work. But what is 'appropriate' scrutiny? And who decides? Is it possible to have too much accountability as well as too little? Accountability to whom exactly? And for what? It is only necessary to start asking such questions to see that it is not enough just to proclaim that accountability is a good thing and that there should be more of it. The quality, not merely the quantity, of accountability matters.

Those of us who press the case for effective accountability have a particular responsibility to ask some tough questions about it – and to confront some difficult evidence. I do think that it is possible to have forms of accountability that are disproportionate, inappropriate and poorly undertaken. For example I recently joined the board of the Independent Parliamentary Standards Authority (IPSA) and found that in the organisation's first eighteen months it had been subjected to reviews by the Speaker's Committee on IPSA, by the National Audit Office and Public Accounts Committee, and by a specially revived Committee on Members' Expenses. This is completely over the top and massively distracts the new regulator from getting on with its job. Such accountability overkill does not contribute to good government. If the parliamentary expenses scandal revealed the problems caused by the absence of effective accountability, this demonstrates the malign consequences of having an excess of it.

Nor is it the case that the advances in accountability in recent years (more scrutiny bodies doing more things) have produced the increase in trust that some of us confidently predicted. If anything the reverse has been the case. More accountability has been accompanied by further decline in trust.

¹ Lord Nolan, First Report of the Committee on Standards in Public Life, HMSO 1995

Perhaps this is because scrutiny exposes what was previously concealed from view, thereby causing more dissatisfaction and distrust. Or it may be that the process itself can erode trust, as would happen if a parent demanded to know from teenage children everything they did at every moment of the day. Certainly there are those professionals who work in public services who believe that this is the case, as the process requirements of accountability sometimes seem to be more important than the purpose of the activity itself.

The wrong kind of accountability?

This was the issue identified some years ago by the philosopher Onora O'Neill in her notable Reith Lectures:

'In the very years in which the accountability revolution has made striking advances, in which increased demands for control and performance, scrutiny and audit have been imposed, and in which the performance of professionals and institutions has been more and more controlled, we find in fact growing reports of mistrust. In my view these expressions of mistrust suggest that just possibly we are imposing the wrong sorts of accountability'.²

Her remedy for the excesses of micro-accountability was what she described as 'intelligent accountability', which meant that 'those who are called to account should give an account of what they have done and of their successes and failures to others who have sufficient time and experience to assess the evidence and report on it'. This is similar to Robert Behn's call (in his Rethinking Democratic Accountability) for seeing accountability as being 'more about the mutual responsibility of everyone in the entire accountability environment to everyone else'.³

It also means not confusing accountability with just finding someone to blame. Holding to account is not the same as hanging someone out to dry. It is always frustrating when, especially if something has gone wrong, there seems to be no clear line of accountability to enforce any kind of responsibility. Inquiry reports routinely identify this as a problem. Thus Lord Laming's report into the death of Victoria Climbié concluded that:

'The single most important change in the future must be the drawing of a clear line of accountability, from top to bottom, without doubt or ambiguity about who is responsible at every level for the well-being of vulnerable children'.⁴

2 Onora O'Neill, BBC Radio 4 Reith Lectures 2002

3 Robert D Behn, Rethinking Democratic Accountability, Brookings Institution Press, 2001

4 Lord Laming, the Victoria Climbié Inquiry report, HMSO 2003

Yet when, following the death of Baby P, and in a climate of media and public outrage, minister Ed Balls enforced the resignation of Sharon Shoesmith as Director of Children's Services in Haringey, the Court of Appeal ruled that this had been the wrong kind of accountability. Giving judgement, Lord Justice Kay said:

'I find it a deeply unattractive proposition that the mere juxtaposition of a state of affairs and a person who is 'accountable' should mean that there is nothing that that person might say which could conceivably explain, excuse or mitigate her predicament. 'Accountability' is not synonymous with 'Heads must roll'... Accountability requires that the accountable person is obliged to explain the state of affairs to which it attaches. The corollary is that there must be a proper opportunity to do so. If the explanation is unacceptable, then consequences will follow'.⁵

So accountability is not as straightforward as some of the daily political rhetoric might suggest. In particular we need to focus far more on getting the right kind of accountability and to ensure that we have the sort of scrutiny that really does contribute to good governance. This applies to Parliament too. There is no doubt that the development of the select committee system has greatly improved the scrutiny function of Parliament. Recent changes involving the election of chairs and committee members have strengthened the system further. However this does not mean that there is no room for improvement. The fact is that select committees vary considerably in their effectiveness and impact. Some are too inclined to chase headlines instead of getting stuck into the hard grind of detailed scrutiny of departments; and often different committees engage in an unseemly scramble to get a share of the accountability action and attention around issues in the news. Some of the questioning is unfocused and chaotic, when what is needed is something sustained and forensic. The need to grab attention on the part of some committee members, even if this means being unpleasantly rude to those giving evidence, too often takes precedence over being effective.

5 Lord Justice Maurice Kay, Court of Appeal Judgement on the case of Sharon Shoesmith vs Ofsted and Others, 2011, para 66

Nor is the current demand in some quarters for civil servants to be more accountable to Parliament without its own difficulties. It is clearly unsatisfactory when accountability seems impossible to pin down in any precise way (as with the recent fiasco surrounding the West Coast Main Line franchise), and it is right for Parliament to want to know as much as possible; but this does not necessarily mean that it serves the cause of good government to enforce the public accountability of individual civil servants. If this was to lead to civil servants becoming more concerned to protect their own backs, rather than giving disinterested service to ministers, it might be a gain for accountability but it would be a loss for good government. Here again the demand for 'more accountability' turns out to be more problematic than it might seem at first glance.

The wrong kind of transparency?

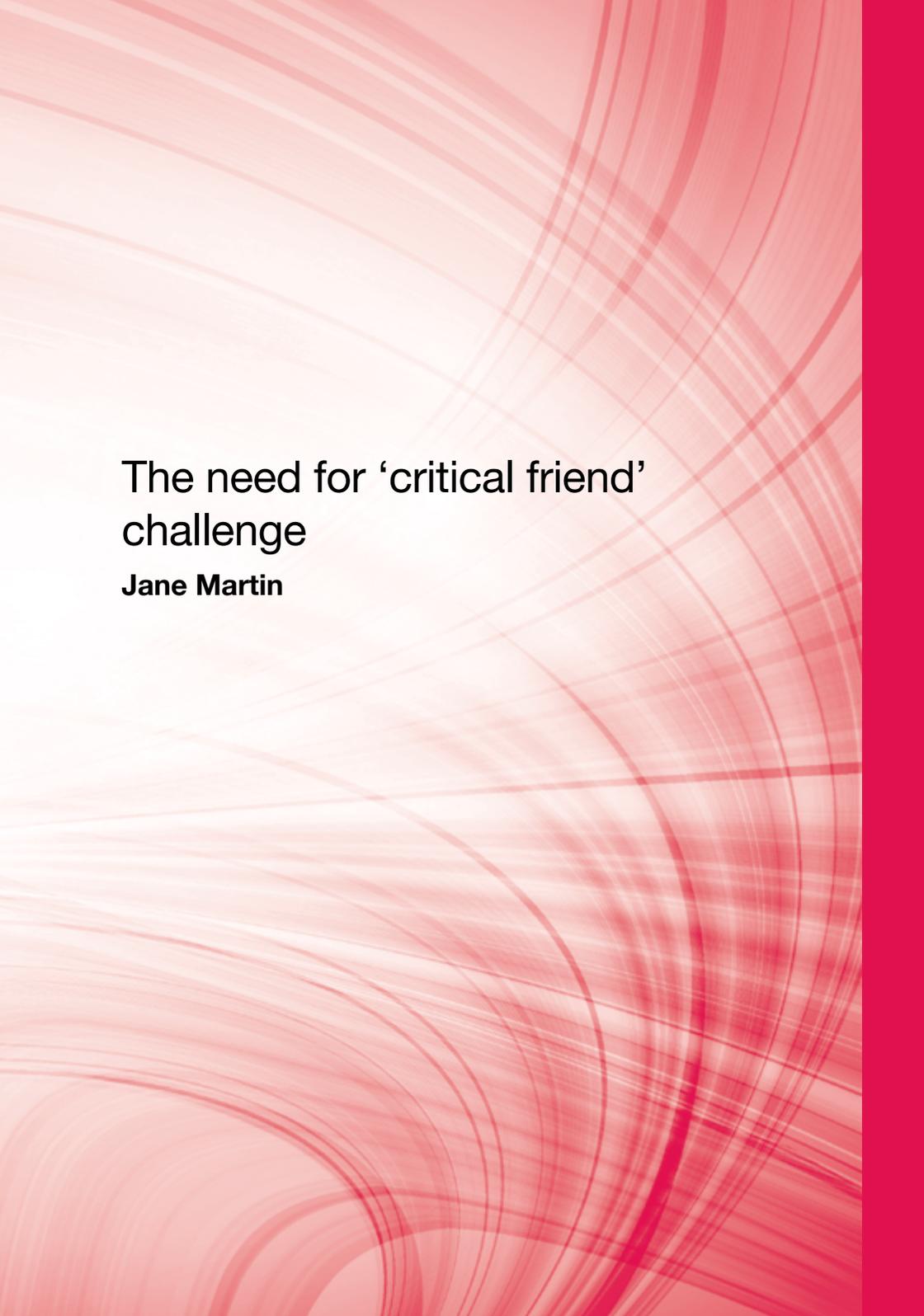
The same applies to information. The transparency that comes with access to information is fundamental to effective accountability. The extent to which a traditional culture of secrecy in Britain has been broken represents a huge advance for accountable government. We have some of the strongest freedom of information legislation in the world, which Tony Blair now says he regrets ('I quake at the imbecility of it') and in which I had a small hand during its parliamentary passage. Of course information by itself is not enough. It only provides the basis for questions to be asked, interpretations framed and policy consequences explored. That is why (contrary to what some in the present government seem to believe) it does not dispense with the mechanisms of informed scrutiny that are necessary for intelligent accountability.

However, it does not mean that ever more information contributes to ever better government. If it did we might as well turn the world over to Wikileaks. Some criticisms of how the system is working deserve to be taken seriously. Journalistic fishing expeditions using Freedom of Information (FOI) in the hope that some 'story' can be cobbled together is a doubtful contribution to accountability, but it does put huge pressure on the limited resources of organisations simply trying to do their job. This was not the original premise or intention of the legislation. Nor was it intended that it would deny governments the confidential space in which frank discussion about policy options could take place. It seems to me that the preservation of such a space is essential for good government. It is a matter of getting the balance right. This is not easy and there are those who argue that good government is damaged by the way that FOI works in practice. I do not know if this is the case. But I do know that the test should always be whether accountability contributes to good government.

Conclusion

Let me sum up what I have been trying to say here. I wanted to be deliberately challenging, even contrarian, because I do think there is a lot of sloppy thinking about accountability and that it is necessary to be rather more rigorous in discussing it. Those of us who are enthusiasts for strengthened accountability, and want to see it applied to all those centres of power where it remains weak, have a particular responsibility to make sure we get it right. It is not enough just to demand more of it. Accountability that is misdirected, or disproportionate, or confused, or overlapping does not serve the cause of good government. There do need to be clear lines; and it does make sense to think in terms of the mutual responsibility of those who are held to account and those who are doing the holding. Scrutiny is the instrument of accountability and this gives a responsibility to all the scrutineers, auditors and watchdogs to ensure that they are doing a good job. Bad scrutiny – poor in design and execution – does not contribute to the effective and intelligent accountability that in turn contributes to good government. That is why that slogan about ‘better scrutiny for better government’ is one to hang on to.

Professor Tony Wright was a Labour MP until 2010 and the first chair of CfPS. He is now a Visiting Professor at UCL and Birkbeck. His latest book, *Doing Politics*, was published last year.

The background of the slide is an abstract pattern of overlapping, curved lines in various shades of red and white. The lines are thin and create a sense of movement and depth. The overall color palette is warm, dominated by reds and pinks.

The need for 'critical friend' challenge

Jane Martin

The need for ‘critical friend’ challenge

Jane Martin

When I was invited to become the first director of the Centre for Public Scrutiny I had no hesitation in accepting. The opportunity to create a national focus for developing best practice, research and influencing public policy built on a career devoted to understanding and promoting public accountability across public services.

Changing approaches to public scrutiny and accountability

I first became interested in accountability as a fledgling academic when I was also the mother of two young children. My personal experience as a parent governor at my children’s primary school mirrored that of so many volunteer citizens who had been given the chance to get involved in school management on new-style democratically elected governing bodies which represented all the stakeholders with an interest in children’s education. Not only parents but representatives from the teaching staff, the local authority and the local community. I make no apology for reminiscing about a golden age when delegated management of schools seemed to offer a new local public accountability. The rest, as they say, is history.

The introduction of delegated management of schools and the creation of a participative model of school governance was driven by the need to open up a public service to greater scrutiny. This was prompted, amongst other things, by the landmark case of William Tyndale School. Following the introduction of more progressive teaching methods by the headteacher, parents lost confidence in the curriculum, and started to take their children to other schools. There was a groundswell of opinion that professionals were unaccountable and not open to challenge. This loss of trust had to be addressed and the importance of arrangements for constructive ‘critical friend’ challenge was central to the reforms which followed.

'Critical friend' challenge is of course a matter of perspective. In Westminster, select committees have increasingly become a force for robust challenge, responding effectively to issues of public interest, demonstrating forensic skills of examination and not fighting shy of demanding improvements. In local government too there is evidence of continued good work done via scrutiny reviews. Work such as the scrutiny review of private rented sector housing in Harrow⁶ and the Ealing scrutiny review of personalised social care⁷ demonstrate both reach and impact. In Harrow the review acknowledged the strategic role of the Council in a market driven sector and made recommendations designed to ensure that lower income residents would not be forced to take poor quality, sub-standard accommodation. In Ealing, it was acknowledged that an 'active culture of complaints' is key to ensuring that existing packages of care meet agreed needs and standards. The review recommended that customers be advised that they should raise complaints about the services they receive.

But this work is often much less visible and doesn't usually make the headlines. There appears to be much less of a national appetite for effective scrutiny at the local level and, although there is now greater transparency in local government through publishing financial information, the abolition of The Standards Board regime suggests an unwillingness to put local councillors themselves under the spotlight.

Changing role of the state and regulation

This suggests to me that policy and practice can never stand still and needs to be revised in the light of the changing role of the state in public services, the regulatory landscape and public trust and confidence in the political system. In order to do this our guiding hand must be how to ensure and maintain robust checks and balances on the exercise of executive authority. In 2013 this is becoming an increasingly complex matter given the shrinking role of the state and the more complicated public service delivery chain.

'Critical friend' challenge requires executives to explain how power is being exercised for what benefit – this builds trust and legitimacy because authority is enhanced. It ensures decision makers are well informed and open to differing views from interested parties. 'Critical friend' challenge remains important because of the continuing need to build and maintain trust in systems of government and the provision of public services.

6 Harrow Council 'Private rented sector housing in Harrow Scrutiny Review' July 2012

7 Ealing Council Health and Adult Social Services Standing Scrutiny Panel, Review of Personalisation in Ealing 2011/12

Public trust in politicians at best is lukewarm, at worst very poor indeed. Damaged by expenses scandals, elected representatives increasingly need to inform and engage the public and hold themselves up to scrutiny in a sometimes hostile environment. This is as much a question of being seen to be held to account as being actually held to account.

Public officials are also increasingly under the spotlight. Recent select committee appearances, such as the director general of the BBC, serve to make the point. Indeed, the increasingly loud clamour for ‘something to be done’ and ‘heads to roll’ when there is service failure is arguably becoming counterproductive. Rather than building trust and confidence, it tends to fuel a culture of distrust and short-termism. Do we want the heads of public bodies to be sacked with the same frequency as football managers or do we want them to ensure that their organisations are properly open to public scrutiny and can remedy problems as they arise? What delivers greater public benefit, remedy or resignation?

The same question can be levelled at regulators. The recent scandals in social care homes suggest that the system is not open to challenge, complaints are not treated seriously and are indeed covered up, meaning the regulator cannot do its job of proportionate inspection and focus on where the concerns are most acute.

How can we ensure that public bodies and providers of public services are themselves open to challenge? Cases such as Mid-Staffordshire Hospital Trust create a serious loss of public trust in a vital service. The need to embed ‘critical friend’ challenge into the governance and management of organisations requires strategic and operational leadership from the top.

The role of the state continues to move in the direction of procuring, commissioning, contracting and facilitating services provided by others. These services affect our daily lives, particularly for the most vulnerable. When the state effectively buys a service with public money that process should be subject to ‘critical friend’ challenge through both internal and external scrutiny. It is not just a question of auditing the accounts. It is a question of how money is being spent, for what purpose, and to what effect. Market forces may well act as a brake on price and drive up quality but only if organisations are open and respond to challenge. This must be built into contracts and assured through regulation.

Regulators therefore also have a 'critical friend' role to play. In assuring the quality of schools, care homes, hospitals and public utilities, risk-based regulation will only work if mechanisms for customer feedback work effectively. Regulators themselves also rely on intelligence gathered from service users and need to put in place appropriate arrangements.

The importance of listening to customers

Public service providers must, therefore, learn from customers. Customer satisfaction is now well established as a key performance indicator of service quality. Whether a service is provided by the state or an independent, voluntary or commercial organisation, it must be willing and able to account to customers to meet expectations of responsiveness.

'Critical friend' challenge could helpfully focus on a number of key questions relating to the experience of citizens and customers:

- Are you treating citizens fairly 'according to the rules' and not 'ultra vires'?
- Are you providing the services promised and/or required?
- Are you meeting the needs of the individual citizen (and how do you know)?
- Are you meeting required quality standards?
- Can you give good reasons for policy and practice based on actual evidence?

Executives must be prepared for challenge and create an organisational culture where challenge is expected, welcomed and facilitated. I would summarise this in four elements:

- Be prepared to explain and answer for actions taken (or not taken) in public
- Be transparent in providing information to the public
- Encourage respect and be 'open minded' to different views and approaches to achieving performance
- Be willing to address problems and change policy and practice when necessary.

Local Government Ombudsman: a 'critical friend'

In my current role as local government ombudsman (LGO), 'critical friend' challenge is our business. In seeking to ensure administrative justice for citizens caused injustice by the maladministration or service failure of a public body or public service provider, the questions above are at the heart of the informal and inquisitorial process we undertake. We do not usually take complaints until the body concerned has had an opportunity to deal with them – and we encourage and support local resolution as swiftly as possible. Where this has not been possible we still try to resolve matters as soon as possible during our enquiries. Where we cannot do this satisfactorily for all concerned we will make recommendations for remedy depending on our finding. For local authorities this is usually in the form of a public report to be considered by the full council.

The Ombudsman's first concern is to remedy the complaint for the citizen. We always start by asking the body concerned to take remedial action, which may include an apology. Where remedial action is not possible we consider asking for a payment to the citizen to compensate for the injustice caused. Where we feel it is appropriate we will recommend that a review of policy or practice is undertaken which may include support or training for frontline staff. We do not have binding powers to enforce but local authorities usually accept our findings and comply with our recommendations. Whilst Ombudsman investigations are conducted in private, findings and recommendations are made public in reports which set out the evidence and the argument. All our decisions require a statement of reasons which from April 2013 we will publish on our website. This will be a first step in LGO becoming more transparent and providing greater information for the public, and their representatives, to enable them to hold to account local authorities and service providers.

Recent Ombudsman reports illustrate how the Ombudsman works

The LGO investigation into the cost of residential care following discharge from hospital recommended that the Council review its usual rates to reflect local market conditions at a level sufficient to allow them to meet assessed care needs, as required by government guidance. The Council also agreed to reimburse the family for unnecessary top up fees charged.⁸

In another case, we found that the Council had not complied with the law in placing a resident in overcrowded housing for over two years. The Council agreed to review its guidance to housing officers and pay the resident compensation for his significant distress.⁹

A complaint to LGO about the unfair reduction in funding by the Council for the Royal National Institute of Blind People's (RNIB) Talking Books Service resulted in a finding that the Council had not properly considered the likely impact of the proposals on disabled service users. The Council agreed to reconsider the impact on 250 residents, reinstate the service if there was an eligible need and pay compensation equal to the value of the lost subscription.¹⁰

It is important too that Ombudsmen are open to 'critical friend' challenge. I personally see the letters addressed to me which raise any significant concerns about our service and am about to set up a stakeholder advisory group to harness feedback and learn from it. But I already know that a prime concern for complainants who come to LGO is that they want to be told if their case will be investigated or not, and they want that investigation conducted as speedily as possible. We are building this into our new business model from April 2013 which will give complainants a view within 20 days as to whether we can or cannot investigate their case.

8 [Southampton City Council 1 October 2012](#)

9 [City of York Council 16 October 2012](#)

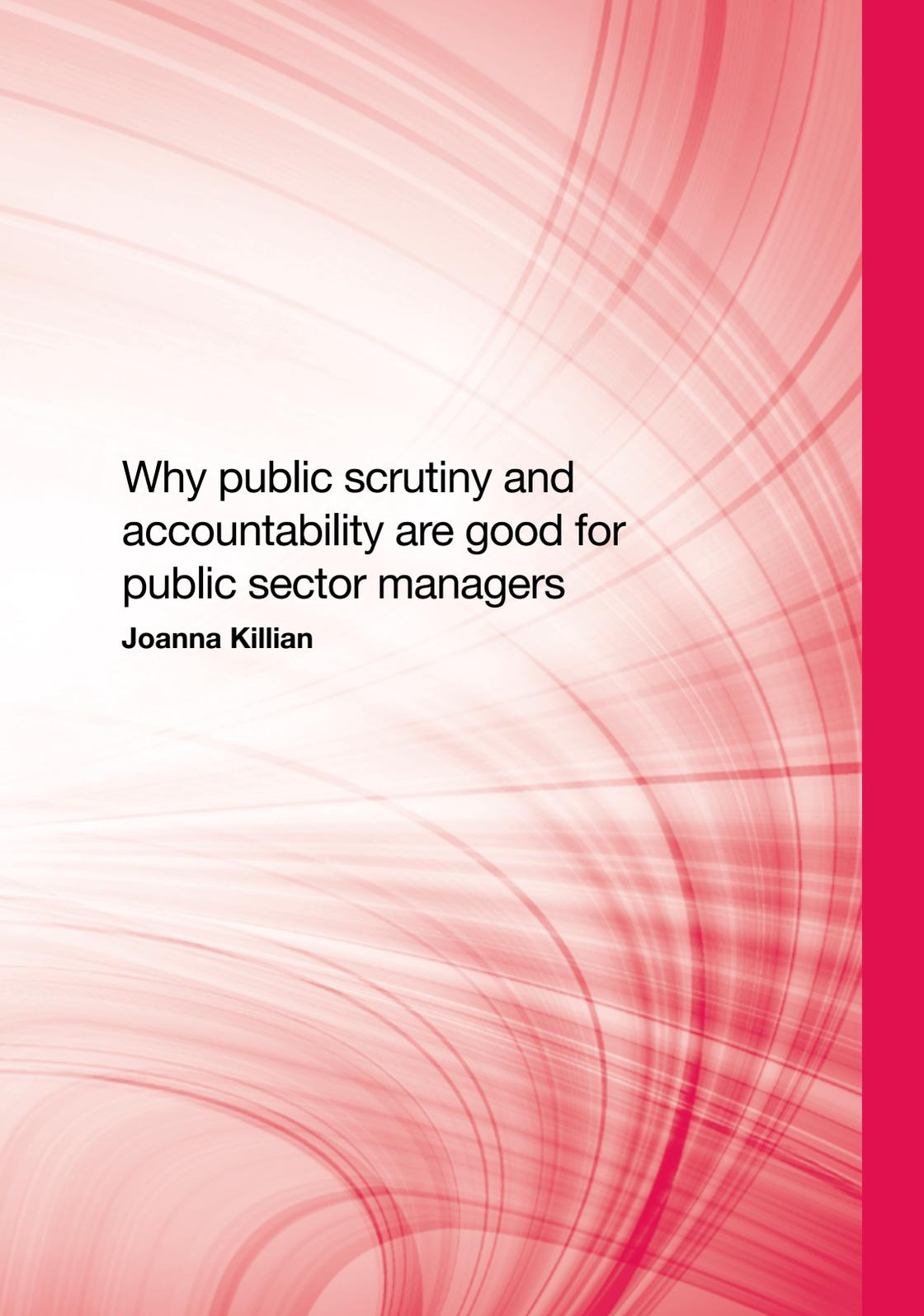
10 [Suffolk County Council 11 October 2012](#)

Conclusion

The LGO and CfPS have already done some thinking about how citizens' complaints could become more effectively embedded in the local authority scrutiny process.¹¹ There is clearly more to be done. Complaints officers in local authorities do a great job in supporting citizens who complain but they need to be better supported and enabled to respond and effect change – often by being a better 'critical friend' themselves across the organisation. In my experience the level and locus of the complaints process in an organisation says everything about how that organisation values complaints and wishes to use them to improve. High level political and executive support is critical. The involvement of scrutiny chairs and committees would be an important step forward. The LGO will do all it can to support this and get greater public benefit from our work as part of the wider public scrutiny landscape.

Dr Jane Martin is the Local Government Ombudsman and Chair of the Commission for Local Administration in England

¹¹ Aiming for the Best : CfPS/LGO July 2011



Why public scrutiny and accountability are good for public sector managers

Joanna Killian

Why public scrutiny and accountability are good for public sector managers

Joanna Killian

As we look forward to many more years of austerity in the public sector, it will become harder and harder for public servants, whether in local government, health or the police service, to balance the demands of their communities with the resources they have. As we drive our change programmes harder and deeper, and reduce the range and depth of our services, we need to think about the risks and impacts in much more rounded and sophisticated ways.

I have of late been drawn to thinking about how we might best manage the different set of risks that arise as our organisations change, our staff groups are asked to do even more, and we have so much less resource and capacity in our councils. Technical approaches to risk management are these days very much an important and critical feature of effective business management. We all use risk assessment tools (alongside considered professional judgements) to evaluate the likelihood and impact of dire things happening in our places and to our people – a critical service failure, IT systems collapsing, or a contract imploding as a provider goes bust. But is that enough for the challenges of the future? How do we as leaders evaluate and mitigate the risk of serious failure in our organisational cultures? More challengingly, how do we measure the potential of a collapse in public service value in the increasingly complex and fragmented environments we work in?

A lost commitment to listening and hearing?

In particular what triggered my thinking were the issues arising from the Savile and McAlpine cases at the BBC. It is alleged that many people over many years knew about Savile's behaviours: the organisational gossip was awash with it.

Yet few felt able to speak up in an environment where Savile's behaviour had almost become normalised, and as a result went unchallenged.

We know now that the events around what then happened with Lord McAlpine were at least in part the product of an organisation that had lost the power of basic chains of command, where people had simply forgotten the basic principle of double checking to assure themselves that they had got their facts right. Accountability was lost; good professional journalism practice was forgotten; and as a result an innocent person was publicly maligned.

Similarly, the recent Francis report on the Mid-Staffordshire NHS Trust paints a dreadful picture of an organisation where the patients, and their families and carers, were sometimes seen as the last priority, rather than the first. The possibility that 1,200 people may have died unnecessarily is completely shocking, but so too is the evidence about the indignity experienced by sick and dying people as they lay in soiled beds, were denied healthy, nutritious food, and were reduced to drinking water from vases as the only liquid available. This isn't about, or only about, systems and processes: anyone who leads customer services of any kind understands that systems and processes can only take you so far if the underpinning culture is not right. These were instead the result of systemic long-term failures of leadership, and a consequent erosion of the compassion, care and support that is so fundamental for delivering effective clinical and nursing practice. From the outside we can only struggle to comprehend why the alarm bells didn't ring loud; why hard performance targets trumped abundantly available softer intelligence on quality; why scrutiny and feedback mechanisms didn't work; and how accountabilities became so confused. But, most of all, I cannot understand why the managers didn't, or maybe couldn't, listen, or why didn't they want to believe or act on what they heard.

This second Mid-Staffordshire report is not an isolated case – it comes hot on the heels of the Bristol Hospital heart scandal, the Winterbourne View case, and many other similar examples when all involved seemingly developed a similar deafness; and where, crudely, the virus of 'hear no evil, see no evil, speak no evil' infected both culture and practice in the most serious ways possible.

What all these cases tell me is that we need to understand the catastrophic risk of not listening AND hearing, of not paying attention to all the available information and feedback, rather than allowing the absolute peril of an organisational culture that only accepts good news, not bad, to develop. But neither am I sure that the Francis report's recommendation that public servants need to be subject to a duty of candour is the way forward. My long experience of working in the public sector makes me truly believe that honesty is a core value that drives most of my colleagues' behaviours every day, in their private lives as well as in their public service.

I believe that people come to work because they want to do a great job, and the job of leaders is at its simplest, to help them to do that. But a 'duty of candour', combined with a threat of criminal prosecution, may well have the perverse effect of making people less open, and so undermine efforts to embed a culture of honesty and challenge.

For me, there are three ingredients that drive delivery of great customer or patient service, and reduce the risks of failure:

- clear and robust accountability, at both an individual and 'Board' level
- a strong performance culture
- openness and transparency.

As officers we should embrace these core principles, and be more confident in seeing them as tools to enable us to do our jobs more effectively.

Clear, robust accountability

Strong accountability is based on a willingness to be held to account, as well as the ability to grasp the tools and techniques for enabling this. In turn this implies that honesty and integrity should be core to what we do, implicit in hearts and minds, tangible in deeds and actions, and expressed in the quality of service we provide. I am clear that, rather than a requirement for honesty and integrity to be measured by some new performance indicator or monitored by yet another regulatory regime, we as managers and leaders need instead to create the conditions where individual accountability is clear, unambiguous and empowering within our organisations. We should be selecting for, developing and rewarding these characteristics – thus sending a strong message to our organisations about how much we value them.

Boards, Cabinets, Committees and Councils that govern and define our public service organisations must also be accountable for the delivery of quality outcomes. Leadership comes from the top, so these critical cadres of politicians and non-executives are crucial in developing and sustaining a culture of openness and an ability to listen to the truth in their quest for quality, particularly in a restrained fiscal environment when more risks are being taken and we know mistakes will be made. They need to be able to set a clear vision for the quality of service they want to provide, along with an equally well articulated expression of the organisational values that are needed. Boards need themselves to live those values, and regularly test that they operate in all their teams, in all their people, all the time.

Strong performance culture

For this accountability to work we need the second ingredient – a strong performance culture – because without good quality and timely information and intelligence on whether we are delivering what we set out to achieve, we cannot hold ourselves to account, and be held to account by others. For me this is about setting clear outcomes that we want to deliver, defining the most intelligent measures to track quality, and injecting real time, unadulterated customer and service user feedback into regular reporting systems. Not only far-removed or desk-top surveys and complaints analysis, but actively walking the floor, talking to staff, and listening to customers is a must for leaders, not an option. Best practice that sees customer and service-user involvement in rating performance and quality must be right, and we should encourage it. We can only deliver better outcomes if we listen to and hear from those we are serving.

But even the best business and customer intelligence systems and processes are only tools – they will only work well if the underlying culture is right. A great performance culture is one that enables officers and members to probe and prod; to set aside their defensiveness and challenge when things are not right. Many might disagree, but for me part of this tapestry must be external – regulation, assurance and inspection that can give a clear independent view of performance outcomes is crucial, but only if it is high quality, has the service user at its heart, and is delivered in a way that is explicitly designed to ensure it drives improvement and not corrodes morale.

Openness and transparency

Which leads me to my third ingredient – an unerring belief in the power of openness and transparency. However much we do not believe it could happen to us, a lack of external challenge will, in the end, lead to insularity, a self-serving mentality, and ultimately self-delusion. I am sure we all know examples of this, whether at the level of the individual or the group or a whole organisation. The only known antidote involves cultivating a culture in which high quality, diverse methods of feedback are welcomed – where we as officers understand and appreciate, if in truth sometimes with a degree of cynicism, the gimlet eye and robust challenge of all and any forms of scrutiny, whether through the political process, the media, external regulators, peer challenge, or direct from the public and service users themselves.

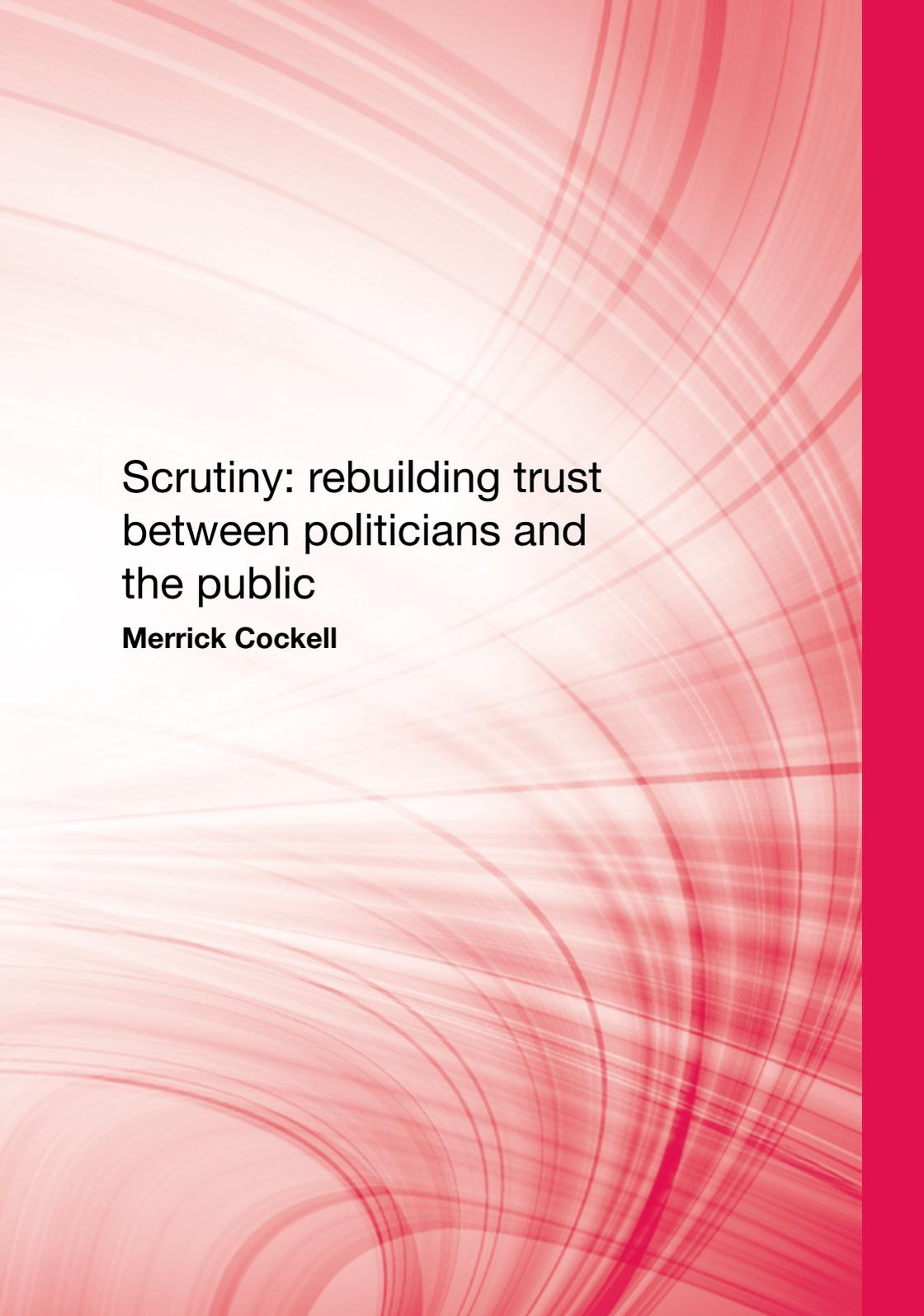
Robust scrutiny makes it possible to not only identify failure but source solutions to fix things that are wrong. It enables us to act as the champion for our service users and taxpayers when they receive services from others. At its most mature it will mean exploring new and different ways of serving our customers, challenging how things are done, what must stay, what must stop, and what must change. It can provide powerful evidence and arguments to help us deliver new services, target resources and de-prioritise what is no longer affordable.

Conclusion

Our landscape is changing – councils are becoming commissioners, as well as integrators. We are developing new models of delivery, by acting as a provider or company or a social enterprise engine. Nowadays we deliver through social impact bonds, are paid by results, and are banker of last resort. These models have their great strengths but, on the other hand, our traditional, more direct levers fall away; responding to public feedback and scrutiny may take longer; we rely in the integrity and honesty of our partners to tell us the truth about performance; and, in extremis, we cannot fix the systems ourselves when things go wrong. Critically, when operating in these new modes, we cannot give away our statutory responsibilities, nor defray our accountabilities to our residents, taxpayers and most importantly our service users, especially the most vulnerable. More reason, then, for public scrutiny, in all its forms, to be able to listen and hear.

In short, for us as leaders, managers, and officers, it simply helps us to do our jobs better. Someone once said that all information is useful information – you don't have to agree with what you hear, but to make the best decisions that you can you need to be aware of the whole breadth of views that are out there, and to weigh and balance those perspectives, overtly, and in the full glare of those you serve. This is not always easy, but it makes us, and the services we provide, the best we can be.

Joanna Killian is Chair of SOLACE and Chief Executive of Essex County Council



Scrutiny: rebuilding trust
between politicians and
the public

Merrick Cockell

Scrutiny: rebuilding trust between politicians and the public

Merrick Cockell

A decade on, scrutiny has come a long way – so now is a good time to reflect on what we have learned. But first we should admit it had a bumpy start. It was almost as if scrutiny was an afterthought after the move to executive working, and for a time scrutiny did sometimes feel like the consolation prize for those who were not in cabinet. It's thanks to the work of the Centre for Public Scrutiny (CfPS) and others that we have moved a long way from then.

Scrutiny: part of all councillors' day job

For me the building blocks for tomorrow are as follows. First the job of the elected politician is to represent the electors – not just the people who vote for you but all your constituents. So a core part of our job is to question and prod, to ensure that what public bodies do really does deliver what they claim to do. Scrutiny is not a secondary activity, but a core part of the job. That is as true if you are a leader or a cabinet member as it is if you are a frontline councillor. Scrutiny committees are a formal way of doing this, and build in the required level of challenge and accountability that is necessary in a proper democracy. But even in executive roles a significant amount of the job requires scrutiny, perhaps at a more strategic level, of the overall direction of the work of the council. So scrutiny is not a rehearsal for more senior roles, it is part of your day job whatever role you have as a councillor.

At the Local Government Association (LGA) we have been doing a lot of work to promote the role of frontline councillors. Historically many councils underused the knowledge and experience of their councillors. Yet that knowledge is vital. For the councillor can bring that local perspective, asking what does this initiative mean for the residents of my ward or division. Local councillors are both community champions, and scrutinizers on behalf of that community. I was therefore delighted that the recent Communities and Local Government (CLG) select committee report on the role of councillors highlighted the importance of this very localised scrutiny role. One of the challenges for councils going forward is how best to support this very localised scrutiny function.

I am often reminded just how badly all politicians are perceived by the public. As a politician that worries me, and, like every politician I know, I would like to see that perception change, because virtually every one of us, from whatever party, is committed to trying to improve the lives of the citizens we represent. But I also know that even amongst politicians there is a hierarchy of trust and the politicians most trusted by people are their local councillors. That better level of trust arises because people can see just what they actually do. So better supporting local politicians in this local scrutiny role is not just good in itself, it is also key to rebuilding trust between politicians and the public.

Scrutiny and commissioning outcomes

In my council, like most, many services are no longer delivered in house. Instead, through a commissioning process, we have outsourced delivery to an external organisation. This process has forced us to be clearer about what outcomes we seek to achieve. Recently I took part in the launch of the Commissioning Academy, which we have helped develop with the Cabinet Office. Core to this approach has been to move on from just a procurement exercise; one where we specify in great detail the process we want delivered, to a commissioning one where instead we focus on outcomes. So the scrutiny test is not on the inputs, nor even the outputs, but the outcomes. So the story of scrutiny has been this move in focus.

Forward-looking scrutiny

Thirdly we have increasingly focused not just on retrospective scrutiny asking the questions: "Did this work? Was it value for money? Or were there unintended consequences?" All these remain important questions which will always need to be asked. But we also need to look forward, to look at what is being proposed and ask those same questions. In Parliament this goes under the grand title of pre legislative scrutiny, but the principle is the same. We recognise the importance of the executive and the need to drive initiatives, but also recognise that engaging others to ensure proper road testing is not a distraction, but a way both to improve the quality of the proposals, and also to ensure the widest buy in to those proposals.

Now I would like to take this forward looking perspective further. Not every public body has got the consultation process right. All too often we hear stories that the reaction from the public was that we had already made our minds up before we started.

Of course, you cannot please everyone, and on most difficult decisions there will be some people who feel they benefit less than others (and if they were not difficult decisions they are not going to be ones that vex politicians). So let's imagine a world where we try and undertake scrutiny with the public about options, and where the role of the scrutiny process is to outline the options that emerge.

We all know that austerity is not going to come to an end soon. As I will always remind colleagues across Whitehall and Westminster, it is local government that has borne (and delivered) the greatest level of cuts. But we know that there is going to be no quick return to the days of year on year growth. So securing value for the taxpayer is more important than ever. So the next challenge is to up our game in the way we scrutinise spend. The Parliamentary Public Accounts Committee has its critics, but no one disputes that it focuses the minds of senior civil servants before they appear before it. Now, and in a perhaps less confrontational way, I would like to see how we could achieve greater local financial scrutiny, so the taxpayer's pound is centre stage in officers thinking.

As a leader I meet fellow leaders on a very regular basis. Similarly most of my fellow cabinet members meet with their respective colleagues on a pretty regular basis too. Thanks to CfPS, chairs of scrutiny committees also meet regularly. However there are few occasions where the executive members for finance can share understanding and insight, as they grapple with scrutinising our budgets. So over the next year I intend to rectify that position, and create the opportunity for political finance colleagues to share learning, in the same way that the Chartered Institute for Public Finance and Accountancy (CIPFA) and the various Local Authority Treasurer societies allow for officers.

Externally-focused scrutiny

Another significant development is the move from internal scrutiny (what the council does) to one where the focus is on scrutiny of public service more generally. As councillors it's our job to put ourselves in the shoes of our citizens, so we understand them when they engage with public services. We need to do this at two levels. First is that of the individual citizen. We should not expect them to have to make sense of the alphabet soup of public agencies, rather as councillors, we should put the challenge back to agencies, so they understand what it is like to be the recipient of those services.

The second challenge is to do this with the perspective of place and of community. Here we are asking the question about how fit for purpose the offer is. I am a champion of local choice, but leaving aside just how much choice locally there should be, we still need local variation because places are different. No amount of audit regimes will change the fact that it rains a lot more in Cumbria than in Cambridgeshire, so strategies for dealing with flooding need to be different because of varied local circumstances. Our scrutiny role is to ask how suitable the offer is, an offer often designed in Whitehall. What may seem coherent from a government department perspective can often seem very inappropriate viewed from a locality one.

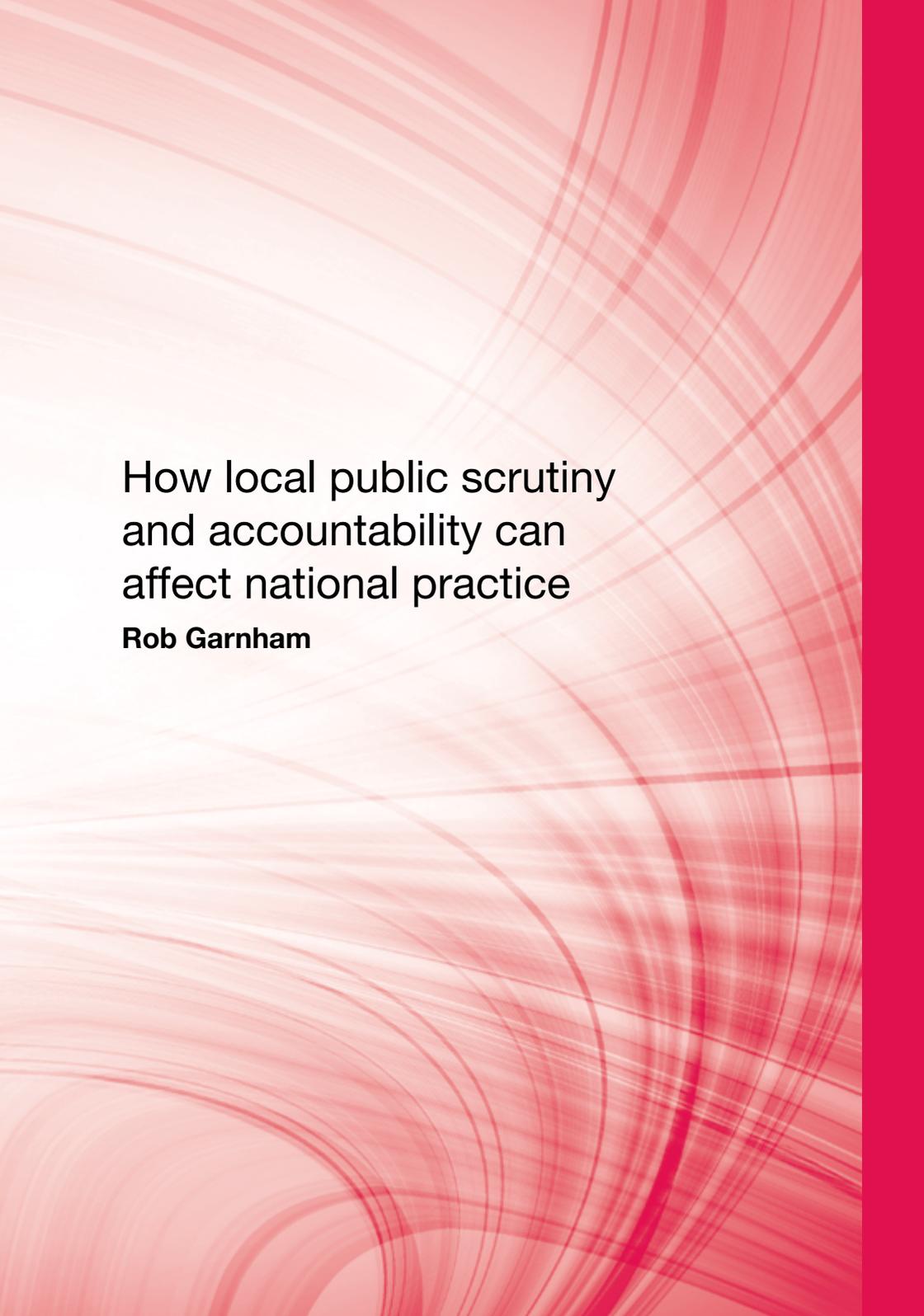
Over the past year, as part of the tri-borough working, my council has been at the forefront of the Whole Place programme. It's been exhausting, but rewarding. It's not often that you can say we can both save money and deliver a better service to the citizen at the same time. The process was undertaken not just by local government, but collectively by local government and government departments. The challenge we set ourselves was to agree to focus on some key issues and ask is there a better way to configure services, so that the offer to the citizen is better, but the cost less. The report of our work is now in the public domain, and the evidence is pretty compelling.

As Chairman of the LGA I am now trying to ensure we get Whole Place programmes not just in four places, but across the whole country. Necessarily we, and the three other places working on the prototype, had to concentrate on some specific subjects. We chose complex issues that were of a cross cutting nature, where there was a shared strategic priority and where we could also have the greatest impact on citizens lives. We also needed to tackle issues where we thought we could collate the evidence in a short period of time.

Conclusion

So my final scrutiny challenge is how do we build the momentum, how do we look at every aspect of public service to identify what other issues would also deliver this double benefit. With fiscal challenges remaining on the horizon for some time to come, we can slice away at services, or adopt this much more coherent approach. Let us scrutinise more and more aspects of public services, and use that process to ensure we have services that are fit for the next decades.

Cllr Sir Merrick Cockell is Chairman of the Local Government Association and Leader of the Royal Borough of Kensington and Chelsea.



How local public scrutiny and accountability can affect national practice

Rob Garnham

How local public scrutiny and accountability can affect national practice

Rob Garnham

An award winner

In June 2012, the Centre for Public Scrutiny (CfPS) awarded Gloucestershire County Council (GCC) with their Overall Impact award, for the work of the Severn Estuary Scrutiny Commission in bringing together local residents and the Environment Agency (EA) to consider flood risk management proposals in a cooperative way. We won the award as our scrutiny review was recognised as having had a real impact on the policies, practices and public accountability of the Environment Agency.¹²

When we won the award, I talked as Chairman of the Overview and Scrutiny Management Committee about how difficult it can be for those working in local scrutiny to get national organisations to recognise them as important stakeholders. When asked to contribute this essay, I thought again about the Severn Estuary Commission, and our other experiences as a council working on behalf of the people of Gloucestershire to influence decision makers through effective scrutiny. Using scrutiny case studies, I intend to explore the importance of performing scrutiny in line with a clear set of principles which we have identified as a Council as being key to effective local and national scrutiny and accountability.

2007: Summer flooding emergency

In the early years of local government scrutiny following its introduction in 2000, we made mistakes that I see continue to be made by others today. These included: saying yes to scrutiny reviews for which there was no real

¹² CfPS, Successful Scrutiny 2012

local demand and were instead driven by one councillor's personal interest; saying yes to too many task groups, so many that the scrutiny team could not support them all effectively; and failing to scope them properly to make sure they offered us a legitimate opportunity to make a real impact.

Our journey towards more effective scrutiny began in 2007; a response to the emergency that had so devastated Gloucestershire that summer. Exceptionally heavy rain on 20th July led to:

- approximately 4000 homes and over 500 businesses flood
- 42,000 people left without power for 24 hours following the flooding of an electricity sub-station and
- 350,000 people endured up to 18 days without running water following flooding at a water treatment works.

Following the emergency, a national inquiry was set up to look at flooding and flood resilience. As a community leader, GCC realised that it needed to ensure that the views and interests of local people influenced any resulting recommendations, and to do this we decided to conduct our own local scrutiny inquiry. For perhaps the first time, this decision to act through scrutiny was based on a conscious understanding that we had a powerful local mandate to act, and a real opportunity to influence the recommendations of the Pitt Review before they were finalised. Reflecting on our review, this was an important realisation for future scrutiny activities.

The resulting inquiry, which took place over 11 intensive weeks of public hearings and evidence gathering sessions, produced a detailed account of the summer emergency and 75 recommendations of action directed at a wide range of organisations. Alan Payne, General Manager of Asset Delivery at Severn Trent Water, was quoted as praising the role of public scrutiny in safeguarding the interests of local communities – in both its influence on the Pitt Review, and the way it engaged in a constructive but challenging way with national bodies and organisations. It has been recognised nationally as being a good example of local scrutiny affecting national practices and delivering real tangible outcomes:¹³

- Severn Trent agreeing to invest £30m in providing a secondary piped water supply to Gloucestershire and improving flood resilience at water treatment works in direct response to an inquiry recommendation, and making this announcement at a scrutiny meeting

¹³ Gloucestershire County Council, Scrutiny Enquiry into the Summer Emergency, 2007

- the National Grid investing in flood defences around the Walham electricity Sub-Station in Gloucester and
- many of our recommendations heavily influencing the recommendations of the Pitt Review.

The emergence of some core principles

Though they were not consciously recognised as such at the time, some core principles of good scrutiny can be clearly linked to the success of this inquiry.

A clear local mandate was essential in giving the task group the profile it needed to engage meaningfully with the national utility companies. Public demand for action was a powerful tool the task group used to keep those giving evidence – such as Severn Trent and the National Grid – responsive and accountable.

The opportunity to influence the Pitt Review also contributed to the success of the review, as it gave our local inquiry purpose and power. The organisations we engaged with knew we intended to present our recommendations on this national stage in order to represent the views of local people, and responded accordingly. We also benefited on a personal level, as it gave us the clarity and focus we needed to produce our best work.

A ‘narrow and deep’ approach to scrutiny was also a factor. In excluding from the review issues that were of interest but not of key importance to its stated purposes, we focused our energies and the attention of our audience on key messages and recommendations.

Lastly, the flexibility to do things differently according to the needs of the inquiry was also important. We appointed Professor Carolyn Roberts, an expert in water resource management and sustainable urban drainage systems, as a member of the task group to provide advice. Without this input, the task group would simply not have had the level of knowledge necessary to act effectively.

2009: Community safety overview and scrutiny committee

In 2009 GCC set up a Community Safety Overview and Scrutiny Committee responsible for the overview and scrutiny of the Council’s Community Safety Directorate and other crime and disorder related issues.

The flexibility to tailor our approach to the scrutiny of crime and disorder had been built in to the Police and Justice Act 2006, and chimed nicely with the principles of scrutiny we had been developing since the summer emergency. In order to foster the broad and inclusive approach to scrutiny that we were after, the County Council alongside district partners decided to set up one committee to cover the whole of Gloucestershire. With a membership that included county and district councillors and the now defunct Gloucestershire Police Authority, the resulting partnership ethos enabled all participants to make significant contributions towards the success of the committee. Linking local government together in this way also made practical sense, as it meant that only one scrutiny body needed to be set up and supported instead of seven, and that local crime and disorder partnerships needed only to attend one committee.

The way that our Community Safety Committee was set up was considered to be innovative by other local authorities. And as a result of the Committee's recommendations, there was a merger between the county's Safer and Stronger Communities Partnership and the Criminal Justice Board, the only such merger in the country. Later in 2011, once the Committee had firmly established itself as an effective way of scrutinising crime and disorder, it was recognised informally by the Home Office as having merit. Interested particularly in the countywide membership of the Committee and the way in which it enabled effective scrutiny through partnership working, the Home Office came to Gloucestershire in 2011 to explore the relevance of this kind of model to the Police and Crime Panels that it was in the process of developing guidance for.

Today, the parallels – particularly in membership – that can be seen between Police and Crime Panels and Gloucestershire's Community Safety Committee are striking, and the similarities between both approaches have only increased as the Police and Crime Panels have now finally become active in scrutinising the activities of Police and Crime Commissioners. This is a clear example of how successful local public scrutiny can have an impact on national policies.

2011: The Severn Estuary scrutiny commission

In January 2011, the Environment Agency published its proposed flood risk management strategy for the Severn Estuary. It suggested that flood defences in several areas be allowed to lapse over time in an effort to compensate for the effect of rising sea levels on reducing salt marshes and mudflats.

The reaction to these proposals from communities living along the estuary was one of anger at both the development of what they called fatally flawed proposals based on inaccurate data, and also the lack of meaningful consultation with local people, or concern for their homes and livelihoods.

Local dissatisfaction led to the Severn Estuary Commission, which epitomises how local public scrutiny can affect national practice and respond to the needs of local people. As a Severnside resident put it, the Commission "... provided the basis from which a focused and coordinated approach by stakeholders and the local communities [could] be developed".¹⁴

Being able to demonstrate a real public interest in the purpose and end result of the inquiry was a key factor in the success of the task group. In the past, other than during the 2007 review, we had sometimes found it difficult to get national bodies to engage meaningfully with us as stakeholders. But by using new techniques such as the one-page strategy we had recently developed, which asked task groups to demonstrate clear public interest before a review could be authorised, we were able to demonstrate that there was a powerful public interest in the issue. This mandate allowed us to act with authority, and get the Environment Agency engaged sincerely with the scrutiny process.

Having a real opportunity to influence the Environment Agency's flood management proposals before they became set in stone was also crucial to the success of the inquiry. Scrutiny conducted without a relevant context is without purpose, and in the past, we had been guilty of conducting good scrutiny inquiries that had nevertheless not achieved anything because there was nothing to influence. In this instance, the scrutiny process was a true opportunity to bring important stakeholders together to present their views and allow non-executives to take a fresh and independent look at all the issues.

In achieving this, the timing of the inquiry, the quickness with which it took place, and the processes by which it was conducted were key. As a principle of good scrutiny, flexibility was essential in tailoring the process for maximum effectiveness. The Council's 'narrow and deep' approach to scrutiny, which was clearly evident in the Commission's one-page strategy, really got to the heart of the issues that needed exploring. This approach was supported by restricting the scrutiny evidence gathering sessions to one day of interviews, reducing the demands made of those giving evidence and allowing us to bring together the key players in enough time to be able to affect the Environment Agency's plans before they became fixed.

¹⁴ Gloucestershire County Council, Severn Estuary Scrutiny Task Group, 2011

Conclusion

As I have demonstrated, local public scrutiny can be incredibly powerful. It can hold people and organisations to account for their actions. It can bring enlightenment to complex issues through its investigative processes. It can influence decisions in ways that have positive impacts on the lives and ambitions of local people. And it can have a wider impact on the very ways in which local, regional and national organisations approach policy and practice. But, it can only do these things when those it is seeking to influence have reason to listen and to be influenced.

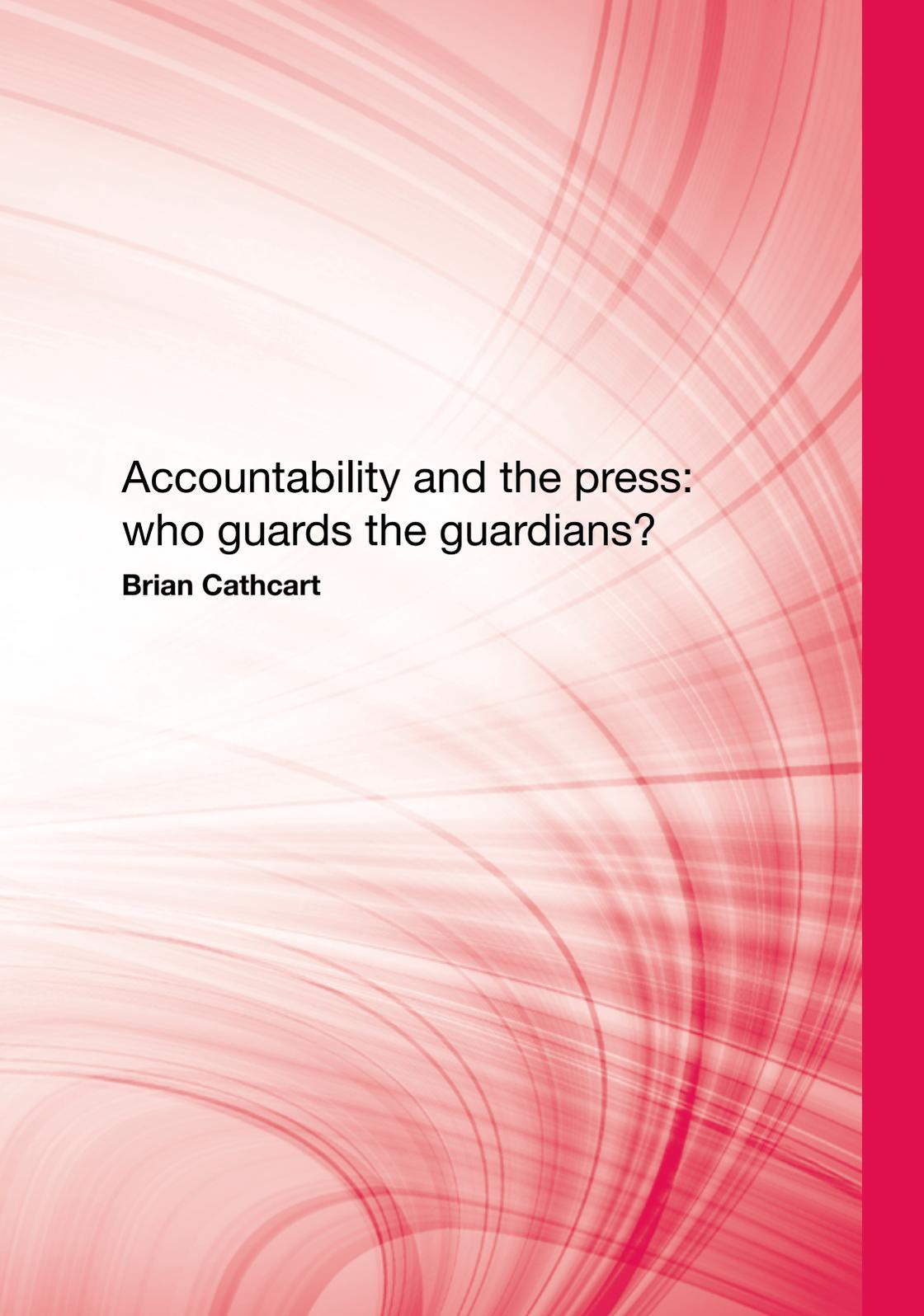
We must have things of relevance to say, and rather than operating from an adversarial position, a spirit of cooperation and mutual respect must be achieved between those being held to account and those doing the holding. We create this opportunity to influence through making sure that our actions as scrutineers are always in keeping with the key scrutiny principles we have identified. These are set out in the box below:

Gloucestershire County Council's core principles of effective scrutiny

- setting up a review only when a clear public demand gives you a powerful mandate with which to carry out an inquiry
- applying scrutiny only to issues and organisations that you have a real and legitimate opportunity to engage with and influence
- understanding when a 'narrow and deep' method of scrutiny is of greater value than one that is 'broad and shallow' and
- being flexible in how you conduct scrutiny to tailor it to the different demands of each situation.

I hope that this insight into our principles and ways of working is of value to others working in the scrutiny field.

Cllr Rob Garnham is Chairman of Overview and Scrutiny Management Committee at Gloucestershire County Council.

The background of the slide is an abstract pattern of overlapping, wavy lines in various shades of red and pink, creating a sense of movement and depth. The lines are more densely packed and darker in some areas, while others are more sparse and lighter.

Accountability and the press: who guards the guardians?

Brian Cathcart

Accountability and the press: who guards the guardians?

Brian Cathcart

This ancient question – who guards the guardians? – served as the punchline to Lord Justice Leveson’s public statement on the day he issued his vast report on the culture, ethics and practices of the press. His question acknowledged the unique complexity and importance of the aspect of British life that he was addressing. And it was not just a punchline, for so conscious was the judge of the unique challenge of guarding the guardians, of ensuring that those whose role is to hold the powerful to account are themselves accountable, that he referred to it many times in the body of his report.

He did so most notably when he pointed to the power that these particular guardians had to influence the fate of the report itself. He described the ways in which newspapers that were supposedly bitter rivals colluded to protect their common interests. What was to stop them colluding to frustrate his proposals? He described the abuse by newspapers of their control of the megaphone of public information, where they distorted or withheld facts in ways that served their interests rather than the public’s. What was to prevent the press from using that megaphone against him and against his recommendations? He described the excessive closeness of senior press figures to politicians and the ways in which they exploited their influence for their own ends. What was to stop the press from twisting the arms of politicians to ensure that his report was ignored or shelved? So explicit did he make these fears that it is clear he had some doubt about whether guardians who are this powerful could ever be successfully guarded. That is a very gloomy comment upon the state of our democracy.

Continuing power of those who control the press

Three stories, all discussed at far greater length in the pages of the report, illustrate the power of the small group of editors and proprietors whose chief functions, according to the more heroic perceptions of the press, are to inform citizens and hold the powerful to account. The first is the history of public concern about, and public inquiries into, press standards, a history that goes back at least to the first Royal Commission on the Press in 1947-9. Then, and on five other occasions before Leveson himself set to work, press standards were scrutinised and found wanting and recommendations were made in the hope of getting them up to an acceptable level. On each of those occasions the press, apparently by twisting arms and dragging feet, managed to prevent meaningful change, with the result that from 1990 to 2011 the industry was still in a position to pretend to the world that it operated under the supervision of an effective and rigorous self-regulatory regime when, as we all now know, the Press Complaints Commission was nothing more than a toothless complaints-processing body with no regulatory authority or remit.

The second story, deftly exposed by Leveson, relates to the Data Protection Act 1998. Here was a law nominally introduced to meet the requirement of an EU directive that member states must properly balance the right of privacy with the right to free expression in their handling of personal information. Britain's law got this balance so badly wrong that the authorities were virtually powerless when they discovered that almost the whole of Fleet Street was complicit in the industrial-scale mining of personal data that was exposed in Operation Motorman. Private investigators received conditional discharges at worst, while journalists were not even prosecuted – the fines at the disposal of courts were so small that they were often less than the fees paid to agents to commit the offences. In short, hundreds of journalists had accessed the personal information of thousands of people, and they did so with impunity. At the time of writing the penalties have not been increased so there is still no real deterrent.

The third story is about the hacking scandal, or rather about the coverage of it. Here was an instance of systematic lawbreaking by employees of a large multinational corporation, in which the victims included people whom the press usually love to write about: royalty, politicians, actors, criminals, television presenters. It was, in other words, a news story that had everything, yet leading newspapers (with a few notable exceptions) entered into a conspiracy of silence on the subject.

Whereas in four years from 2006 the Guardian published 237 articles on hacking, in the same period newspapers in the Mail group published only 38 (many of them challenging the Guardian's account) while Mirror papers had just 11 articles. In this way newspapers that boast of holding power to account actually helped to cover up the wrongdoing at Rupert Murdoch's News International.

If it was not already obvious, the Leveson report leaves no doubt: some newspapers and their editors and proprietors have been, in quite unjustifiable ways, above the law. Over many years, by using good arguments for bad ends, by the subtle deployment of influence and by systematic distortion of public perceptions, they made themselves unaccountable – or at least not sufficiently accountable for the public to be safe from scandalous abuses. Even where the law was applied, it was often not sufficient to put a brake on abuse.

Another judge might have concluded that only the tightest and strongest shackles could restrain such a beast, but Lord Justice Leveson decided on the opposite approach. He did not recommend statutory regulation and he did not even recommend compulsory regulation. Instead he suggested another round of voluntary self-regulation, with one major difference intended to break the pattern of failure: this time there would be periodic tests of the regulator to ensure that it met basic standards. These tests would apply a clear series of criteria, described by Leveson, and would be carried out either by Ofcom or by a new Recognition Commission, which must be established under statute. Only when a self-regulator is approved by the Recognition Commission will it qualify for various incentives laid out by the judge – including possible benefits in terms of court costs and in treatment by the Information Commissioner.

Leveson's sticks and carrots – will they be sufficient?

Two questions immediately arise. Would such arrangements be enough in practice to restrain a small group of wealthy and powerful corporations used to operating above the law? And could it ever be put into action in the first place, given the power of those corporations to block the way. The answer to the first is that this may be a fine balance, but it should work. If the incentives – the sticks and carrots proposed by Leveson – are sufficient, then it will be in the clear interests of papers to join the regulator. And once they are members of a regulator that meets the recognition criteria they should be genuinely and reliably accountable. That does not mean that freedom of expression will be inhibited, for Leveson was extremely studious in his defence of free speech.

It is journalists who don't check their facts, who make up quotes, who unfairly distort information and who needlessly intrude into situations of grief and shock who will have problems. Equally, journalists who wilfully confuse what might be interesting to the public with what is in the public interest will have difficulty – these concepts are readily understood by lay people, and there is no excuse for professional journalists.

An effective self-regulator could be expected to engender in member organisations over time a greater general understanding of ethical standards and of the need to respect the public that is being served. News editors would become accustomed to asking searching questions and journalists would ensure that they could answer them, and support their answers with evidence. The vastly increased risk of being called to account when they stray should stimulate better practice, more checking, better record-keeping and a reluctance to take risks with the facts.

Will the press and politicians cooperate?

This brings us to the second question: will the press play ball? One reasonable response is to ask why they would not. If a paper has high standards – and they all insist that they do – should it not want to demonstrate this by engaging with a regulator and publicly registering its accountability? It is striking that no paper has so far taken that view. The rather different attitude adopted by most of the press was described in the House of Lords by the Bishop of Norwich, who speaks for the Church of England on media matters:

*'The sad thing is that there has been surprisingly little public repentance and a great deal of self-justification and lapses of memory.'*¹⁵

And Sir Harold Evans, the former editor of the Sunday Times, remarked that press coverage of the inquiry report had worse faults than a lack of remorse:

*'...the misrepresentation of Leveson's main proposals is staggering... To portray his careful construct for statutory underpinning as state control [which some papers did] is a gross distortion.'*¹⁶

¹⁵ Bishop of Norwich, House of Lords debate 11 January 2013

¹⁶ Sir Harold Evans, 10th Annual Hugh Cudlipp Lecture, London 28 January 2013

And what has been the response of the politicians, who themselves were found to be at fault by Leveson for their excessive closeness to editors and owners? He charged them with the relatively simple task of legislating to create a recognition body that would thereafter be entirely independent of politicians, and he told them that they should do this in the most open and transparent manner possible, since anything less would erode public confidence in the process and the outcome. Instead David Cameron declared, remarkably, that statutory underpinning of the recognition body was a Rubicon he would not cross, and there has followed weeks of behind-closed-doors political haggling, no doubt punctuated by many interventions from senior editors and proprietors. As so many times before, the guardians were given the opportunity by politicians to influence who would guard them, and on what terms.

Has anything changed? A voice for victims

At the time of writing the next steps are unknown, but depressing as this picture probably appears to anyone concerned about accountability, there are grounds to believe that all this has been something better than a mere re-run of the failures of 1990, 1977, 1969, 1962 and 1949. The press crisis of 2011-13 has been different from its predecessors, and though the industry may be without shame it is also almost without friends and without arguments. What has changed most is that this time, for the first time, civil society has been engaged, with groups of all kinds, from ethnic minority and disability associations to academic and professional bodies, rightly declaring that they have an interest in press standards and having their say at the inquiry. And this process took place for the first time not just in public but online, with witness evidence streamed live to whoever wanted to watch.

The greatest impact of all, in this new environment, came from the testimony of those who had experienced the worst that the press has dished out. They included the Dowler family, whose murdered daughter Milly was notoriously a target of the phone hackers, and Kate and Gerry McCann, serially libelled in the press over the disappearance of their daughter Madeleine. They were among dozens, some famous but most not, who testified to the cruelty and ruthlessness of journalists often unrestrained by the law, let alone by a meaningful code of ethics. In all the history of press inquiries, the victims had never before had a voice.

Conclusion

Hacked Off, the campaign I co-founded early in 2011 to call for a public inquiry into press standards, has since worked with some of these people to ensure that their contribution is not buried or distorted by newspapers that are anxious to avoid the consequences. With our support they speak out and they meet politicians to make the case for change. In some cases they are, or have become, public figures. Without their contribution, David Cameron would never have made his commitment to what we call the victims' test:

*'... that's the test of all this. It's not: do the politicians or the press feel happy with what we get? It's: are we really protecting people who have been caught up and absolutely thrown to the wolves by this process? That's what the test is.'*¹⁷

They intend to hold him to that promise.

It is not impossible to guard the guardians. In the 21st century the press megaphone is simply not loud enough to drown out all the other voices, especially when some of those voices belong to ordinary people whose lives were wrecked by papers that assumed they could never be called to account. Sooner rather than later, editors and proprietors will have someone to whom they must answer.

Professor Brian Cathcart is Director of Hacked Off, the campaign for free and accountable media, and professor of journalism at Kingston University London.

¹⁷ David Cameron, Leveson Inquiry Oral Evidence 14 July 2012



Social, local media turns its fire on local government

Richard Vize

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Last year, as more and more local and regional newspapers closed, a council meeting trended on Twitter. Local papers are still read by millions, but their contraction, and the growth of online and citizen journalism, social media and above all online investigative tools mark a profound change in the public scrutiny of local government and other public services.

The trending meeting was at Cornwall Council. Security guards were called as the leader was ousted in a no confidence vote over the authority's radical plans to outsource services. The hashtag denoting the live webcast from the council chamber, [#ccwebcast](#), was ranked third in the UK on the social media site Twitter.

Trends in local news – print and on-line

According to [Press Gazette](#) at least 242 local and regional papers closed in the seven years to April 2012, while 70 launched. Many more titles have cut frequency; last year six, including the [Liverpool Post](#) and [Lincolnshire Echo](#), went from daily to weekly.

According to a [Commons'](#) debate in December 2012 on the decline of local papers, they suffered a collapse in advertising revenue from £3.1bn in 2004 to £1.6bn in 2010. Around 1,100 local newspapers remain, but typically with many fewer editorial staff now working across the paper and its related website.¹⁸

Local newspaper sales have been declining for well over 30 years, with the loss of readers accelerating in the 1990s. The internet has accelerated a well-established pattern rather than created the problem.

¹⁸ Debate on Regional Newspapers, Westminster Hall, 5 December 2012.

Meanwhile the traffic to online news and community websites is growing sharply. According to [Ofcom](#) research in 2012 quoted on the website [talkaboutlocal](#), 34 per cent of UK adults looked at a local free paper at least weekly, and 33 per cent looked at a paid for local paper. This compares with 13 per cent who looked at local news websites at least weekly and 7 per cent who looked at ‘community’ run sites.

Three trends in local print and online media are emerging. The traditional local paper, now with its website, continues to cover local government, but with far fewer staff and almost never a dedicated correspondent. Reporting can too often lack the depth and background knowledge needed to fully hold councillors and officers to account; too often the focus is on the immediate and dramatic rather than the obscured but important.

Then there is the vision being pursued by David Montgomery, chairman of [Local World](#), a group with an interest in dozens of local titles. He told [inpublishing](#) in January 2013 that he believed traditional journalists and editors have lost control of the audience thanks to mobile and social media. Editors will become “pretty redundant”, metamorphosing into content managers handling “a 20-fold increase in the amount of content a local publisher exploits” across print, online and mobile platforms. Crucially, they will be using “lots of content that comes from the community itself and that is the really significant shift that we have got to make”.¹⁹

Finally there is the related growth in citizen journalism – blogging, tweeting and filming. Citizen journalists cover an extraordinary spectrum. At the more disreputable end are local bloggers who are the 21st century equivalent of the green ink letter writer, treating every action of the local council as yet more evidence of venality. But a much more sophisticated breed is now emerging.

At first sight the waning of traditional local government reporting and the rise of (much cheaper) aggregation and dissemination of citizen generated content has many drawbacks for effective scrutiny. It can never fully replace the power of news and analysis built on the foundations of relationships with the right people, dogged enquiry and an understanding of where to dig.

¹⁹ Interview with David Montgomery, [InPublishing](#) magazine Jan/Feb 2013 issue

A valuable role for hyperlocal bloggers and citizen journalists

But citizen journalism has a valuable role. Bloggers focusing on their local area – sometimes known as hyperlocal bloggers – can fill the void left by the traditional local government reporter. By close monitoring of local affairs, hyperlocal bloggers can develop a detailed understanding of local politics and council work.

Citizen contributors can reflect not just a range of opinions but the range of experiences of public services, holding councils and others to account for both their big policy decisions and how those policies manifest themselves for local people. They get into the nooks and crevices of a local area in a way that traditional journalism never can – the personalised impact of that big idea.

Some councils have attempted to restrict local people from blogging, tweeting and filming at council meetings which are supposed to be open to the public. Formal guidance from the [Department for Communities and Local Government \(DCLG\)](#) in 2011 said councils should allow citizen journalists to operate and use social media in council meetings.²⁰ Yet councils persist in picking fights. Citizen journalists will, of course, bring to their coverage their prejudices and sometimes obsessions. But trying to shut them out or giving them profile and kudos by, for example, disproportionate legal responses to tweets, could do more harm to the reputation of the authority and its officers and councillors than the action which provoked it.

The army of “armchair auditors” that ministers predicted would bring new transparency to public accounts on the back of the drive to publish spending over £500 has not become a big factor in scrutiny, despite a growing number of online tools to help analyse such accounts. Both [University College London’s Constitution Unit](#) and the think tank [Policy Exchange](#) have highlighted their minimal impact, with the latter describing ministerial hype on the issue as naïve. The supposed rise of the armchair auditor was part of the government’s justification for abolishing the [Audit Commission](#), but spending data without context does not have much value; simply saying what was paid to whom casts remarkably little light on issues such as value for money or performance.

²⁰ Letter from Bob Neill MP to local authority leaders, 23 February 2011

The true power of the web in ensuring public accountability

But a more sophisticated form of citizen accountability is emerging, more potent than scanning monthly spending figures or asking awkward questions at public meetings and press conferences. The push for public services to collect and publish rapidly increasing amounts of data is helping promote 'scraping' – using online tools such as [Outwit Hub](#) and [WebMiner](#) to trawl, collate and analyse information. These tools do far more than search for the information councils have carefully checked and published; they dig around in the code of html pages to pull together information that you had little idea you had released – trawling through thousands of web pages to look for particular activities or words.

The website [onlinejournalismblog.com](#) has a textbook example of the power of scraping – an exposure of the backgrounds and relationships of the 8,000 bearers of the Olympic torch in the relay. Over several weeks a group including [#media2012](#) – a citizen media network which covered the Olympics – collaborated with others including experts in scraping tools who could find pages that had been taken down and were invisible to normal search engines. They also used [crowdsourcing techniques via the Guardian website](#) to identify who people were, tip-offs from community activists, and trawls through sources as varied as planning applications and information gleaned from a shop which had made a celebratory cake for a group of torchbearers. The overall result was to reveal the truth behind the PR myth about every torch carrier having an inspiring story to tell. It revealed that, for example, four of the seven directors of one company supplying the Olympics carried the torch.

This – being able to dig around in the lives, relationships and financial affairs of thousands of people – is the [true power of the web](#) when it comes to [public accountability](#), which few public services understand. It starts to make the official register of members' interests look a little short on detail. Councils and the rest of the public sector see [Freedom of Information \(FOI\)](#) requests and publishing spending over £500 as the frontline of openness, but online technology and the work of activists is far ahead of this. Government proposals to amend the [Freedom of Information Act](#) to make it easier for authorities to reject complex requests would undoubtedly undermine the work of journalists and others in holding authorities to account, but the ability of public bodies to rigidly control the release of information is gradually being eroded.

Lord Leveson dedicated just a few paragraphs in his report on press standards to the Internet. He described it as an “ethical vacuum”.²¹ Public services would be wise to take a more nuanced view of citizen journalism. There will be many who adhere to strong ethical standards, and public bodies should not confuse being a nuisance with being unethical.

Other citizen journalists will worry far less about fairness or accuracy, but councils should have some faith both in the ability of members of the public to discern the difference between fact and polemic, and in the authority’s ability to get its own point across. If large numbers of people are starting to believe the dishonest claims of a blogger, the council needs to rethink rapidly how it talks with the public.

Social media is entwined with all of this. Public sector bodies were slow to appreciate that they had no choice about using social media; the media were already using them. The only issue was whether you allowed others to determine your reputation on Facebook and Twitter or whether you joined and influenced the conversation.

Social media: a rebirth of local scrutiny

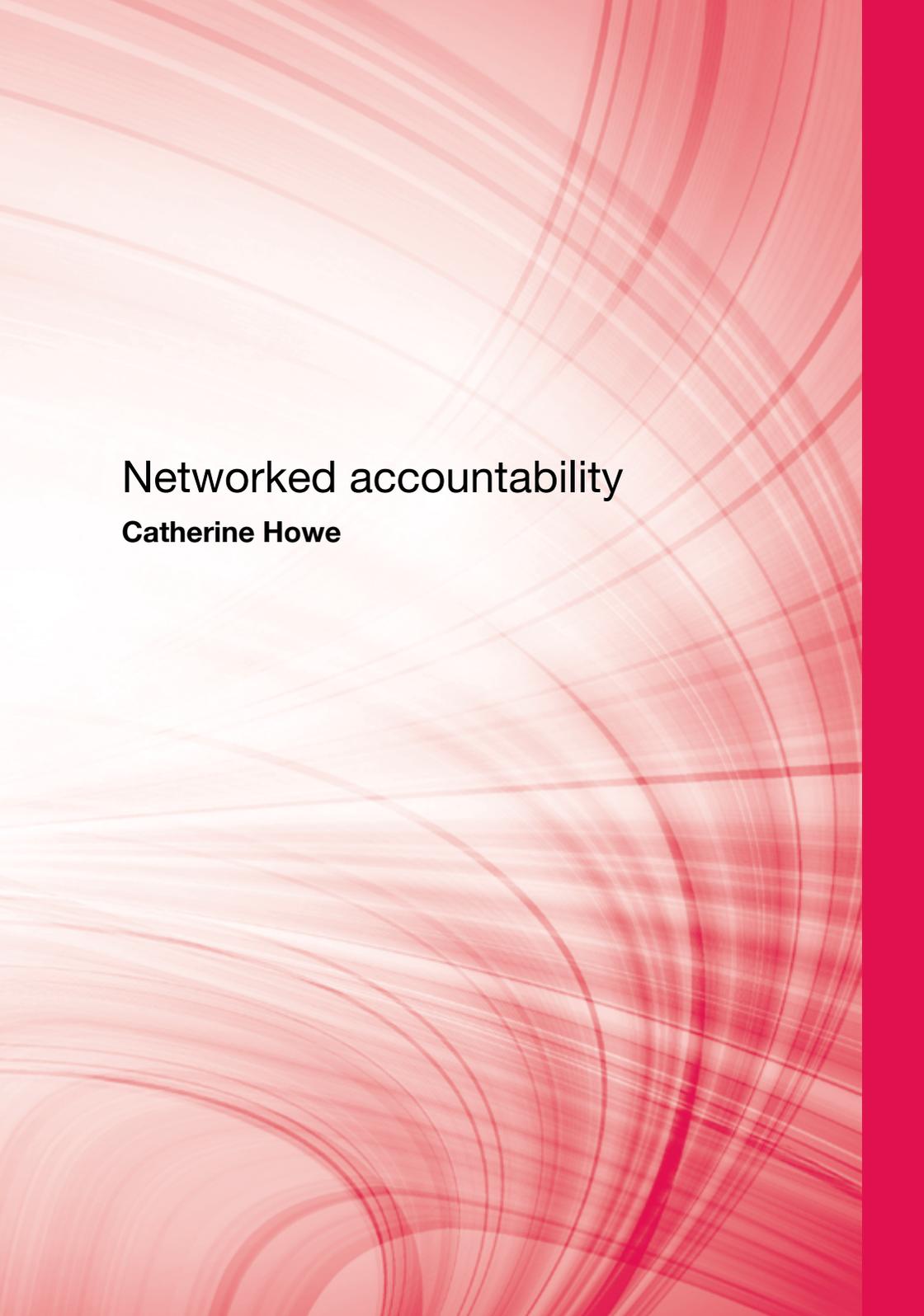
At its most prosaic social media are powerful incentives to have good customer services. A slow, inadequate or inept response will be exposed and propagated – at least for a few minutes. But these tools also heighten accountability to and relationships with specific interest groups – a sense of community is the underpinning of social media. Many councils have found that social media has opened up their relationships with and understanding of many groups they had found difficult to reach, such as residents from a particular ethnic minority. For example, Cambridgeshire County Council and the districts have established multilingual websites such as wisbech.shapeyourplace.org to provide interactive media for clusters of towns and villages. The county’s population includes a significant number of travellers as well as large migrant communities from Poland, Latvia, Lithuania and Russia. The sites use social media to build stronger communities in hyperlocal areas by enabling local people to raise the issues that affect them. The content drives engagement, services and strategy.

²¹ Lord Leveson, Report of an Inquiry into the Culture, Practices and Ethics of the Press, November 2012

Social media are vital tools for local activists and journalists, who thrive on its ability to reach and build communities of interest. Social media rapidly disseminates the work of citizen journalists; Twitter followers and Facebook friends gradually extend their ability to influence and hold to account.

So despite the decline in the local press, local media are not dying. They are energised, diversifying, innovating and collaborating. The trailblazers are using audit and search tools which would mystify many finance and IT staff and are outrunning national and local attempts to control information flows. This rebirth of local scrutiny will compel public bodies to rethink how they define openness and accountability, playing by rules over which they will have little control.

Richard Vize is a columnist for the Guardian's Local Government and Healthcare Networks, and a visiting lecturer in online journalism at City University

The background of the cover is an abstract composition of numerous overlapping, curved lines in various shades of red and pink, creating a sense of movement and depth. The lines are most prominent on the right side and fade towards the left. A solid, vibrant red vertical bar runs along the right edge of the cover.

Networked accountability

Catherine Howe

Networked accountability

Catherine Howe

Digital technology is embedded deeply in most people's lives; we google things rather than remember them, we create and share content freely and widely and when we ask a question online we expect to be answered.

The contrast in behaviours in democratic and informal online participation is stark; Beyond the consistent growth in digital take up, we see great growth in the use of digital technologies for civic purposes²² in the context of a more participatory culture.²³ At the same time we are also seeing a concerning drop in democratic participation.²⁴ In the UK this was illustrated with disastrously low levels of voter turnout²⁵ in the recent Police and Crime Commissioner elections. As we face challenging reforms and reductions in budgets, we are forced to consider a different kind of relationship between Citizen and State – however we can also hope and plan for this new relationship as one which is truly 'fit for purpose' in a networked and digital world.

While digital technology offers us new ways to open up the decision making process to scrutiny, it is the behavioural changes it makes possible which have the greatest potential to change our democracy. Digital, networked technologies – the Social Web – create change in the way we perceive our democratic relationships, in our attitudes to openness and transparency, and ultimately in the balance of power between Citizen and State. As we see widespread public service reform, our view of 'channel shift' should be one of cultural change and not simply the potential for cost and communication efficiencies.

22 Radcliffe, D., *Here and Now*, (2012).

23 Rheingold, H., & Weeks, A., *Net Smart: How to Thrive Online* (p. 272). MIT Press, (2012).
<http://www.amazon.co.uk/Net-Smart-How-Thrive-Online/dp/0262017458>

24 Brodie, E., Cowling, E., Nissen, N., Paine, A. E., & Warburton, D., *Understanding participation : A literature review*, (2009).

25 <http://curiouscatherine.wordpress.com/2012/11/16/pccs-are-here-rubbish-turnout-what-are-we-going-to-do-about-it/>

Scrutiny is an aspect of government that could be seen as already being aligned with one of the principal qualities of the Social Web, which is its openness. Open in terms of the 'publicness' of information, the potential for access to information and its ability to create direct networked connections between people rather than being constrained by closed hierarchy. The Social Web has other qualities: it is participatory in nature, fast moving and it is inherently meritocratic. At its best it can provide a vibrant arena to create and deliver ideas that can change the world for the better, at its worst it's a collection of odd cat pictures and ill-informed bigotry.

In thinking about how digital technology can help us better hold our political process to account, we need to consider these cultural and behavioural changes otherwise all we are doing is adding another channel to a process which was designed for a 19th Century industrial society.

Listen: can we ask a question?

At present most of our democratic processes are framed by political or bureaucratic actors. There is little space for the public to set the agenda apart from at the ballot box, and as we can see from low levels of voter turnout this is not an option that the public are utilising in great numbers.²⁶ However, in the rest of our lives we are used to having information at our fingertips and feel a sense of entitlement to getting an answer. More than that, the growth of media content such as confessional journalism, Reality TV and programmes like behind the scenes documentaries makes us used to the idea that we can and should know how things work and that there is no area of life in which we cannot ask questions. Many of us will have had the experience of asking a question of a commercial organisation on Twitter or Facebook because the 'publicness' of the request makes them more likely to respond. Our expectations of government are no different.

The end of the age of deference brings with it the idea that our leaders can be challenged, and as our public bodies take to social media we no longer see them as faceless and monolithic – we see them as collections of individuals and this brings opportunities and vulnerabilities.

²⁶ Audit of Political Engagement 9, The 2012 Report : Part One. (2012); and Norris, P., *Democratic Deficit*. Cambridge University Press (2011) <http://www.amazon.co.uk/Democratic-Deficit-ebook/dp/B004YPJ8KK>

Increasingly the public are asking questions of our politicians online via Twitter or on Facebook, but we are not always listening to them. Most parts of government now use social media but too often use it to talk and not to listen, and we have not yet started to address how we might translate informal discussion and public interest online into content and questions which we might be able to answer through a formal channel. While there are many initiatives using digital channels for consultation, we are not yet helping the public initiate the conversation.

Open data open everything

As we give the public the means to ask questions, we need to also ensure that we can offer them answers. Open data – the idea that government-originated data should be in the public domain in an accessible and useable way – is now a fairly established idea even if its implementation is as yet inconsistent. There are two drivers behind open data, the first is a desire to make government more accountable, and the second is a need to build trust between the public and government. This would be enough of a reason in its own right, as without transparency it's very difficult to imagine how we will rebuild trust in the democratic process. We need a shift away from the idea that information is something that needs to be controlled in its contact with the public.

More than that – there is an injustice in the idea that we pay for the creation of this data, it's data about us and yet we don't have access to it all because the systems assume that information is in a sealed file in a dusty drawer in the basement.

The idea of the 'armchair auditor' who would paw over the reams of data being released now seems slightly naïve as we have to accept that few citizens have the resources, skills or inclination to do a wide scale analysis of public spending. However, where they have questions, active citizens can and do dig for answers, and open data – when done well – means that they are empowered to do this.

Open data is going to be at the heart of a shift towards making greater use of technology to empower citizens. However, without a parallel shift to more open processes we are only seeing a tiny aspect of the potential benefits. Data needs to be interpreted and understood in order to be useful and it also needs to be trusted – the need for more effective listening goes hand in hand with open data.

The wisdom of the crowds

One of the other ways in which that vision of the armchair auditor was perhaps naïve was in envisaging that they would be working alone. The power of the Social Web is collective power which comes from people becoming networked and acting together. The Riot Clean Up²⁷ was a recent powerful example of this with crowds mobilising within hours in order to clean up after the 2011 riots, but we also see this in the organised opposition of council plans, in Barnet for example with the ‘Barnet Five’²⁸ bloggers.

Government does not find it easy to interact with informal and agile groups who form self-defined communities either of place or of interest. However, in many cases this is the nature of the civic participation that the Social Web enables. In realising the potential of digital technologies to increase accountability, we have to perhaps consider how we redesign our processes to connect to the opportunities that it offers for new forms of engagement.

Democratic redesign

The elements of a digital ‘fit for purpose’ scrutiny function could be simple:

- The ability for the public to ask the questions directly – to set the agenda
- Provide the data and thinking that surrounds that issue in an open and accessible way
- Create a public dialogue about the issue, the data and the discussion which involves politicians, citizens and experts.

These elements respond to the wider qualities of the Social Web – they are open, participatory and co-productive in that they make all stakeholders actors in the outcome.

There are many examples of best practice, which adopt these elements individually. However this best practice is rarely combined with bold use of the Social Web to make the whole process open and responsive. The role of the elected representative will be central in this model – however it will require politicians who are willing and able to interact with the public in an open and participative way. I believe we have to clearly set an expectation for members and officers that they will be fluent in not only the technology but the underlying culture of the online world because increasingly this reflects the offline world.

²⁷ <http://www.riotcleanup.com>

²⁸ <http://famousfivebarnetbloggers.blogspot.co.uk>

This means we have to support these processes and our politicians in radically different ways with access to real time data and knowledge of what the conversation is within the community that they are responding to.

This is not to say that every question must be answered – the volume of content online is overwhelming – but the public realise this. The proposal here is that you demonstrate that you are listening and then transparently and collaboratively select the questions that you are going to address. A good democratic experience is often one where you understand the decision – not necessarily one where you agree with it.

Digital exclusion

A concern about who is not online is a legitimate challenge to this whole argument. The strategy of being Digital by Default is undoubtedly supported by the evidence base, and is arguably essential if we want to ensure economic relevance for the country in the future. If we look at the range of evidence around digital take up we can have reasonable confidence that the increase in smart phone technology and the consistent pattern of increases in Internet use make this a diminishing problem – albeit one with a long tail. However there are also signs that there will be a group of people who are persistently excluded for a number of complex reasons, as is the case with other forms of social exclusion. We have to plan to address their wider exclusion, rather than use this as an excuse or delaying tactic to address the need for radical change that is driven by the changing behaviours in the rest of society. Digital by Default does not mean only digital – but it does mean making the cultural shift that is described in this essay.

Conclusion

If we want to change the relationship between Citizen and State to create greater trust and also greater collaboration, then our scrutiny of decision-making is an excellent place to start. Doing so using digital technologies has the advantage of engaging within an environment that already expects openness and transparency to be embedded. The technology to achieve this already exists, however it will require strategic vision and cultural change to achieve. This can only be done if political and process leaders are united in their desire to evolve and develop a system of public accountability which is designed for a digital and networked age.

Catherine Howe is the Chief Executive at Public-i Group Ltd and has a special research interest in the social impact of web 2.0 tools in a democratic context.



Empowered and engaged consumers: involvement and accountability

Teresa Perchard

Empowered and engaged consumers: involvement and accountability

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'Consumers, by definition, include us all. They are the largest economic group in the economy, affecting and affected by almost every public and private economic decision. Two-thirds of all spending in the economy is by consumers. But they are the only important group in the economy who are not effectively organized, whose views are often not heard' ²⁹

President John F Kennedy's remarks in March 1962 set a consensus that more empowered and engaged consumers – with the knowledge, skills and confidence to look out for themselves, avoid bad deals, rip offs and scams – are essential to a healthy economy. The high level of consumer detriment and fraud against consumers now costs our economy approaching £10bn per annum. Combined with declining resources for publicly funded consumer protection services, this means that past approaches to consumer 'empowerment' are just not up to the challenge. This essay considers why consumer protection policy is an important area where greater involvement and accountability could be developed, the challenges to engaging, involving and empowering consumers and the opportunities ahead to address this.

Why are consumers important for accountability?

Economic growth cannot happen without consumers. And policy makers tend to agree that consumers cannot drive growth if they are not confident and empowered:

'...empowerment is not just a catch phrase to refer to all things for all men. It is a framework of principles and mechanisms where our 500 million consumers drive a smart, sustainable and inclusive economy. Empowerment is a means of delivering confidence to consumers by giving them the tools to take meaningful decisions in the market. Fundamentally consumer

29 John F. Kennedy: "Special Message to the Congress on Protecting the Consumer Interest.," March 15, 1962

*empowerment underpins confidence in our economy.....it is about building confidence and enhancing growth.*³⁰

*'...we want to see confident, empowered consumers able to make the right choices for themselves – to get the best deals, demand better products or services, and be able to resolve problems when things go wrong. This approach makes it easier for honest, high quality businesses to compete and will drive innovation, competition and growth. A better deal for consumers and the economy means a better deal all round.'*³¹

But whilst policy makers in the UK and Europe want consumer empowerment, and see that this can deliver benefits for the whole economy, they are less clear about what will actually work to make this vision a reality.

In the past public policy on how to achieve 'empowered' consumers has tended to default to top down 'push' information and competition initiatives. If we are to get empowered consumers driving growth and better public services, we will need new more creative, authentic and engaging approaches. New approaches could improve accountability of businesses, public services providers, and consumer protection bodies. But there are a number of challenges to achieving this.

The challenges to greater consumer engagement and empowerment

First, consumer confidence is low. Low confidence is a real challenge to consumer engagement and trust, in businesses, public services and consumer protection institutions. Between 1981 and 2013 consumer confidence in the United Kingdom averaged -9.50, reaching an all-time high of 10+ in June 1987. Unsurprisingly confidence fell to a record low of -39 in July of 2008 and has remained very low since, standing at -26 to January 2013.³²

Second, markets are increasingly complex for consumers, often as an outcome of public policy.

30 John Dalli, Commissioner for Health and Consumer Policy, IMCO hearing on the Consumer Agenda, February 2012

31 Better Choices, Better Deals, Consumers Powering Growth, BIS, April 2011

32 GfK Consumer Confidence survey, which measures the level of optimism that consumers have about the performance of the economy in the next 12 months.

The introduction of competition into the energy markets has generated significant complexity which has reduced consumer trust, confidence and engagement and created new challenges for consumer protection and empowerment. Decisions to introduce choice in public services, such as social care and welfare, bring similar questions about consumer protection, engagement and empowerment and ultimately about accountability.

Third, the seeming proliferation of consumer scams does little to generate confidence in public services that are supposed to deliver consumer protection. Consumers' 15.7 million problems with goods and services in 2012 resulted in an estimated financial detriment of £3.1 billion, a financial loss we can ill afford in the current economic climate.³³ Consumers lose a further £6.1 billion a year to mass marketing, identity and other fraud and scams.³⁴ Wading through the scam emails, texts and phone calls has become a daily experience for most UK consumers: 60% of UK office workers report receiving phishing emails every day and 6% get more than 10 a day,³⁵ and nine in ten people have been pestered by calls, emails and spam texts from claims management firms within the past 12 months³⁶.

Fourth, and perhaps linked to the above, consumers often don't engage with features of competitive markets that are designed to give them choice and put them in the driving seat. Indeed they are often put off by proliferation of choice, and can make decisions which appear irrational. The [Office of Fair Trading's](#) review of high cost credit (2010) found that consumers relentlessly choose the highest cost loans relying on weekly repayment values as the primary indicator of 'affordability' and value. [Ofgem](#) research on energy market switching shows that the lowest income consumers remain those least likely to both switch and switch effectively, often paying more for fuel if they switch supplier. Consumers tell [Citizens Advice](#) that energy companies trying to get them to switch supplier are in their top ten list of scams. Ironically a feature of the market designed to empower consumers with more choice is seen by them as a scam and to be avoided.

Fifth, resolving complaints is still too complex and costly for consumers who too often get the run around from businesses and public service providers. Faulty goods and sub-standard services are a major cause of complaints to the Citizens Advice consumer service. The majority of consumers do not complain even when they have cause to.

33 [Consumer Detriment 2012](#), Consumer Focus, 12 October 2012.

34 [NFA, Annual Fraud Indicator](#), March 2012

35 [Action Fraud alert](#), January 2013

36 [Claims pests](#), Citizens Advice, November 2012

But even when they do complain very few – only around 10% – achieve a completely satisfactory outcome, mainly because of prevarication and delay by the business concerned.³⁷

Lack of responsiveness to consumer complaints is not confined to businesses. Research for the Parliamentary and Health Service Ombudsman (PHSO) finds that 1 in 5 people are unhappy about public services. Of these almost 40 per cent do not bother to complain for a variety of reasons including complexity and lack of confidence that it will make any difference³⁸. The PHSO also says government systems for dealing with complaints are too slow and complex to represent anything like accountability with:

*'a plethora of complaints systems, mainly developed by the individual departments and bodies to suit their needs, rather than providing a common approach for the benefit of the public. For an individual member of the public, who wants to complain about the service they have received from one, or more, public bodies, such a multitude of different systems adds to confusion or frustration.'*³⁹

Finally public policy too often lags behind the reality of consumers' experiences and expectations. Policy makers are very ready to support interventions to provide more information, but there is often a reluctance to take measures which could actually drive accountability by putting more power in the hands of consumers, such as enabling class or representative actions.

For example the forthcoming Consumer Rights Bill seems likely to set legal time limits for consumers to seek refunds in relation to unsatisfactory goods and services, but there is as yet no proposal for time limits for businesses to respond to complaints they receive from consumers.

Consumers with experience of making complaints tell Citizens Advice they want more ways to obtain redress. Only nine per cent of the general public feel that court action is an appropriate remedy for their complaints about goods and services, but there are no plans to provide consumers with what they would really like to see. Consumers strongly support setting time limits for businesses to respond to complaints, and many consumers would like to see opportunities for class and representative actions where consumers can club together to get compensation or a problem put right.

³⁷ Redressing the balance, Citizens Advice, December 2012

³⁸ Forthcoming research from the Public and Health Service Ombudsman, expected Feb/March 2013

³⁹ Responsive and Accountable? The Parliamentary Ombudsman's review of complaint handling 2010-11

If policy making is to be accountable to consumers, and deliver a consumer protection system which can be run by empowered consumers these proposals should be considered for the forthcoming Consumer Rights Bill.

Set against these many challenges – low consumer confidence, trust and engagement, a legal framework that is not in line with consumers' expectations and a tendency in policy towards broadly top down information interventions – how do we achieve engagement with consumers to really involve them in driving change?

Opportunities for change?

We have already made a start to create some new ways of doing things which could improve consumer engagement and empowerment and ultimately accountability of public services, and businesses, to consumers.

For example the Citizens Advice service is playing a significant role in the government's reforms to the 'consumer landscape'. These see responsibilities for delivering consumer advice, education and advocacy transfer to us, a trusted charity with local roots, from national public bodies the Office of Fair Trading and Consumer Focus.

The leading consumer protection institutions are being reformed with the merger of the Office of Fair Trading and Competition Commission. A number of national responsibilities for improving business codes of practice, tackling scams and illegal money lenders are transferred to the Trading Standards Institute and its members, bringing these activities closer to local public services. As part of these reforms consumer groups and consumer protection agencies come together for the first time in a new Consumer Protection Partnership (CPP) to share intelligence about the problems consumers are experiencing and develop a shared view of consumer detriment, risks and action needed by the partners.

As the best known and trusted advice giving organisation Citizens Advice is uniquely placed to help achieve greater consumer empowerment by providing advice, information, education and advocacy in communities and nationally, under a single well known and trusted brand. Our contribution will help to rationalise the system of consumer representation, making it simpler and less confusing, providing evidence to our consumer protection partners to help them set the right priorities and do their job, as well as building community based consumer advocacy and support.

We are keen to work in partnership as no single organisation has a monopoly of ideas about how to resolve these issues.

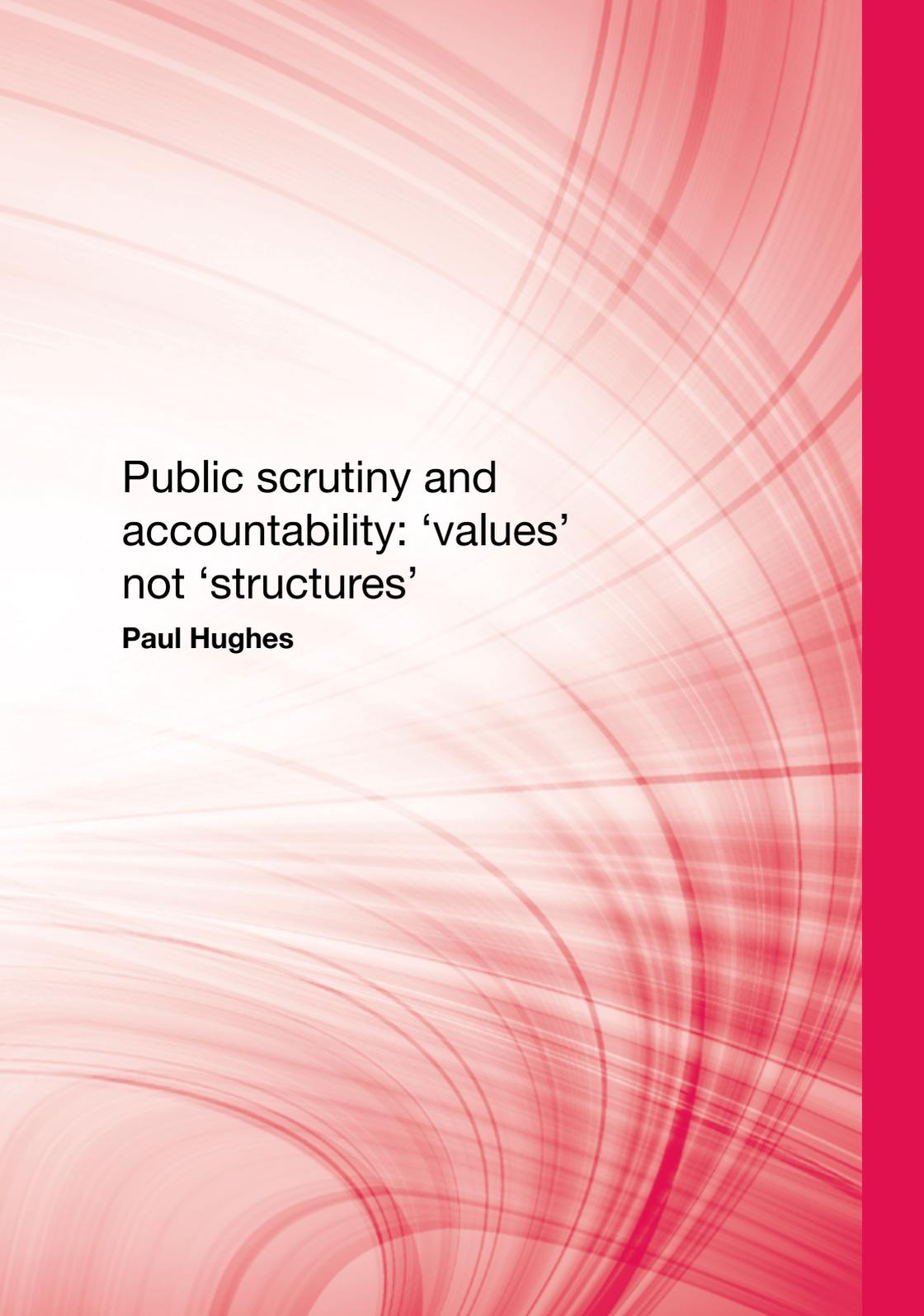
A unique feature of the Citizens Advice approach is that it is authentic, rooted in evidence from and actively involving consumers. For example, when it comes to delivering consumer education we will enhance programmes which produce education materials by establishing local Consumer Empowerment Partnerships (CEPs), led by Citizens Advice Bureaux across England and Wales. These will provide local leadership and organisation for consumer education and empowerment. Integrating information, advice, education and advocacy, and anchored in the local community they will enable consumers to become well informed and to play an active part in reporting and tackling bad practice, scams, rogue traders and activities to tackle these issues locally.

Ultimately CEPs will organise consumers to have their say to businesses, public services and consumer protection bodies. As well as helping consumers to become more resilient this could create a new, well informed, well organised and focused resource for securing responsive and accountable public services – encouraging consumers and citizens to get involved and have their say, particularly about the priorities for consumer protection services.

Conclusion

These reforms must deliver transformation, not just moving the deck chairs around. We must deliver better outcomes for consumers by simplifying the landscape and establishing new ways that agencies work together, share intelligence, data and develop shared priorities and strategies. Greater transparency, involvement and accountability will be important factors in success. Involving consumers more in the key decisions about consumer protection priorities will be a significant challenge, but we will need to go further. The reforms will not deliver for consumers unless they are also underpinned by a good framework of legislation establishing clear and simple consumer rights; simple, appropriate and low cost mechanisms for obtaining consumer redress; and a sound framework for public enforcement which can and does act promptly when needed.

Teresa Perchard is Director of Policy and Advocacy at Citizens Advice.



Public scrutiny and
accountability: ‘values’
not ‘structures’

Paul Hughes

Public scrutiny and accountability: 'values' not 'structures'

Paul Hughes

We have all seen what can happen when organisations fail to govern themselves properly. The banking crisis and [Mid Staffordshire Hospitals NHS Foundation Trust](#) are just two examples that illustrate the disastrous consequences of poor governance, irrespective of sector.

In local government, there has never been a time when good governance is more important. Councils face intense pressure to deliver unprecedented funding cuts, organisational change and innovation in service delivery, while meeting public demands for greater transparency in decision-making and performance.

Effective and embedded governance frameworks will be essential to meeting these challenges and to ensuring councils progress effectively, with the support of all their stakeholders. Good governance is essential to both council leaders and the public. It supports leaders in making the best decisions, reduces the likelihood of things going wrong and protects them when problems occur. It inspires confidence in the public that the best decisions are being taken for the right reasons, that service quality is protected and that public money is being wisely spent.

In the [Grant Thornton Local Government Governance Review 2013](#), which is based on extensive review of councils' 2011/12 published documents and views of senior officers and members, we focus on both the public face of governance (the documents that councils publish, in print and online) and governance behind the scenes (as demonstrated by council people and processes). Both are essential to effective governance.

Good governance: too much compliance, not enough culture?

A key finding is that when designing and implementing governance arrangements councils, and other public bodies, often focus on ticking the compliance boxes in their reports and on corporate structures – meetings, processes and forms. Whilst these factors support governance the more important and challenging consideration of people, culture and behaviour – the things that make governance work – is often neglected.

Councils proffer information on their governance to stakeholders in many ways, including: public meetings, websites, accounts, annual governance statements (AGS) and explanatory forewords to the accounts. Our research suggests that, despite these mechanisms, communication with communities is not as effective as it should be:

- one third of survey respondents do not consider that council accounts are aimed at the public and feel that the length and technical complexity makes them difficult to understand
- many council AGS follow too rigidly the example text in the Chartered Institute of Public Finance and Accountancy (CIPFA) / SOLACE (The Society of Local Authority Chief Executives and Senior Managers) guidance, rather than reflecting the unique features and challenges of their own organisation
- explanatory forewords are often far from ‘explanatory’, being hard to read and not focused on key messages for stakeholders.

Councils should ask themselves, “Are we truly presenting our governance arrangements to stakeholders in the best possible way?” To answer the question, we suggest they talk to a wide mix of their officers, consider best practice from both local government and other sectors and, most importantly, survey their users and other stakeholders – the people who really need to know how their councils are doing.

External input is essential, not least because insiders can find it difficult to look through a layperson’s eyes or to assess their own output objectively. This may explain why so many council respondents to our survey are unswervingly positive about their governance. For example:

- ninety six per cent feel their accounts are made available to the public in a ‘timely and accessible way’ and seventy one per cent say they are easy to understand

- nine out of 10 say their AGS enables the public to ‘understand clearly’ the governance arrangements the council has in place
- ninety four per cent believe their explanatory foreword provides a ‘clear and concise introduction’ to council accounts.

Annual reports: a contribution to better accountability

As well as revisiting the content and presentation of these documents with the end user in mind, there is a strong case for producing an annual report. Few councils do this now and in the Grant Thornton review we suggest that they should reconsider this position on the grounds of transparency and accountability. As one s151 officer and member of our governance working group put it: “The annual report is absolutely vital for public accountability.” However, even councils that accept this argument face the barriers of capacity and cost associated with producing traditional glossy annual reports.

Our working group members agreed that a lavish, lengthy printed document was not what was needed, supporting something more concise, user friendly and perhaps published on the website as a ‘front end’ to summarise key information and provide hyperlinks to more detail. This is consistent with developing practice in some large corporates that are part of the International Integrated Reporting Council (IIRC) pilot scheme, which CIPFA is currently considering for the public sector.

If councils did produce such a report, it would make sense to do so earlier than the end of September – six months after year-end and way behind other sectors and public expectation. While detailed annual council accounts are often not ready until the end of June, our working group members thought enough would be available, of sufficient robustness, to support summarised financial content in a draft annual report.

It is possible, therefore, that annual reports could be produced early on, containing high-level draft figures, significant AGS and explanatory foreword content, key risk and performance information, plus anything else fundamental to council strategy. A web-based annual report could be a live document, updated after the audit of the accounts.

Accountability: the tone from the top

Good council governance is much more than publishing statements of compliance: it is about ensuring an entire organisation is aligned to achieving its strategic goals, effectively and ethically.

It requires leaders setting the right tone from the top and having the skills to effect cultural change. Employees should be familiar with, and working exclusively towards, the council's strategic goals. Governance frameworks, particularly risk management, scrutiny and audit, need to complement each other and, especially in challenging times, efforts are needed to establish and assure key controls that protect the council's goals from failure. In short, good governance is about combining people and processes into an effective formula.

People, culture and behaviour are critically important to good governance. If councils do not have the right people, behaving in the right way within a culture that is supportive of good governance, organisational effectiveness will be seriously impaired. Conversely, a positive governance culture, where people understand and live the values, drives robust decision-making and, in turn, strong performance.

This was borne out by our survey results, where respondents rightly focus on the importance of senior management ownership and member involvement, as well as communication, in improving governance.

Our survey shows the sector considers that senior officers and internal audit hold the governance mantle, with members not appearing in the four 'top posts for driving governance'. However, the importance of members in creating and maintaining a positive governance culture should not be underestimated.

Council leaders continue to rate highly their development mechanisms for officers, with eighty two per cent agreeing that they have 'robust arrangements' to build their capacity and capability. However, they are less confident about the equivalent for members, with one-third feeling they do not have such robust arrangements for them. Councils should consider how well they support members in their pivotal leadership role in governance.

We believe the key to changing views and approaches to governance is through strong principled leadership setting the right 'tone from the top'. We explore this theme in the Grant Thornton report 'The chemistry of governance', which reviews governance in the UK's FTSE 350. The core principle also applies to local government, where the leader and chief executive have a vital role in determining how councils should be run. In considering behaviour and culture, the 'Seven Principles of Public Life' remain as relevant as when Lord Nolan's Committee on Standards in Public Life first published them in 1995:

The seven principles of public life

1 Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

2 Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

3 Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

4 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.

5 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.

6 Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

7 Leadership

Holders of public office should promote and support these principles by leadership and example.

Elements of governance: audit, scrutiny and risk

The critical issue of people, culture and behaviour flows through all of the findings of the Grant Thornton Local Government Governance Review 2013, for example around audit committees, scrutiny and risk management.

Audit committees are seen by the sector as one of the key strengths of council governance, although our results showed some reduction in confidence that the audit committee responds effectively to changing risks or demonstrates added value. People are key to managing the risks to effective operation. It is important to have a skilled chair who can keep the work of the committee on track. Apart from the chair, it is critical that, as a group, members have the right skills, expertise, independence of mind and political neutrality to fulfil their role. If all of these criteria are met, then an audit committee does not need independently appointed members to be effective.

This year, scrutiny was again one of the lowest-scoring areas of our survey: forty per cent of senior officers and members say their scrutiny function does not demonstrate the value it adds. Survey respondents were asked what would improve scrutiny in their council. The top three responses majored on the 'softer' aspects of scrutiny:

- improved clarity on role
- more strategic view and focus on key information
- training for members.

Risk management is well established in local government, reflecting a decade of investment. However, funding pressures mean councils may no longer be able to maintain internal risk management resource levels – just when they are facing increased risk due to factors such as service transformation, outsourcing and localism. In this environment it remains important for councils to ensure principles of good risk management, and an effective risk culture, are spread throughout the organisation.

Conclusion

While many tools and techniques for managing cultural change exist, it is never easy. Yet many organisations, including councils, give insufficient regard to addressing cultural issues when implementing change. When considering how to improve governance, councils need to think a lot further than systems and processes. If the culture isn't supportive of good governance no amount of process redesign will fix it.

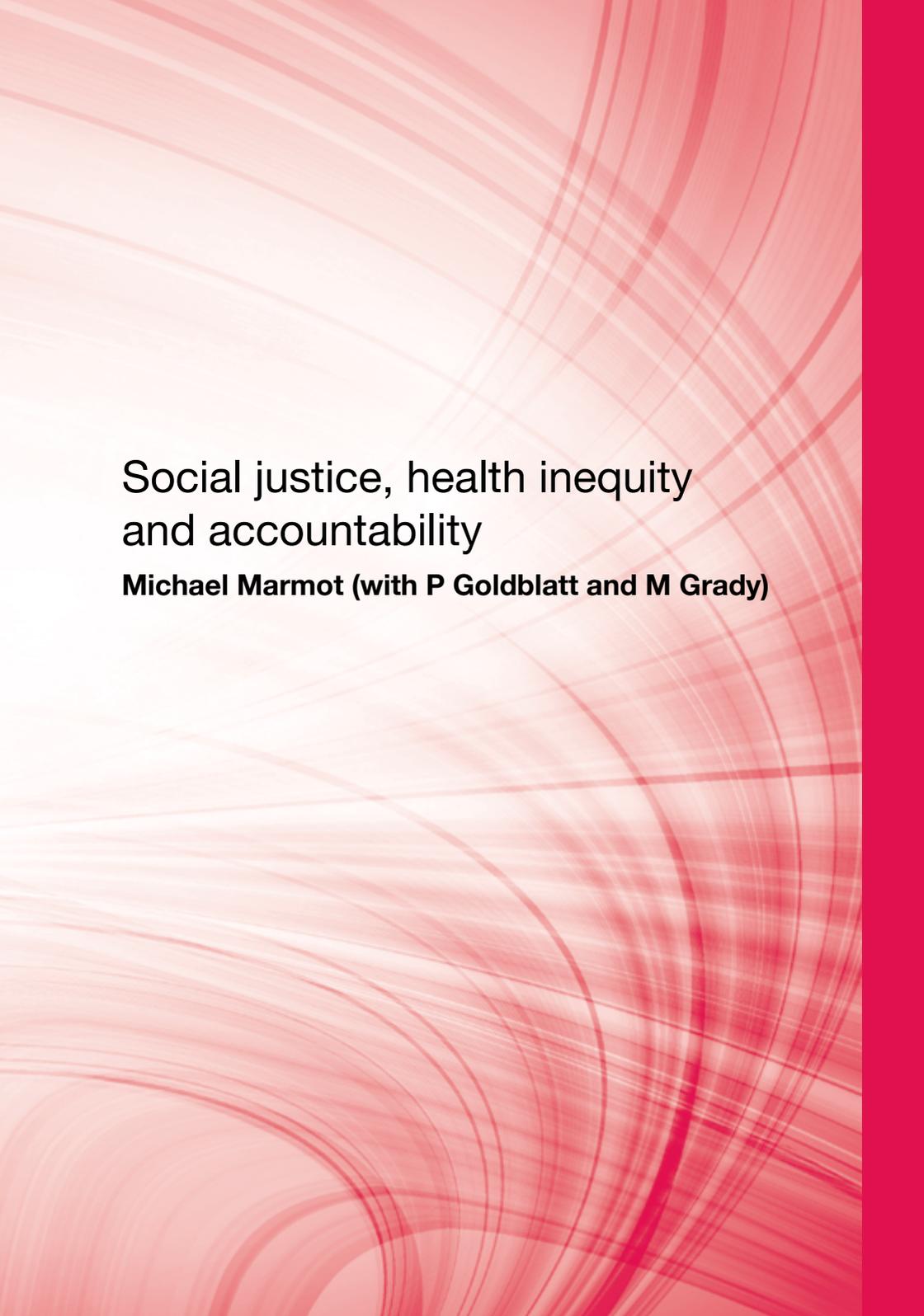
Improving your governance culture

- Invest time in understanding your governance culture. Don't just assume solutions will work
- Involve all those responsible for effective governance: elected members, statutory officers, senior leaders and departmental management
- Gain buy-in by reinforcing the basic principle: Good governance = good decision making = good performance
- Spend time with stakeholders to demystify governance and spread understanding that it is the way that everyone should work – not just something for audit and finance
- Accept that cultural change takes time, resources and carefully planned and executed structured and unstructured interventions with stakeholders
- Focus on real behavioural change, not box ticking
- Identify and support those who are not showing the desired behaviours
- Share stories and reward those who exemplify the desired cultural change.

"The Framework emphasises the importance of good governance to the wider outcomes of good management, good performance, and good public engagement. It puts high standards of conduct and leadership at the heart of good governance, placing responsibility on members and officers to demonstrate leadership by behaving in ways that exemplify high standards of conduct, and so set the tone for the rest of the organisation"

Addendum to Delivering Good Governance in Local Government: a framework, CIPFA, August 2012

Paul Hughes is a Director of Public Sector Assurance practice at Grant Thornton and is responsible for national NHS and local government governance reports. He regularly presents and writes articles on governance and public reporting matters

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Social justice, health inequity and accountability

Michael Marmot (with P Goldblatt and M Grady)

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Introduction

The health divide is unnecessary, persistent and even widening. To address it, strengthening community leadership to draw together citizens, communities and key partnerships is critical to extend social cohesion and address the social determinants of health and equity in health in the UK. This will require more equitable relationships between communities and democratic institutions with action at all levels of government and across civil society to address processes of social exclusion. The objective is to build more responsive and transparent systems of accountability which remove barriers to participation and foster greater engagement, giving people a real say in the decisions made about them and their families and communities. The new arrangements for public health in England and the leadership of this function by councils present a real opportunity to extend local democracy and inclusion to identify local problems and develop joint action to address the social determinants of health. These include early child development and education, employment and working conditions, social protection and adequate income for healthy living and participation, housing and urban planning, neighbourhood safety and social cohesion, transport and the environment.

The Health and Social Care Act 2012 locates the statutory duty for narrowing health inequalities on the Secretary of State for Health, the NHS Commissioning Board and the local clinical commissioning groups. However, councils retain their duty to deliver health and wellbeing for their population. This is significant because Health and Wellbeing Boards will not have enforcement powers but will rely on the network of relationships between Board members to provide community leadership and deliver local priorities and objectives. The risk is that during recession and a time of austerity accountability for narrowing the health inequalities gap becomes secondary to the task of integrating health and social care services which has had mixed success historically.

Early action to engage local communities and extend their influence will be essential for success as well as a clear focus on addressing the social determinants of health.

Context

The current global and financial crisis raises new and formidable challenges about the relationship between citizens, communities and the State with specific reference to issues of inclusion, participation and accountability. Service change and welfare reform is placing pressure on individuals, communities and public services at a time when many people are feeling alienated and excluded from formal political processes and perceive a lack of political voice and influence over decisions which affect their future and those of their families and communities.

In the current political and financial environment, there is a risk of prioritising only the most vulnerable and striving to do more with less resource rather than creating new opportunities for radical reform. In this context, a reforming agenda would adopt whole population strategies to address the growing health inequity gap and the social gradient in health by focusing upstream on action to address the social determinants of health, building social cohesion and extending communities' resilience.

The evidence

Three major reviews of the social determinants of health and health inequity have been completed since 2008. First, the WHO global commission report on the social determinants of health 'Closing the gap in a generation' (2008)⁴⁰ proposed that action be taken to address health inequities by improving the daily living conditions of all people across the life course; tackling the inequitable distribution of power, money and resources; measuring and understanding the scale of the problem; and assessing the impact of action to ensure that it is of sufficient scale and intensity to close the global health gap in a generation.

40 Marmot M, Closing the Gap in a Generation. WHO Commission on the Social Determinants of Health. (2008) WHO

Second, The Strategic Review of health inequalities in England 'Fair Society, Healthy Lives (2010)⁴¹ built on the foundations of the Commission's work and set out the evidence on six key policy objectives to address health inequalities in England post 2010 across the social gradient. The underlying principles in both reports were of social justice and equity based on a human rights approach. The empowerment of individuals and communities was identified as a key prerequisite in addressing avoidable and unjust social inequalities which drive health inequity, poor health and poor behaviours which are detrimental to us all. Tackling inequalities in the social determinants of health would bring a wide range of societal benefits including greater levels of social cohesion, health and wellbeing and community resilience.

Third, the WHO European Review of the Social Determinants of Health and the Health Divide was reported in summary in the *Lancet* in 2012.⁴² This identified wide health inequities across the region, both within and between countries, but pointed to countries in the region that enjoyed some of the best levels of health and narrowest health inequalities. What the evidence highlighted was that those countries with high levels of social cohesion and narrower inequalities had created the conditions where people could flourish supported by high quality education, accessible health care and nurturing welfare systems. However overall inequities were widespread, persistent, unnecessary and unjust and tackling them should be a high priority at all levels of governance.⁴³

Human rights, capabilities and social justice

Central to the approach taken is an emphasis on creating the conditions in which people can take control over their lives and their health across the life course. Strategies to address health inequities are founded in the empowerment of individuals and communities which extends local democracy which gives people a voice. Our "democracy has to be judged not by the institutions which exist but by the extent to which voices from diverse sections of people can actually be heard"⁴⁴. This means addressing the processes that lead to individuals and groups being vulnerable, disadvantaged and excluded by society.

41 Marmot M et al *Fair Society, Healthy Lives. Strategic Review of Health Inequalities in England post 2010. The Marmot Review, (2010), London*

42 Marmot M, Allen J, Bell Bloomer E, Goldblatt P. (2012) *WHO European Review of Social Determinants of Health and the Health Divide. Lancet Vol 380. 15th September 2012. Pp. 1011-1029 (£)*

43 Marmot M (2012) *op cit.*

44 Sen A. *The Idea of Justice. (2010) Penguin London.px111*

National leadership and macro-action

Such an approach demands new forms of leadership and accountability across government at national and local levels and indeed across civil society as a whole. The Secretary of State for Health now has the statutory duty to have regard to narrowing the health inequalities gap which places the role at the centre of government action. The scale and complexity of health inequity requires joined up and systematic action across government and strong leadership at a national level which focuses on citizens' rights and the promotion of equity and inclusion for all groups and communities. This leadership will need to facilitate cross government working and integration, with the health and social consequences of austerity measures explicitly addressed as part of a longer term strategy which places health gain at the centre of our society, in contrast to an over-reliance on economic growth.

Public health should be central to economic and social policies and debated as part of a national discourse to establish a thriving democracy which delivers on diversity and health equity in all policies. The European Review argued that the moral case for action based on social justice and equity merges with the economic drivers. Investment in early years, education, effective and accessible health services and social protection pay dividends in the short and longer term. Socially cohesive societies and communities are much more likely to generate higher levels of health, wellbeing and resilience which equip citizens to manage the abrasive nature of the recession as well as avoiding civil unrest.

It is these kinds of outcomes which should form the bedrock of accountability: a clear focus on engagement and commitment, delivery on the social determinants of health especially early years, education and health, and the building of national capability and capacity founded on more equal relationships and mutuality.

Local accountability, health inequity and the social determinants of health

Two factors underpin a growing recognition of the critically important role of local government in addressing the social determinants of health and equity in health both across Europe and within the UK. First there has been a growing challenge to the dominant medical model of health and greater understanding of the social model of health where health is largely determined by socio-economic and environmental factors which are the core business of local government.

Secondly increasing the rhetoric of localisation and devolution has emphasised the importance of local decision making in effective local planning which responds to local need.

The transfer of public health into local authorities from March 2013 is entirely consistent with local government's role in:

- Providing community leadership, extending democratic participation and involvement
- Exercising powers to secure local health and wellbeing
- Commissioning and providing a range of regulatory and support services
- Orchestrating the widest possible collaborative working necessary to deliver on health inequity in a complex adaptive system where action is required by multiple agencies in partnership with citizens and communities.

The statutory mechanisms to drive forward health improvements are the newly established health and wellbeing boards. Early action on the local social determinants of health will be essential for success, relying on the network of relationships between the key players to decide and act on key local priorities and objectives.

New forms of relationship will also be necessary to secure the active community focused leadership which will be required in this new forum. Credibility will need to be established by transparent action and coproduction of local strategies and solutions in a more people centred public health system which sees people as assets and which values and facilitates local contributions, skills, understanding and capabilities of both individuals and whole communities.

Taking this approach would pay dividends in developing local social capital shaped by the ability of local communities to organise themselves and be involved in the decisions they can make about their lives. This will bring about a shift from deficit and dependency to more active challenging citizenship. This means fostering challenge on behalf of local people and communities. Health scrutiny and local Healthwatch have key roles to play.

Health scrutiny has emerged as an important council function in exercising robust community leadership in delivering health improvements and holding the executive to account. Within the new arrangements this role becomes increasingly important and should extend to take a wider view of local health inequities and the health divide.

This dynamic would help to shift the emphasis from issues of service configuration to an emphasis on developing the health, wellbeing and resilience of communities, challenging existing political and professional power structures and creating new opportunities for community engagement and the development of greater confidence capability and self-reliance in communities.

Local Healthwatch as a citizen and community champion has a critical role to play in assessing local need and collating evidence about equitable access to local services and the effectiveness of those services in meeting the needs of the local population. This represents an important opportunity to extend opportunities to give people a voice especially those groups who are disadvantaged and excluded from mainstream participation. Such aspirations may be hampered by the regulations relating to Healthwatch which seem to prevent them from leading action to change policies of local authorities, local commissioning groups, and primary care. Strengthening the ability of Healthwatch to engage and represent individuals and communities locally and nationally would be beneficial.

Conclusion

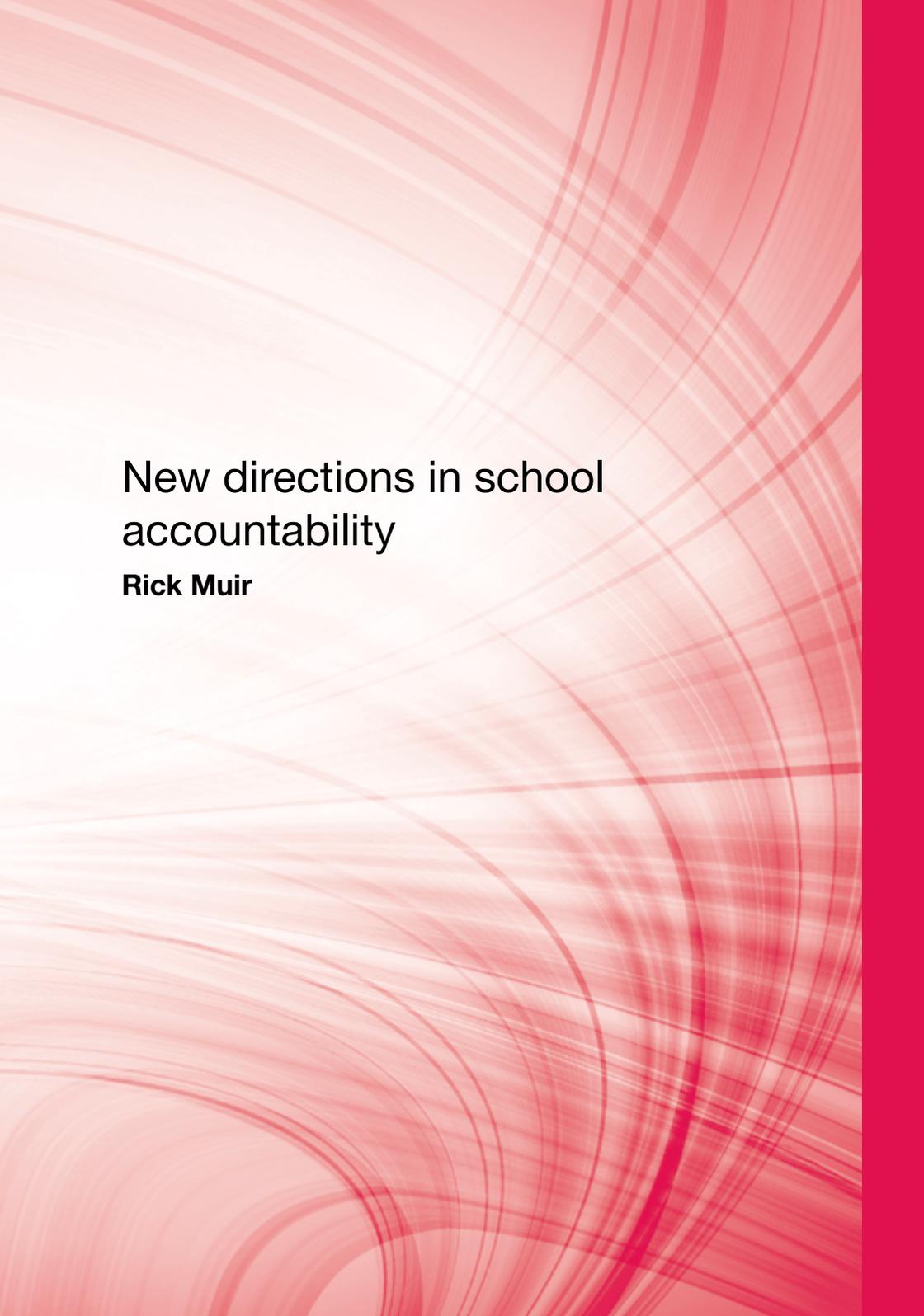
The current global recession and austerity measures across Europe and within the UK present major challenges and demand radical responses, which shift the boundaries of the relationship between the individual, communities and the State. This includes action to address widening health inequities which are persistent and detrimental to all.

Greater inclusion, transparency and accountability across government are prerequisites to establishing these new relationships at a local and national level. The objective would be to create new opportunities to take a more asset and citizen focused approach which values and mobilises local people and communities, reducing barriers to participation whilst maximising community capabilities and building social capital and resilience. Such a transformational approach creates the conditions within which people and communities can take control of their lives and exert greater influence on outcomes such as health and fair employment which are fundamental human rights.

Professor Sir Michael Marmot is Director of the Institute of Health Equity at UCL

Professor Peter Goldblatt is Deputy Director of the Institute of Health Equity at UCL

Dr Mike Grady Principal Advisor Institute of Health Equity at UCL



New directions in school accountability

Rick Muir

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The landscape in which England's schools are located has been transformed. Today the majority of state secondary schools are independent academies and there are seventy four free schools, with around one hundred more due to open in 2013. Local authorities have been considerably weakened and their coordinating role has only partially been filled by new chains and federations of schools. These dramatic changes have created a new school system in which power has shifted to different actors and in which older players are in search of new roles.

What does this new and dynamic landscape mean for school accountability in England? To whom are schools now accountable and how will this affect the quality of teaching and learning?

Changing forms of school accountability in England

There are broadly three different forms of accountability in any school system:

- Non judgmental accountability where no one is externally judged or punished but where actors share ideas and comment on each other's strengths and weaknesses. This might include, for example, teachers observing each other's practice in the classroom and forming peer learning communities.⁴⁵
- Judgmental but non-consequential accountability where external actors are able to assess performance but there is no formal sanction. This might include for example the publication of school performance data in league tables but without any direct government intervention if results are poor.

⁴⁵ See for example Thompson M and D William 'Tight but Loose: A Conceptual Framework for Scaling Up School Reforms' (2007) and M Fullan 'Change Theory: A force for school improvement' (2006) Seminar Series No 157 Centre for Strategic Education.

- Judgmental and consequential accountability where external assessments are made of performance and where this has consequences for teachers and head teachers. This more punitive form of accountability has become predominant in England since the late 1980s as governments of both parties responded to a perceived decline in educational standards. This has involved a combination of high stakes testing, the ranking of schools in league tables and direct intervention by central government where performance is deemed poor.

England's schools have always been accountable to multiple actors. Parents have been given voice and choice. They have a voice by being represented on school governing bodies and through Parent Teacher Associations. They have also increasingly been offered choice between schools so that they are empowered as consumers and so that schools are placed under a competitive pressure to improve.

Local education authorities used to have considerable managerial and financial oversight of schools but their role has reduced since 1988, with Local Management of Schools and grant maintained schools, and the introduction of academies more recently. This shift came about because governments of both parties concluded that local councils were not taking school standards seriously. Finally since the 1980s the power of central government in the school system has grown considerably. Ministers now routinely intervene to direct changes in school leadership should standards be poor, as determined by Ofsted inspectors or as revealed through poor test scores.

Implications of the new landscape

The missing middle

There has been a shift in power away from local authorities – both outwards to academies and upwards to the Department for Education. As independent schools in the state sector academies are funded directly by central government, have managerial and financial autonomy and can choose whether to purchase support services from councils or alternative providers. Although ministers claim this represents a radical decentralisation of power paradoxically it has considerably strengthened the power of Whitehall. Ministers approve and finance free schools and academies and only ministers have the power to intervene if these schools under-perform.

This state of affairs looks increasingly unsustainable. Every successful school system has a middle tier of governance between schools and the centre. Ofsted only re-inspects schools requiring improvement after 12-18 months. It is not close enough to schools to monitor performance on a month-by-month basis, spot problems early on and intervene before they escalate. When there were only a handful of academies ministers could keep an eye on their performance but with over 2,600 academies this is simply unworkable.

In successful school systems a middle tier helps to raise standards by monitoring performance locally and supporting weaker schools to improve. Intermediary bodies manage the relationship between schools and central government, explaining national policy developments and ensuring that national programmes are implemented. They promote collaboration between schools, for example by moving teachers around to fill gaps or by supporting their professional development through training and peer support. They can be guardians of equity by regulating fair access to school places and managing services for children with special needs. A middle tier can also carry out administrative roles, for example finance and procurement, that otherwise distract schools from their main purpose.

In England local authorities continue to carry out some of these functions but covering a dwindling number of secondary schools. The government hopes that academy groups or 'chains' might fill the gap. However, chains only cover a minority of academies and only around a quarter of converter academies have joined chains. Some chains have rather loose arrangements, without clear leadership and effective coordination. Without a civic voice chains cannot speak for the local community nor provide independent challenge. Because they do not cover a single geographical area they cannot allocate funding, plan places or ensure special educational needs are met.

As an alternative to returning more of a role to local authorities, Sir Michael Wilshaw has called for Ofsted to introduce its own regional tier of school commissioners.⁴⁶ These could be delegated powers by the Secretary of State to intervene where academies or free schools under-perform.

46 <http://www.bbc.co.uk/news/uk-16343221>

However this leaves insufficient room for local accountability and as a regulator Ofsted is not well placed to develop collaborative relationships with schools. It would be better to reform the role of local authorities. For example, they could be given the power to appoint school commissioners for their area who would act as champions for young people and their parents, challenging local schools to improve. The creation of a dedicated post would guard against the danger of a loss of focus on school improvement amid all of the other services local councils provide. Schools would retain the freedoms they enjoy today but if schools coast or under-perform the schools commissioner would have the power to intervene, ultimately by appointing a new head and governing body.⁴⁷

Parental choice and school competition

One reason why Michael Gove does not prioritise developing a middle tier is because he sees parental choice and competition between schools as the main drivers of improvement. There has always been some element of choice and competition in the English school system and this increased with introduction of school league tables, which allow parents to compare test scores and choose between different schools. Head teachers are understandably very concerned about league table positions for reputational reasons.

The coalition government has sought to expand parental choice and increase the competitive pressures on schools by introducing free schools and by allowing good schools to expand. By introducing new places the government believes that parents will have more options, good schools will grow and weak schools will wither away.

However, whatever the theory, parental choice is in practice limited by the facts that additional funding is required to create the necessary surplus places and that school choice is 'sticky' – it is disruptive to switch schools and families generally try to avoid it. Moreover, the international evidence on the benefits of competition between schools is not strong. The Organisation for Economic Co-operation and Development's (OECD) analysis of its 2009 PISA results states that:

'countries that create a more competitive environment in which many schools compete for students do not systematically produce better results'.⁴⁸

47 For more on the case for school commissioners see Robert Hill *The Missing Middle: The case for school commissioners*. (2012) London: RSA

48 <http://www.oecd.org/pisa/pisaproducts/46619703.pdf>

There is a large body of evidence supporting the case for greater collaboration between schools in chains, federations or other networks. As the recent Academies Commission argued:

'Autonomy and independence are fundamental elements of academisation but they should not mean isolation. Academies need to learn from each other if they are going to improve'.⁴⁹

According to Ofsted, academy chains perform better than individually sponsored academies. Chains and federations can spread best practice, ensure effective peer to peer challenge and support professional development. The extraordinary success of London's schools is partly due to the London Challenge collaborative partnerships, which paired weaker schools with otherwise similar schools that were achieving better results.⁵⁰

Continuing role of government

Central government continues to play a key role in raising standards. The last Labour government decided that if schools did not achieve at least thirty per cent of their pupils getting five A*-C GCSEs then those schools would be subject to a national improvement programme. Many were turned into sponsored academies, given new head teachers or provided with specialist support in areas like reading recovery. This national minimum threshold was increased by Michael Gove to forty per cent of pupils with an aim for it to rise again to fifty per cent in the future. This means that, despite its faith in the efficacy of market forces, the government will continue to exert direct public pressure on schools to improve their performance.

Towards a self-improving school system

Countries around the world are reforming their school systems in order to remain economically competitive. As part of this process, many countries have introduced new forms of judgmental and consequential accountability.⁵¹

49 Academies Commission Unleashing Greatness. Getting the best from an academised system (2013) London: RSA

50 <http://www.bbc.co.uk/news/education-19151471>

51 Michael Fullan, 'Choosing the wrong drivers for whole system reform' (2011), Seminar Series Paper 204, Center for Strategic Education; Ranson S, Public accountability in the age of neo-liberal governance, (2003), Journal of Education Policy 18 (5): 459-480.

There is plenty of research showing that harder edged accountability tools can be effective in pushing schools to improve.⁵² However a number of leading educationalists have begun to argue that countries have too often reached for 'punitive' models of accountability, with sub-optimal results.⁵³ This is firstly because measures such as league tables, high stakes testing and performance pay for teachers focus excessively on external pressure rather than working on the intrinsic motivations of teachers and students. They can demoralise teachers and students and fail to engender sustained learning and improvement over the long term. Studies suggest that such measures can be effective at getting a school system from poor to good but they are unlikely to get systems from good to excellent.⁵⁴

Second, a focus on incentives and sanctions for individual schools and teachers means that there is a danger of working in isolation. To succeed schools must be seen as part of a wider system, working with other schools, centres of excellence, local authorities, colleges and universities.⁵⁵

Third, punitive approaches tend to focus on formal structures rather than on the so-called 'black box' of daily instruction in the classroom. This can distort classroom practice, for example, leading teachers to focus on short term test-specific skills, rather than long term learning gains⁵⁶. This will be familiar to observers of the English school system where it is widely acknowledged that schools tend to focus more on pupils on the borderline between a C and a D grade because it is those students who will do most to improve the school's league table position.

A number of school jurisdictions have tried to prevent these problems by adopting a different approach to school accountability.

52 See for example: Burgess S, Wilson D, and Worth J 'A natural experiment in school accountability: the impact of school performance information on pupil progress and sorting' (2010) CMPO WP 10/246, CMPO: University of Bristol; Hastings J and Weinstein J 'Information, School Choice, and Academic Achievement: Evidence from Two Experiments' (2007) Quarterly Journal of Economics 123: 1373 – 1414; Hanushek E and Raymond M 'Does school accountability lead to improved student performance?' (2005) Journal of Policy Analysis and Management 24(2): 297 – 327

53 See for example Fullan (op cit); Andy Hargreaves and Dennis Shirley 'The Fourth Way. The Inspiring Future for Educational Change' (2009) California: Corwin; Ravitch D 'The death and life of the great American school system: how testing and choice are undermining education' (2010) Basic Books.

54 Strathern Audit Cultures: Anthropological Studies in Accountability, Ethics and the Academy M (2000) Oxon: Routledge.

55 Bryk A, Sebring P, Allensworth E, Luppescu S, Easton J 'Organising schools for improvement: lessons from Chicago' (2010) Chicago: University of Chicago Press

56 Corcoran S, Jennings J, Beveridge A 'Teacher effectiveness on high and low stakes tests' (2011)

For example Canada, Finland and some top-performing Asian systems have rejected punitive accountability measures for fear that they inhibit organisational learning. They have focused instead on forms of accountability that create conditions for peer learning, formative assessment, collaboration and professional responsibility.⁵⁷

This approach receives theoretical support from the latest approaches to complexity economics and systems thinking in public administration. These argue that social problems are situated within complex systems that are unsuited to mechanistic interventions.⁵⁸ Rather than attempting to engineer outcomes through 'command and control', governments should focus on crafting the conditions for a variety of agents involved in a given problem to solve it themselves. This suggests giving a greater priority to experimentation, decentralization and professional capacity building.⁵⁹

Conclusion

The reforms of the last twenty to thirty years have unquestionably improved school standards. The introduction of more robust inspection, testing and greater transparency have challenged the so-called 'secret garden' of the education establishment which tolerated systemic failure for far too long. However, the tools which rescued a failing system and made it good are not the same tools required to make it excellent.

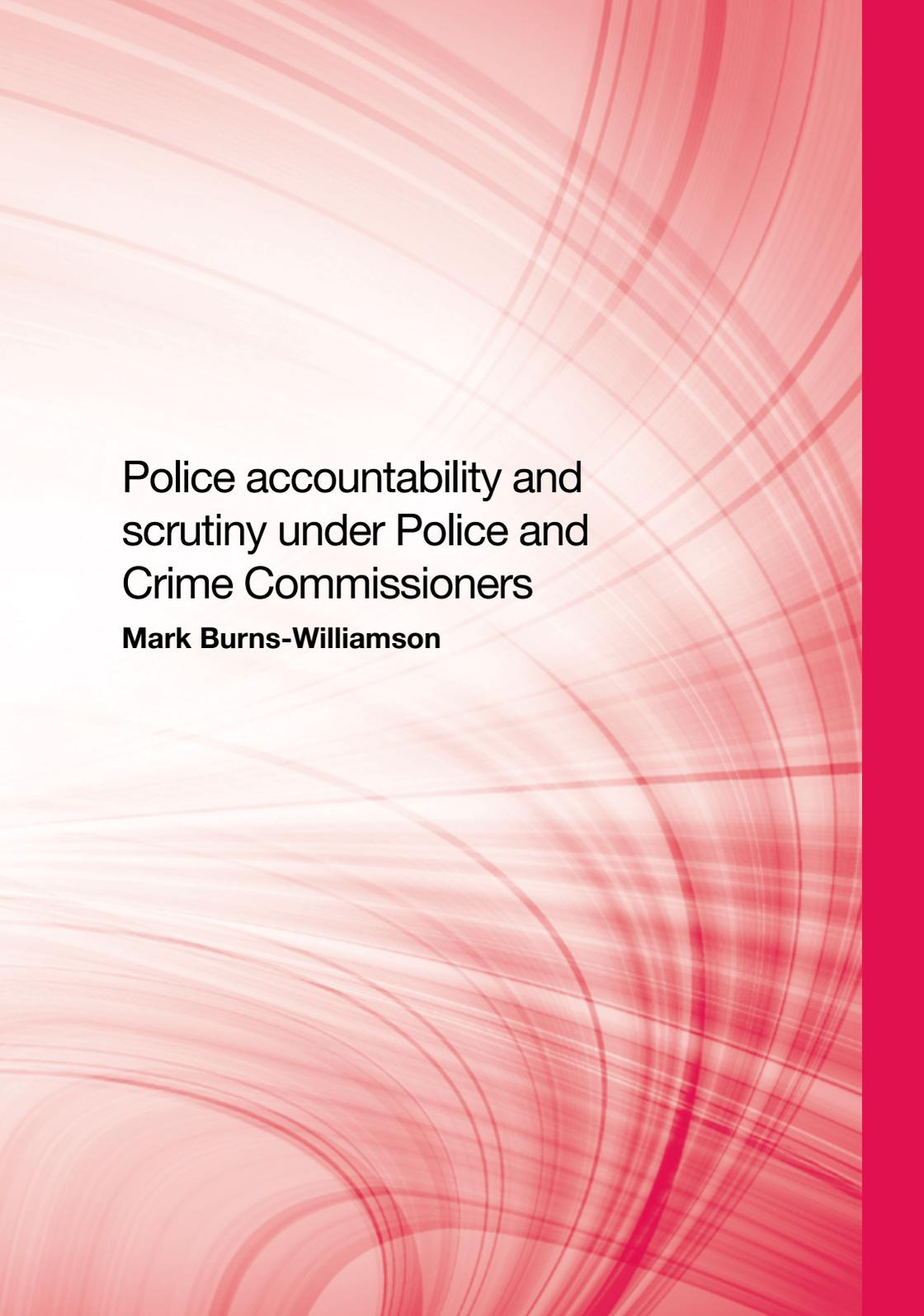
Greater attention now needs to be paid to improving the quality of instruction and learning in the classroom. This means we need to develop a world class teaching profession through measures to enhance the status of the profession, provide much greater opportunities for professional development and establish more effective systems of performance management. This kind of system-wide capacity-building to support schools will mean there will be less need for direct intervention by government.

Rick Muir is Associate Director for Public Service Reform at IPPR. He is a local councillor and a primary school governor in Hackney.

57 Pasi Shalberg *Finnish Lessons. What can the world learn from educational change in Finland?* (2010) New York: Teachers College; Mourshed M, Chijioke C and Barber M *How the world's most improved school systems keep getting better* (2010) London: McKinsey and Co

58 Eric Beinhocker 'New economics, policy and politics' in Tony Dolphin and David Nash (eds) *Complex New World. Translating new economic thinking into public policy* (2012) London: IPPR

59 See Beinhocker (ibid); Seddon J *Systems Thinking in the Public Sector: the failure of the reform regime and a manifesto for a better way* (2008) Axminster: Triarchy Press; Hallsworth M *System Stewardship: the future of policy making?* (2011) London: Institute for Government

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Police accountability and
scrutiny under Police and
Crime Commissioners

Mark Burns-Williamson

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As the first and recently elected Police and Crime Commissioner for West Yorkshire, one of England's big four Forces alongside the Met, Greater Manchester and West Midlands, accountability and effective scrutiny are at the top of my priorities when considering how I can do an effective job for the people I serve. Both are of particular concern when viewed in the context of 2.2 million people living and working across a diverse county with complex policing and crime prevention needs at a local level but with national implications.

At the time of writing I have been in post less than three months and the new governance arrangements have led to a period of significant transition that sees one accountable Police and Crime Commissioner replace seventeen members of the Police Authority. Across England and Wales there are forty one differing models for delivery emerging as, aside from legal requirements, Police and Crime Commissioners implement their own systems for ensuring accountability and effective scrutiny.

My own background is as a local district councillor for nearly 15 years, serving in an environment in which the importance of scrutiny alongside the executive function is well understood both by elected councillors, who represent the people, and the staff who support them, as council officers. But my most strategic contribution was not only in fighting for my own community, but standing up for the wider public interest on the Police Authority. Appointed by Wakefield Council, I helped play my part in collectively leading an organisation devoted to ensuring the effectiveness and efficiency of local policing.

Policing accountability: evolution not revolution

It is in that context of my own history and experience that I share my thoughts, because governments reforms have not happened in a vacuum from previous work to hold the police service to account. I spent over a decade, the latter ones as Chair of my Police Authority, carrying out the people of West Yorkshire's business. I worked collaboratively and co-operatively to ensure the perception of the Force improved and that we kept professionals to the priorities of the public. So the world of policing was not an unaccountable one before Police and Crime Commissioners: for all the deficiencies of some Police Authorities which were not as challenging as they should have been, there were many recognised by organisations like the Centre for Public Scrutiny for their contribution. The culture I built of working together to achieve more in the Police Authority is one I have taken forward and re-invented in my relations with all my partners, including local councils, criminal justice agencies and voluntary sector organisations.

Ironically, Police Authorities engaged people outside of organised politics as members. This was a stated aim of government policy for Police and Crime Commissioners. But these posts across England and Wales have attracted, alongside those of us honest about our values and beliefs, 'organised' independents, backed by specific interest groups like one candidate dedicated to attacking the standards of the Police, as well as 'undercover' members of other parties too scared to admit their allegiances.

Despite my efforts over the long term to work on a cross party basis as a Police Authority chair, I think that – whatever one's party allegiance – openness from those seeking a mandate is a necessary prerequisite to secure trust with the public. One risk of Police and Crime Commissioners as a policy was the possible loss of political parties' own checks and balance on office holders. These checks and balances involved a guarantee backed by the organisation's standards and behaviour regime, alongside a 'brand' based on other office holders of that political group. To denigrate this safety net as some proponents of the policy did whilst the legislation enabling the creation of Police and Crime Commissioners went through Parliament was ill advised. There could have been bigger implications for accountability than eventually came to pass, if political parties had not fielded candidates.

Public scrutiny: the police and crime panel and communities of interest

Having been elected by the people of my county, and securing a convincing majority, I now of course have a mandate to represent the public my Force seeks to serve. In fact, the case can and has been made by observers that I have the fourth largest direct mandate of any politician in the country, and by far the largest in my native region of Yorkshire. The role also gives me significant executive power, to set a precept and Police and Crime Plan for instance. Similarly to the Mayor of London in their oversight by the London Assembly, I am accountable to my local Police and Crime Panel. Constituted by councillors and co-opted members, it includes many former members of the Police Authority who have brought with them their previous experience and insights. This has real value, and the combined support and challenge role envisaged by the former police Minister who took the proposals through Parliament alongside his officials is the right one. I do not believe any Commissioners should be unchallenged, and the scrutiny arrangements set out allow for proper safeguards against not just any particular individual, but the very nature of the exercise of the executive power which they hold.

In my own case, I have, during one week in February, been stood before the West Yorkshire Police and Crime Panel to present and robustly defend my own precept proposal, and to hold a hearing on my appointment of a new Chief Constable. As this article is published, this spring (2013) they will have had their say on my Police and Crime Plan and on my choice of a Deputy. Rightly, they do ask the tough questions, not for their own sake, but for both the person on the street, and the representatives acting on the public's behalf.

The mere fact of having the panel meetings also helps frame the debate in the public sphere, with my proposals being debated in public further increasing the visibility of my work and office. I value every opportunity to discuss my decisions with the general public, at a local community meeting of residents concerned about crime, or through my 'Listening to You First' engagement that elicited over 2000 responses to a survey about the people of West Yorkshire's policing and crime prevention priorities. For the media an opportunity for my decisions to be debated where I can be forced to think again makes these debates newsworthy. Their coverage makes me and my office accountable to the wider electorate, allowing for a wider conversation than if I only relied on public surveys and face to face encounters with the public.

There are of course limitations to this such as the quality of the debate and coverage that may have a bias towards undermining the public confidence in the police.

I have personally taken the view that beyond formal structures of political scrutiny there is a need to use collective mechanisms to help provide for accountability. Beyond notions of geographical representation, provided for by the membership of the Police and Crime Panel, I have been keen to secure and build links to communities of interest. This began through the electoral process, and chances to meet and debate my positions with young people as a candidate informed my decision to establish a youth advisory group. Young people in popular narratives are often identified as troublesome. They are of course also likely to become victims, and a need to crack down on a law breaking minority is matched by a need to reach out and build trust with those young people who do play by the rules, and for those who have opted back into society and should be helped to turn their lives around.

Mandate to challenge as well as accountable for delivery

Accountability has a purer form than involving communities of interest such as young people. The highest point of accountability is that derived from and referenced back to the ballot box. I was proud to be able to stand on my record of leading an effective Police Authority, which gave me the experience and knowledge to take on the office I now hold. The public are at the centre of my approach, and their mandate empowers me as a Police and Crime Commissioner to pursue a clear agenda which I can be judged on my success in delivering, from the evidence in my annual reports each year, my effectiveness at collaborating with others and through political debate.

I have to say accountability needs real meaning for voters: it cannot be an abstraction of process but a real exchange of ideas. In the end the police are one of the most important institutions in the public sector, as valued as the National Health Service (NHS) and in face of the most serious dangers, such as of terrorism, as critical to the survival of the many, or the few, as any other group of individuals or service. People do care about policing, and the degree of concern at cuts to police budgets has demonstrated that. They also care about the contribution of partners, like their own council or victim support, particularly when in the case of victims of offences like domestic violence they have to rely so heavily on these services and the people who work in them.

The danger is that at the local level, in the era of austerity, a Police and Crime Commissioner can only influence so much. A funding formula which disadvantages my own Force and cuts from the Home Office mean that despite my decision to make the maximum increase I have been permitted in council tax I am still forced to preside over substantial cuts. The damage so far stands at 1400 police staff and officers with a hundred million cuts programme enforced through the Comprehensive Spending Review as my financial context on taking office.

So this is the 'elephant in the room,' as it were. A dramatic shift in the oversight and accountability to the public for policing has been made by central government in England and Wales to a newly created group of locally elected politicians who will be held directly accountable by the public. A cynic may pose that the government's commitment to localism in this case may simply be a ploy to place the unavoidable consequences of cuts, such as a reduction in the number of police, on anyone but themselves. Is the commitment to localism or to localise blame? This type of analysis is primarily political, but it has important implications for questions of accountability in this new era.

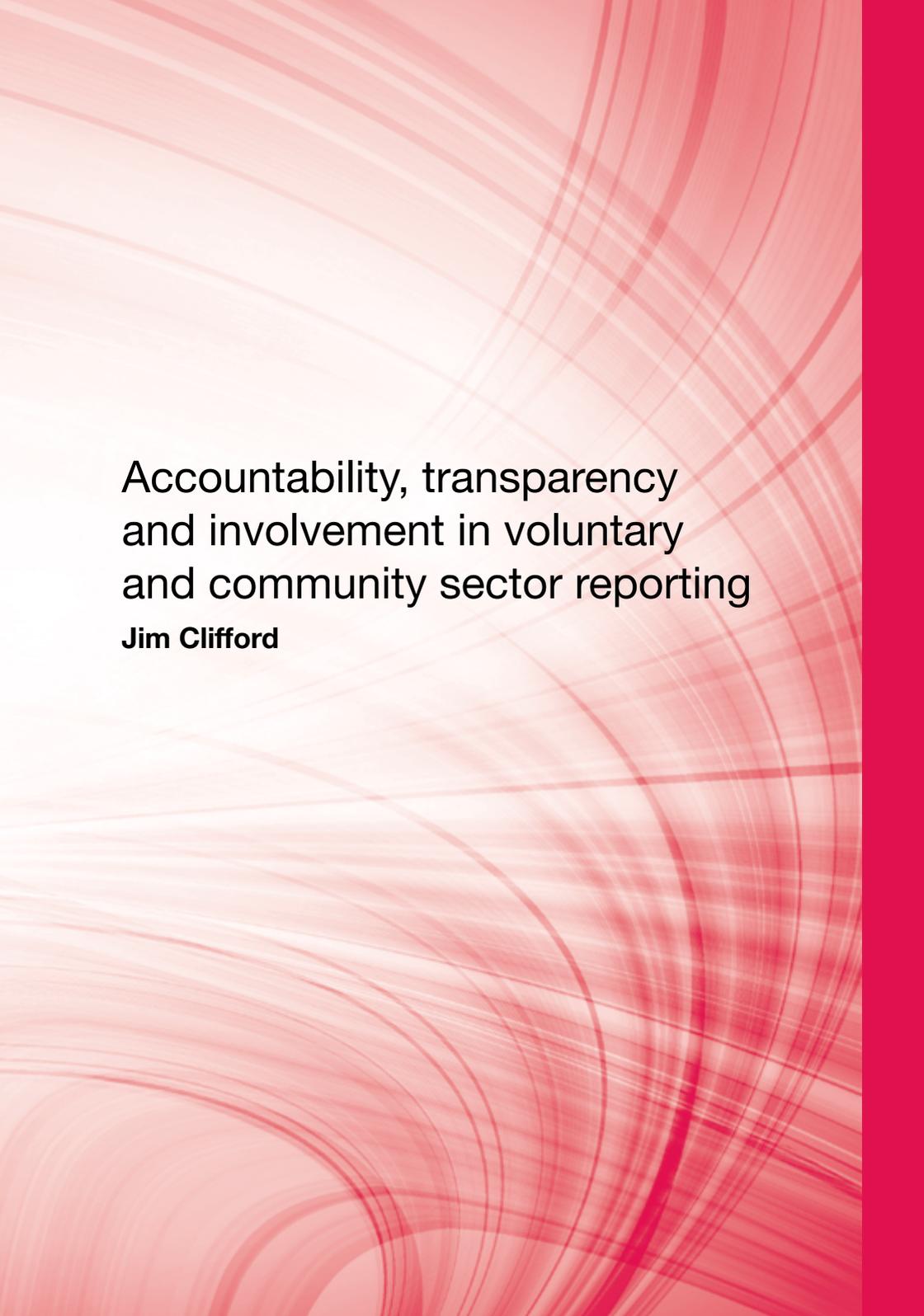
My mandate as a Labour Police and Crime Commissioner, with a campaign highlighting analysis that the cuts proposed for West Yorkshire were too far and too fast, gives me a legitimate basis to challenge for the required funding envelope to do the job properly. So the public are right to hold me account for what I spend, but also for how well I argue for the right level of funding to make them safe. The community outcome framework I have set allows for use of resources and their effectiveness to be evaluated, but alongside this the quality and force of the case I make to government is as important to the fulfilment of my mandate. So accountability must be judged against something. Primarily, this in my view is to the mandate I have been given. I will fulfil my mandate in the way in which I hold the Chief Constable to account, as they will be judged by the way they manage the Force.

Conclusion

The Police and Crime Plan I have prepared has engaged partners, including an observer from the Police and Crime Panel, but its key themes and outcomes were drawn directly from my mandate based on the choice of voters to elect me. My commitment to neighbourhood policing and tackling burglary is not some idealised view of voters' knowledge of policy when no way to distribute a leaflet to every house was provided, but is a frank summary of the position people opted for on party or their knowledge of the candidates' differing policy lines. They made their choice, and to be accountable I must deliver and make a real difference in crime and their fear of it based on the mandate they have given me.

Chief Constables have themselves never been held to account by someone with such a mandate or personal authority. If Police and Crime Commissioners are to succeed, and be judged by voters to have succeeded, we will need to remember the mandates we have each and every day to deliver on scrutinising the force effectively and being both accountable and seen to be accountable.

Mark Burns-Williamson is the Police and Crime Commissioner for West Yorkshire. In 2012 Mark was awarded an OBE for services to the Community and Policing.



Accountability, transparency
and involvement in voluntary
and community sector reporting

Jim Clifford

Accountability, transparency and involvement in voluntary and community sector reporting

Jim Clifford

“Good, godly and charitable uses.....”

When Elizabeth I’s parliamentary draftsmen wrote these words in the forerunner of the Charities Acts, they were responding to public and governmental scrutiny. Concern about the misuse of assets in trusts purportedly for “charitable uses” had been widespread. They were on too many occasions being used to avoid taxation (a concern to the State) and their original purposes skewed for personal benefit (a concern to the wider public). A review had concluded that greater regulation was needed. The Statutes of Charitable Uses, the great originating legislation behind a rich history of charitable law, with a definition of charitable purpose which still appears in our law today, were born.

That was then, but why are we thinking about scrutiny now in the context of Voluntary and Community Sector organisations (VCS and VCSOs)? Funding of the VCS by the public purse demands accountability for these funds. With an increasing reliance on VCSOs for delivery of public services comes accountability to the public for that service delivery, and a parallel need for transparency in reporting those activities to that public. Under localism, communities are being challenged to focus on, define, and meet their own needs. With VCSOs responding fully and openly to the demands of scrutiny, those communities will be encouraged to be involved with and steer their work.

Public benefit and accountability

Charity originated within communities, both real and virtual (as seen for example in the accounts of charity in the early Christian church in Paul's letters). Those with wealth, or the wherewithal to help others, including time to give in voluntary support, had been encouraged by religious and secular influences within their communities to help those who needed it. The care for others was seen in many communities, and many cultures, both Eastern and Western, as a virtue. In many ways this continues today, perhaps only skewed by the twentieth century shift towards relying on the State as agent for delivery of that care.

Currently, as was the case in Tudor times, beneficiaries (or service-users and their communities, in public service terminology) are rarely those with the power to supervise or enforce. Just as this is a significant concern in state-provided public services, so should it be as those services are returned to the VCS from which so many of them originated. Open scrutiny develops the voice of beneficiaries, empowering them to influence and inform. The public who will benefit must also be those who seek to define their need and how it will be fulfilled, both directly and through their agents in government.

There is a dual accountability on charities as VCSOs to deliver public benefit. Those in receipt of public funds are accountable for its use to enable those in government (local and national) to meet obligations of accountability and transparency to the public. Additionally the Charities Act 2006 and the 2008 regulations drawn under it imposed a duty on all charities to deliver demonstrable public benefit from their activities. The so-called Public Benefit test came from that new legislation, but embodies much older principles of accountability dating back to before the Statutes of Charitable Uses. It requires two elements: a discernible benefit, and an identifiable public who will enjoy it.

There has been considerable debate around the Charity Commission's interpretation of the second of these, with its position on independent schools being successfully challenged in the courts in 2011. Its view that only by giving full bursaries to those unable to afford the fees for a school's educational services could it be truly delivering public benefit was held to be too prescriptive and narrow. There were other ways in which public benefit could be and was being delivered, and these should be recognised. The Commission's policy is still under review, but it looks likely to settle back to key provisions that a charity should not exclude beneficiaries because of inability to pay, or any other discriminatory policy, and must act to deliver the objects for which it was established, and within that to deliver discernible benefits to a reasonably wide beneficiary group.

The 2006 Act came in the midst of a drive by the Charity Commission to improve disclosure by charities, partly as a matter of accountability and transparency but also to result in wider outreach and the positive side of scrutiny: engagement. In 2008 the Commission therefore updated the Charity Statement of Recommended Practice to require disclosure of how each VCSO meets the public benefit requirement. Whilst written specifically for charities, it is important guidance for all entities delivering public benefit services outside the public sector itself. That disclosure requirement embodies two elements:

- To explain activities undertaken for the public benefit: what they are and how they deliver that benefit
- To confirm that Trustees have considered Charity Commission guidance on the subject in directing the charity's activities.

Its real effectiveness is open to question, certainly as regards meeting its original purpose. Whilst there is perhaps improvement in complying with disclosure requirements, Sheffield Hallam's report in June 2011⁶⁰ suggested that these disclosures are tending towards boilerplate compliance, rather than meaningful forms of engagement. Where the disclosure requirements could have led to a clear identification of beneficiaries, an explanation of outcomes achieved for them, and how those were achieved by the work of the charity, this was generally not happening. Without this clarity – this transparency and recognition of accountability for the underlying outcomes delivered – it is difficult to see how the VCS will achieve the engagement of communities in delivery that it needs to achieve maximum effectiveness.

Engagement with whom within communities: why are we bothering?

This is a fast changing space in which a diverse group of stakeholders and partners needs to work together towards effective public service delivery if it is to achieve real change (outcomes) for those who need it. Specifically:

- Volunteers need to be engaged and motivated: informed about the activity they need to deliver and how that fits into the wider delivery of outcomes

⁶⁰ Morgan, G. and N Fletcher. *Public benefit Reporting by Charities*. 2011. London: Charity Commission.

- Philanthropists and funders need to be involved and their resources focused: new types and sources are emerging (including gifts in kind, venture philanthropy, and social impact funds within traditional private equity houses and foundations), and the charity needs to make its needs specific (what can be termed the “informed ask”)
- Partners need to be found and their resources and abilities matched against the VCISO’s own
- New commissioners are emerging and need to be engaged with.

Social Impact Measurement in its various forms and formats has emerged as a sound means of ascertaining outcomes and the effectiveness of services in delivering them. It is being used by a number of VCISOs to underpin these engagements, but a review of publicly filed accounts suggests it is not yet a consistent part of public scrutiny, nor is it often usefully linked to public benefit reporting.

Providing information about the outcomes it achieves for beneficiaries and how it does that – not just data, but information – enables the VCISO to recognise its duty to account, not just for its funds, but for all of its assets and its actions with them. It can provide information transparently: with nuance and interpretation, using it to engage with all stakeholders, according to their needs and understanding. In this way it can demand a response of its stakeholders, getting them engaged with and supportive of its mission, so making for effective community engagement and action. This, however, poses challenges. With a diverse stakeholder group it is hard to achieve a commonality of view.

As highlighted in the recent E3M roundtable on Social Impact Reporting for Social Enterprise⁶¹, one of several linked initiatives emphasising common views from across the VCS, different stakeholder groups ask the VCISO to look from different viewpoints and require different measures over different timescales. This begs an interpretive transparency, and not rules-based disclosure. Through this the VCISO can address the challenges of providing greater services from more constrained public funding through increasing engagement with growing resources available to it: finances (from the growing range of new social finance sources); the expertise of partners; and the involvement of volunteers.

61 To be reported upon by Clifford, J., Markey, K., Malpani, N., and Lumley, T.

In parallel with these moves in the VCS, The Department of Business & Skills (BIS) has published “Development of Narrative Reporting for Corporates”. This consultation comes at the same time as the emergence of a new interest from the private sector in the blend of economic and social values: shared value, optimising social gain increases the engagement of those benefiting, which will result in the development of more efficient use of assets and increased income. Hence social value generates economic gain too.⁶²

This BIS consultation paper suggests reducing “boilerplate” disclosure but enhancing “interpretive accountability”. Statutory standards are seen as working against this: better to develop improved voluntary guidance. It is easier, we are told, for companies to “tell their own stories” in a similar way that improved effectiveness reporting in VCOSs is developing around telling the story of how their activity achieves desired outcomes – the theory of change. So corporate reporting in a wider sense is seen as moving in that direction.

This consultation reflects a division of view across Europe about whether accountability is improved by further rules (the coercive) or by peer pressure caused by leading organisations embracing public scrutiny in a new way (the mimetic).⁶³ Given the “boilerplate” response to the existing VCS reporting requirements in the UK, the latter seems more likely, but what will drive that change? Whilst arguably impact analysis brings more to identification of public need, determining mission and focus, and determining means, it is in finding the funding, where the need to involve impact-focused sources of capital will be most likely to drive change. The philanthropy community has, over the past twenty years, developed its interest in wider impact reporting. The public sector is increasingly being called upon (by government policy and legislation such as the Public Services (Social Value) Act 2012) to embrace it in commissioning. The emergent new social finance sector (major private equity-style social value funds and foundations) is using it increasingly to decide how to place and monitor their investments. The European Commission is developing its funding and legislation to remove barriers and make more possible.

62 Porter, M., and Kramer, M. Creating shared value: How to reinvent capitalism – and unleash a wave of innovation and growth. Harvard Business Review. January-February 2011, 63-77.

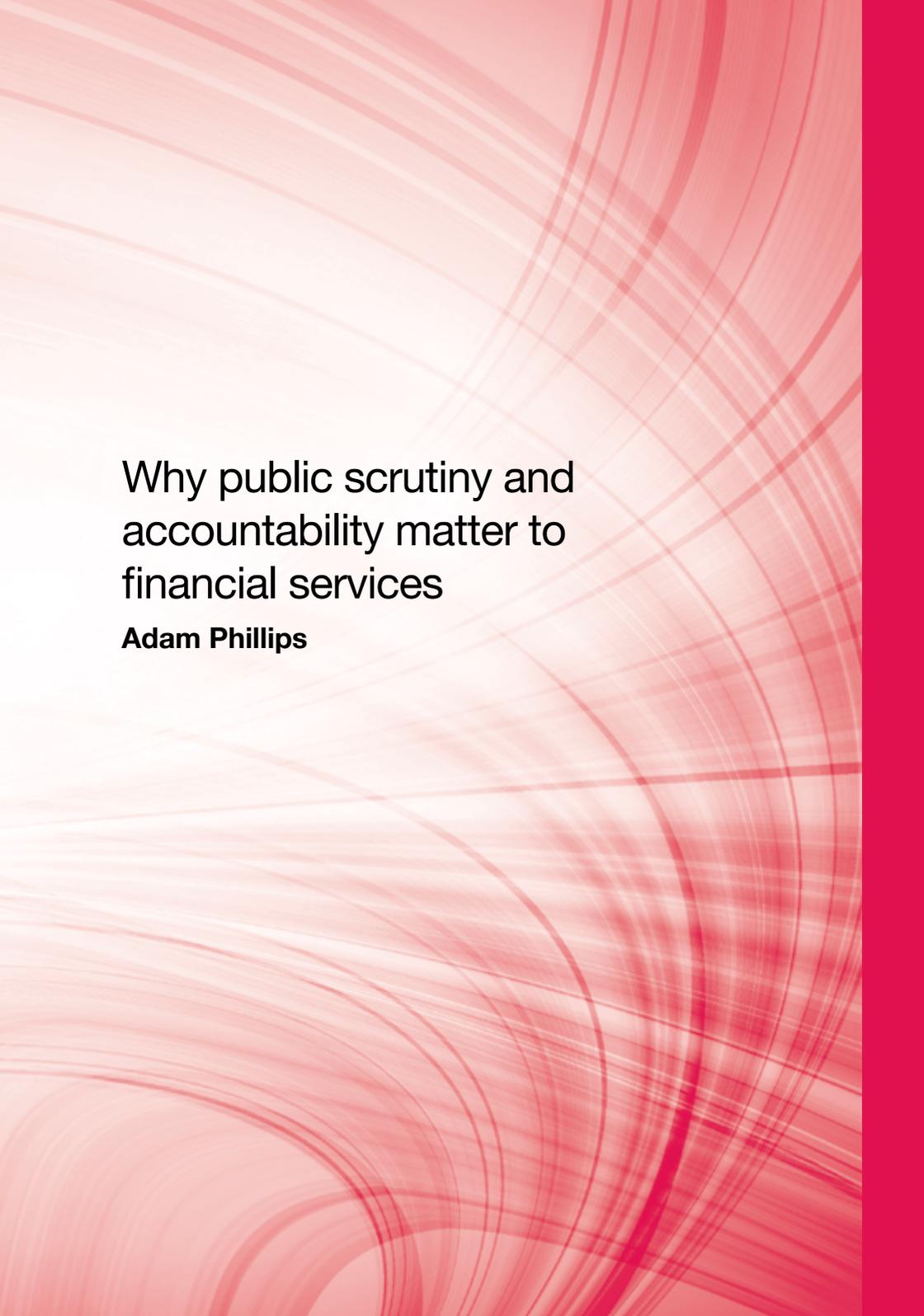
63 Mussar, R. and P. Monfardini. Social Reporting in public sector and non-profit organisations: An Italian Perspective. 2010. Public Management Review 12(4) pp 487-492.

Conclusion

Will market forces – the need to raise funds for operations – be the best driver? With the support of the advisory community the answer is probably yes. VCSOs need to engage with commissioners to achieve funded commissions so they need to improve reporting and address the needs not just of public compliance in scrutiny, but also improved information flow. They need to gain access to the new social finance funding opportunities, which require new and more nuanced accountability and scrutiny blending public, third and private sector principles. Finally they need to improve their engagement with, and clear “ask” of, volunteers and philanthropists if they are to gain the resources they most need to improve effective delivery. Market forces in the need to develop, engage with, and co-deliver services must draw the VCS closer to both public and private sectors. All must embrace shared funding sources, shared value and shared accountability, transparency and involvement. It is through embracing scrutiny – the informed use of information – that we can make this happen.

The means to improved delivery is there before us in the VCS. We must embrace wider reporting, not necessarily more reporting, but reporting with a greater transparency and clarity about what really matters: the effective use of resources to deliver outcomes. We must show how those outcomes are delivered, and develop further our debate about whether those outcomes are the most desirable, the most needed, by the communities we serve. If we achieve, efficiently and effectively, not only what is “good, godly and charitable”, but also what is needed, our communities will engage with that delivery, and sustainable, fundable services will emerge. Scrutiny is not a burden, but truly a route to achieving the collective involvement necessary to deliver those much-desired outcomes.

Jim Clifford MSc FCA ATII MSI CF MABRP MEWI DChA is an Independent Trustee and Director of the Centre for Public Scrutiny and Head of Not-for-Profit Advisory at Baker Tilly.



Why public scrutiny and accountability matter to financial services

Adam Phillips

Why public scrutiny and accountability matter to financial services

Adam Phillips

Introduction

We all need financial services for everyday life. Imagine how difficult it would be to function without a bank account to receive income and pay bills. Consider always having to pay with cash, rather than a card, when shopping. Keeping your savings in cash has never been a safe or convenient option, not forgetting the economic implications for society if savings were not available to be reinvested through the financial system. In virtually every aspect of the modern world financial services have become an essential service for everyone. People need to save to protect themselves against unforeseen events and to provide a pension for later life. They need insurance to protect their families and possessions should the worst happen. Nowadays everyone needs access to a range of essential financial services. Access is not just about being able to find a convenient way to purchase and use essential financial services, but also about the cost of provision and affordability. For example, you cannot legally drive a vehicle on a public road if you cannot afford the insurance premiums. This is a challenge for young drivers, particularly in those living in rural areas and can severely restrict employment opportunities.

The problem with financial services is that unlike buying a car or employing a builder, it isn't obvious after a short time that the product or service is not suitable for your needs or that it is unreliable and not fit for purpose. You might wait for years, or even decades, before you realise that you have bought the wrong product or been mis-sold. The public's confidence in financial services, the people who sell them, financial advisers and the products themselves is therefore even more crucial if people are going to place their trust in the companies that provide financial services. Without such trust, many people will take the view that engaging with the industry is an expensive and risky business.

They will avoid it, either by not purchasing products like insurance or by using their house or cash deposits for long term saving rather than diversifying into a wider range of savings vehicles that are likely to produce a safer and better return in the long term.

This brings us to the current challenge facing the financial services industry and its regulators. Just when people need to access financial services more than ever before, the industry is beset by problems arising out of industry bad practice and regulatory failure. Consequently, the public is less trusting of financial services, products and providers. This is hardly surprising with scandals like Libor manipulation, the mis-selling of payment protection insurance (PPI) or interest rate swaps. Huge bonuses for senior executives are seldom out of the headlines. The dilemma facing regulators and government is that restoring the industry to health is essential for economic recovery. However, if consumer confidence is to return, the problems of the past must not be allowed to recur.

Governance, scrutiny and accountability

Public scrutiny and accountability matter because the key to restoring public trust in the industry will be strengthening firms' governance, improving regulatory scrutiny and making firms and staff more accountable for their actions. The history of the last 30 years has demonstrated that the industry is not capable of achieving this without strong and effective public oversight. However, tackling poor behaviour in a competitive industry, even by a minority, is not straightforward. In financial services the bad can drive out the good unless there is effective regulation. PPI provides a particularly good example, but there are others, for instance, the provision of interest rate swaps to small businesses and the mis-selling of endowment linked mortgages. In the case of PPI, even responsible providers appear to have felt compelled to sell complex PPI products with exclusions and limits that meant few people would be able to make a claim, while employing sales targets for staff that were likely to encourage mis-selling. This is because the large profits PPI delivered would otherwise have allowed their competitors to put them at a disadvantage. It has been suggested by the Financial Times (FT)⁶⁴ that at the peak of the market in the mid-2000s more than half of banks' profits were derived from PPI alone. In such circumstances, strong competition coupled with weak regulation creates conditions which allow a race to the bottom to occur where there is weak ethical leadership.

If those retailing PPI had been more concerned about the suitability for customers of the products they sold, the brakes would have been applied sooner. In the future there is a need not just for tougher regulation, as advocated by Martin Wheatley the Chief Executive-Designate of the new Financial Conduct Authority (FCA), there also need to be stronger ethical standards in the profession, enforced by an effective code of conduct accountable to a professional body backed by statutory powers⁶⁵.

Another unique characteristic of the financial services industry is that the need to maintain confidence leads to a lack of transparency and effective stakeholder oversight; for good reasons shareholders and the public cannot know how risky individual banks or insurance firms are. This makes the task of those charged with the supervision of financial institutions even more important than normal financial auditors. Regulatory capture is always a major risk in situations where there is little openness and potentially weak internal governance.

The complexity of financial products and services means that most consumers, even informed ones, do not understand how these products and services will behave in changing circumstances. Product design is largely unregulated, so the normal controls which operate in other retail markets do not moderate behaviour. Instead regulators have relied on regulating advice as a way of providing consumer protection. Even without the recent development of the online market, which has led to a rapid growth in unadvised sales, it had become clear that this approach was unsuited and too expensive for the mass market. PPI is a clear case where the reliance on regulating advice, rather than regulating product design using, for example, a British Standard or ISO approach, has led to a huge amount of mis-selling. Since detriment in financial products can take a long time to emerge, the usual checks that consumer groups and oversight bodies apply in other sectors operate far too late, long after hundreds of millions, if not billions, of pounds have been mis-sold. Too late for thousands of consumers who have suffered losses from risks they were not aware that they were running.

65 <http://www.fs-cp.org.uk/publications/pdf/cp-response-parliamentary-commission-on-banking20120924.pdf>

Role of consumer organisations and the consumer panel in providing accountability

Consumer groups, the Treasury Committee, consumer advocates and academics provide an additional source of scrutiny, helping the regulator and pointing out industry malpractice. However, most of these groups lack the policy resources to tackle all but the most serious cases and the majority of consumer groups represent particular groups within the population and therefore have quite a narrow area of focus.

The Consumer Panel was established in 1998 to advise the Financial Services Authority's (FSA) predecessor, the Personal Investment Authority (PIA). It was given a statutory footing under the Financial Services and Markets Act 2000 (FSMA) alongside a practitioner Panel. The Consumer Panel exists to advise and challenge the FSA. The Panel's terms of reference have allowed it to look wider than the limits imposed on the FSA by the original FSMA, but most attention has been given to the areas which the FSA has regulated. This has meant that, although it has engaged with the regulation of banking conduct, it has not given much attention to credit until recently, since this is regulated by the Office of Fair Trading (OFT). Credit regulation will only transfer to the FCA in 2014. Given the huge breadth of financial regulation, the Panel works closely with other consumer groups to channel advice and concerns in to the FSA particularly with regard to emerging consumer risks.

The Panel represents a very British approach to stakeholder engagement. It benefits from a clear insight into the regulator's activity and its privileged access makes it possible to influence policy making at the development stage. The resources provided for it by the FSA enable it to be sufficiently well-informed to provide effective evidence-based arguments to help counterbalance the lobbying power and market knowledge of the industry. The Panel also responds to relevant questions and consultations by Parliament, HM Treasury and the Department of Business Innovation and Skills (BIS). This does, however, mean that much of the Panel's work happens behind the scenes without publicity. The FSA's Practitioner Panels operate in a similar way and the FCA's panels will continue to do so when the FCA replaces the FSA.

The UK approach to providing stakeholder input can be contrasted with the European Supervisory Authorities (ESAs). The European Securities and Markets Authority (ESMA), European Insurance and Occupational Pensions Authority (EIOPA) and the European Banking Authority (EBA) all have stakeholder groups that exist to provide feedback and advice from consumer, industry and academic views.

The ESAs also have various consultative and expert groups to advise them on specific issues. Several Consumer Panel members are involved with these groups. The structure of these groups is that all sectors sit in the same meeting, as opposed to the UK approach where industry and consumer panels meet separately and have their own resources. We believe the UK approach is more effective in addressing the resource imbalance between industry and consumers and, if well managed, provides more helpful advice to the regulator and a better opportunity for reaching constructive consensus.

In the United States the Dodd Frank Act established the Consumer Protection Bureau. This has consumer protection at the heart of its remit, just as the new Financial Conduct Authority is charged with making markets work well so that consumers get a fair deal. The US regulator is responsible for financial education, enforcement and research into financial services. Like the FCA, it has a Consumer Advisory Board with a remit to advise and consult the Bureau and provide information on emerging practices. The UK and US approach has the advantage that the consumer perspective is better resourced and can be more effectively represented in the rule making process than in the EU equivalents.

The key objective of all these stakeholder groups is to try to ensure that the regulation is proportionate and delivers products and services which are good value, meet customers' needs and are sufficiently profitable to be sustainable in the long term.

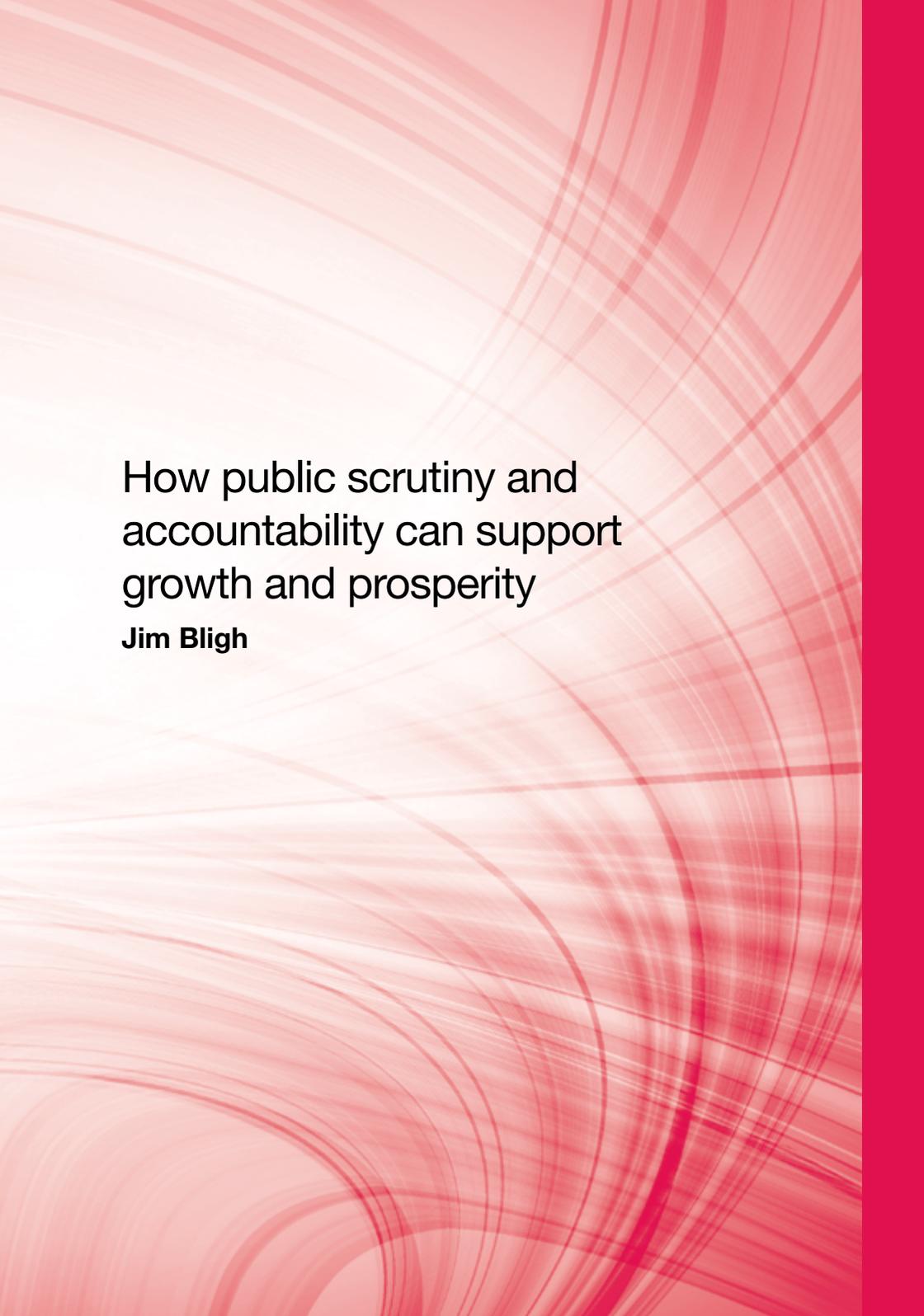
Concerns for the future

The global character of large financial firms and the relative weakness of most governments mean that it will be difficult to guarantee a responsible culture and ethical behaviour without international consensus. The new Consumer Protection Bureau in the US, coupled with the ESAs in the EU, is slowly leading to a more international approach to regulation, although there are likely to remain huge opportunities for regulatory arbitrage between jurisdictions and a continuing risk of over-regulation, because of an uncooperative approach by the industry.

The rather complex structure of the Financial Policy Committee (FPC), the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA), coupled with the role of the Payments Council in managing transactions, is an improvement on its predecessor, by providing independent organisations with more straightforward objectives, but does little to encourage cooperation to achieve less onerous regulation or to introduce much more effective public scrutiny or accountability than before.

New structures create novel problems. The changes made in Britain and around the world should mean that some of the worst mistakes of the past will not be repeated. However, it is not clear that the new structure that has been created will be more effective overall than the old one, unless steps are taken to ensure that there is a permanent change of culture in the management of financial firms. In this respect a professional and ethical code of conduct for Authorised Persons enforced by statute provides the best long term guarantee that individuals will behave responsibly and can be held accountable for their actions.

Adam Phillips is Chair of the FSA Consumer Panel, and also Chairs the Professional Standards Committee of ESOMAR the world association for professional researchers. Adam has his own consultancy firm, Real Research, and works for a number of organisations including the European Commission.



How public scrutiny and
accountability can support
growth and prosperity

Jim Bligh

How public scrutiny and accountability can support growth and prosperity

Jim Bligh

Whether we like it or not, the rise of technology has transformed the relationship between those who provide public services and those who rely on them. In most sectors, the days where poor service or second-rate outcomes weren't open to challenge are long gone. In an age of social media and local activism, it has rightly become increasingly hard for providers to avoid public scrutiny of their decisions and performance.

This is a by-product of the change in the appetite and ability of the public to scrutinise how government works. Changes in technology and the digital revolution have given the public an expectation of a more responsive public sector and more importantly, a tool to demand more in the face of unmet expectations. In some areas of public life, more information on the performance of the public sector has become available to the wider public. As a result, successful schools and hospitals see increased demand, council tax payers increasingly compare the quality of their services and the level of council tax with those in neighbouring areas. High-profile cases of inefficiency or malpractice have been brought to public attention and actions taken to address the problems that would have been unlikely a decade ago. The wider public sector is starting to copy the early adopters in recognising the importance of communicating change and its implications with the public more directly.

All of this change has come at an important time for central government. Public bodies are becoming increasingly vocal about their commitment to spending money more effectively while maintaining a high standard of service. The language of transparency and accountability is being heard across the public sector and the companies and charities who supply it.

The potential benefits of data transparency

Successful partnerships between sectors are first and foremost about designing the best solution, based on a clear vision of the outcomes sought. Doing this effectively is one of the keys to better commissioning. In the future, the focus on transparency has the potential to drive big changes in the way that services are designed – if people are able to develop data that helps support and monitor good performance.

The government's principal response has been the Open Data agenda. While the fruits of the initiative are available for all to find if they choose to seek it, a consensus exists that the unstructured release of information has not yet lived up to the expectations of its proponents. To date, reforms have not made a substantial impact on the oversight process. The hoped-for army of citizen auditors and empowered entrepreneurs has not yet found a way to capitalise on the data that is now public.

This is in part because the change in approach has not led to a consistent change in behaviour in government. While there is willingness, there is often not the savvy about how best to use and present information as a tool for driving improvements to services. This is often not because of a lack of enthusiasm or innovation. Often, the Confederation of British Industry (CBI) members report their frustration at the lack of a consistent approach to collecting and applying best practice and performance data. In addressing this, the move towards greater public scrutiny and accountability will be a force for change in how the government and the public assess, manage and reward the performance of the public sector. At the CBI, we believe that the providers of public services have as much to gain from embracing this new paradigm as those who use the service.

We believe the key to success will be found when policy makers and service providers are able to more fully articulate the value of open and rigorous data as a tool for improving services. Too often, the public sector decision makers lack the tools to compare how services are performing or how much they cost to provide. There is not enough focus on whether policies are delivering the outcomes that their designers had hoped for. In an era of tight public spending, this lack of clarity means that decisions can't always benefit from the sorts of information that have helped promote positive reforms elsewhere. We believe there is a role for outside organisations in helping to kick start this process.

Turning this ship around will not be easy but we believe the benefits will be there for everyone to see. For the public sector, we believe that public scrutiny and accountability is a valuable tool for shining a light on the areas of delivery that ministers and civil servants might prefer to keep hidden. For the private sector, it makes it easier to demonstrate the value of a new approach or a new product and promote the investment that is at the heart of the drive for growth.

Better reporting of data

But, external forces cannot be the primary tool for determining and measuring performance. The answer to many of the concerns about transparency and the burden of Freedom of Information (FOI) requirements lies in better reporting of data. Since the introduction of the Freedom of Information Act in 2000, it has become clear that the system is proving to be more of a burden on public authorities than its creators had expected. For this reason, we are wary of calls for FOI legislation to be extended to private providers of public services.

The Open Data initiative is a positive start, but it could go much further. The public sector needs to stop being so defensively proprietorial about the data it holds. This doesn't mean being less careful about personal information or commercially sensitive data, rather it means taking an attitude that sees relevant, appropriate and useable data about public services performance as available to the public.

Much of the cost and delay of the FOI process could be addressed if more of the data being sought was released as a matter of course. An approach like this would have additional benefits for the quality of public services. If the public sector is to capitalise on the new era of transparency, it needs to start using data to promote better outcomes. To do this effectively the public sector will also need a better understanding of what constitutes the most useful data and how to collect and use it.

Using data to compare and improve performance – and drive growth

The importance of better data has also been highlighted as the role of the private sector in the delivery of public services has increased. The need for comparable data on price and performance to demonstrate the value of independent providers has grown.

A portal, which allows the public to compare how well different providers are doing will be a vital part of enabling a reform agenda which promotes a situation where the best provider – be they from the public, private, mutual or voluntary sector – provides the service and is held accountable for their performance. As part of this work, the CBI will be working with our members over the coming months to put forward more information about the types of information that should be available on the performance of public services and how members of the public should be able to access it.

Equipping the public sector with data that provides more information about costs and performance has huge implications for policy and commercial practice. Working together, we believe that the public and private sectors can develop a better approach to using performance data to drive service improvements, benchmark costs and promote innovation. It can also allow the private and voluntary sector to better tailor products and services to the needs of their public sector partners. Crucially, it will open up information on the quality and costs of public services to greater scrutiny – including those services provided by independent providers.

Transparency can also be a force for spurring innovation and growth. Allowing the public to analyse performance is a benefit in itself, but it can also provide the information that helps underpin a new product or service that can improve the quality and efficiency of a service. With austerity driving public service reform across Europe, the potential for the UK to take the lead and develop new approaches which it can then export is enormous. We are already one of the largest exporters of services and the market is expected to grow significantly over the coming decades.

Conclusion

For both the public sector and its suppliers, there is a clear interest in a model which meets the increasing public expectations of transparency and high performance. At the CBI, we believe that if done correctly and in a way which frees up a transparency dividend then the potential of the open data approach isn't just a transparency revolution; it is the seeds of a transformation in how we all interact with our public services.

Jim Bligh is head of public services reform at CBI. Jim leads a team developing policy ideas and solutions related to the delivery of effective services in local government, healthcare, policing, education and defence.

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Centre for Public Scrutiny
Local Government House
Smith Square
London SW1P 3HZ

Tel +44 (0)20 7187 7362

www.cfps.org.uk

Twitter: @CFPScrutiny

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