

CIPFA's submission to the Committee on Standards in Public Life - 12th Inquiry

27-02-2009

1 Introduction

1.1 CIPFA welcomes the work of the Committee on Standards in Public Life. In CIPFA's view, the Committee has identified several issues that are key to the debate surrounding the effective operation of the executive structures in local government. However, CIPFA believes that aspects of local government finance should be brought within the scope of the review. They are critically important to ensuring effective accountability. CIPFA set out its views on the balance of funding issue in the discussion paper *Hallmarks for Delivering Effective Local Public Services* (2005). This point is explored more fully in paragraph 2.10.

1.2 CIPFA has done much to promote effective governance in the public services and continues to do so. CIPFA believes that it is important to promote a local self regulatory approach to governance rather than a universal 'one size fits all' approach. CIPFA has carried out significant work in leading a debate on governance arrangements for the public services, not least through its various submissions to the Committee on Standards in Public Life and through the development of publications. Paragraphs 1.3 and 1.4 summarise CIPFA's main projects in this area :

- The Good Governance Standard for Public Services
- Delivering Good Governance in Local Government.

The Good Governance Standard for Public Services

1.3 In 2004, CIPFA and the Office for Public Management (OPM) with support from the Joseph Rowntree Foundation established an independent commission to consider how the key principles of good governance should be applied to all publicly funded organisations and partnerships. The Commission found evidence that many governors across the public services have difficulties in fulfilling their responsibilities and that there is a need for them to be clear about the purpose of governance and the role of governor. Early in 2005 *The Good Governance Standard for Public Services* was published to provide guidance for governors across the complex and diverse world of the public services. The Standard builds on the Nolan principles for the conduct of individuals in public life by setting out six core principles of good governance for public service organisations. It shows how these should be applied if organisations are to live up to the Standard and provides a basis for the public to challenge sub-standard governance. The Standard is particularly relevant to partnership working (see paragraph 2.20).

Delivering Good Governance in Local Government : Framework

1.4 In June 2007, CIPFA in association with SOLACE and with support from key local government organisations published *Delivering Good Governance in Local Government : Framework* together with an accompanying guidance note. The Framework updates the 2001 local government document. It adapts the core principles contained in the Good Governance Standard for local government purposes and emphasises the importance of maintaining good

governance throughout all authorities' activities. It was particularly timely as local authorities are subject to continued reform aimed at improving local accountability and engagement. The principles included in the CIPFA/SOLACE Framework and their relevance to the Committee's work are referred to in part 2 of our response.

1.5 We have commented on the issues raised in the Committee's report that are of particular interest to CIPFA in its roles as a national stakeholder within the UK public services, a membership organisation and a professional accountancy body.

2 Detailed Comments

Local government : leadership and decision making

What are the strengths and weaknesses of the new executive models of decision-making?

2.1 There are both strengths and weaknesses associated with the new executive arrangements in local government. Where they are working well, new arrangements have made the exercise of power more transparent. For the first time, a specific role among politicians for holding their colleagues to account for their exercise of decision making responsibilities has been created. Where the new arrangements are not working so well, there are instances of cabinet decisions effectively being made 'behind closed doors' prior to the public cabinet meeting. A benefit of the previous system was that it permitted public debate on an issue in open committee. By splitting the executive and the scrutiny function, many members of the controlling parties in local authorities have felt excluded from the decision making process. In addition, they may not engage in the scrutiny process since they may perceive that to do so would endanger their prospects within the ruling party. Effective scrutiny may therefore only come from the opposition.

2.2 Whilst there are attractions in having the same governance structure in every local authority in the country, the reality is that one size will not fit all circumstances. Each type of executive structure can operate effectively in practice but they need work and commitment on behalf of those concerned. It is important that individual local authorities have some scope in terms of flexibility and choice to enable them to determine arrangements most appropriate to them. The CIPFA/SOLACE Framework recognises this need for local discretion. It provides a structure to help individual authorities with their own approach to governance whatever form of executive arrangements are in place. The Framework illustrates best practice for developing and maintaining a local code of governance and making adopted practice open and explicit. It recommends that each council should review their governance arrangements against the Framework.

Have the new arrangements increased public trust in local governance?

2.3 Public trust in local governance is enhanced by service users receiving high quality services and by users and tax payers receiving excellent value for money. There is evidence to suggest that local authorities have improved in recent years. However, they do not necessarily communicate positive messages effectively and there is a risk that stakeholders will be misinformed. The function of governance is to ensure that authorities fulfil their purpose and achieve their intended outcomes for citizens and service users and to operate in an effective, economic and ethical manner. Principle 1 of the CIPFA/SOLACE Framework recommends that local authorities should be "*Focusing on the purpose of the authority and*

on outcomes for the community and creating and implementing a vision for the local area". Local government bodies need to develop and articulate a clear vision of their purpose and intended outcomes for citizens and service users that is clearly communicated, both within the organisation and to external stakeholders.

2.4 Good governance flows from a shared ethos, as well as from systems and structures and can be expressed as values and demonstrated in behaviour. Effective governance arrangements should therefore assist in promoting public confidence and trust in councillors, and guard against a public perception of their weaknesses, through the development of shared values which become part of an authority's culture, underpinning policy and behaviour throughout the organisation, including councillors and all staff. Principle 3 of the Framework recommends "*Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour*". It is essential that the leader and chief executive lead by example through the development of a successful working relationship with each other based on mutual understanding and respect. The authority should also take a lead in establishing and promoting values for the organisation and its staff. Principle 5 of the Framework "*Developing the capacity and capability of members and officers to be effective*" is also relevant here.

2.5 Once a culture of shared values has been successfully established it is important that it is maintained. This can be a challenge for local authorities as terms of office come to an end or the political agenda changes, but continuity is essential.

Local government : openness and accountability

What are the key elements of an effective accountability framework for local government and how well do current arrangements work in practice?

2.6 Local government is accountable in a number of ways.

- Elected local authority members are democratically accountable to their local area.
- All members must account to their communities for the decisions they have taken and the rationale behind those decisions.
- All authorities are subject to external review through the external audit of their financial statements and are encouraged to prepare an annual report.
- Many are subject to national standards and targets. Their budgets are effectively subject to significant influence and overview by government, which has powers to intervene.
- Both members and officers are subject to codes of conduct.
- Where maladministration may have occurred, an aggrieved person may appeal either through his or her local councillor or directly to the ombudsman.

2.7 Local authorities have a range of competing priorities and multiple accountabilities. In considering what these different accountabilities mean for local authority management, CIPFA believes that the sixth principle included in the Good Governance Framework is key "*Engaging with local people and other stakeholders to ensure robust accountability*". Real accountability requires a relationship and a dialogue. The range and strength of different relationships will vary – some will be, or will feel, more formal and possibly more important than others. It is essential that the local authority is clear (and communicates to staff) to whom it is accountable and for what and how it can engage effectively.

2.8 The full council's responsibilities include agreeing a council's constitution; agreeing the policy framework and key strategies; and agreeing the budget. The executive is responsible for proposing the policy framework; proposing the budget and implementing the policy framework and key strategies. Collective responsibility is essential in considering the accountability framework for local government. In recent years, the concept of executive responsibility has been undermined by 'point accountability' whereby a huge burden of responsibility is placed upon individual members and officers for specific service areas.

2.9 The advent of targets set by government and the development of inspection regimes such as the Comprehensive Performance Assessment (CPA) have had an important influence on improving local authority performance. Parallel improvement initiatives such as the development of CIPFA's Financial Management Model have certainly benefited in terms of both speed and scale of implementation as a result of the performance pressures exerted on councils. However, targets and tougher inspections have also impacted upon the dynamics of accountability. In practice, 'upward accountability' - to government and to regulators - often has much greater emphasis and urgency than 'outward accountability' - to local communities, taxpayers and users of services.

2.10 For accountability to operate more effectively in practice, a fundamental shift in the balance between local and central tax raising towards a situation where half of local authority spending is financed locally is required. In addition, a robust and effective approach to financing local authorities must be underpinned by a clear understanding of the relationship between central and local government. Whilst CIPFA recognises that local government needs to work in partnership with central government to deliver a range of desirable policy objectives, a balance needs to be struck to ensure that local democracy is not undermined and local authorities do not become mere agents of central government. In many areas, local authorities are best placed to judge the needs and priorities of the area and communities they serve and the appropriate basket of taxation and expenditure proposals. However well intentioned, central government intervention in these essentially local matters will cause confusion about accountability.

How should effective scrutiny be judged and to what extent do current measures lead to effective scrutiny?

2.11 Principle 4 of the CIPFA/SOLACE Framework addresses a local authority's role in "Taking informed decisions which are subject to effective scrutiny..." The scrutiny function should be adequately resourced and scrutiny should be supported by robust evidence and data analysis. The scrutiny function is still developing in local government and it is critically important that councils are able to exercise some discretion regarding the detailed arrangements including resource issues that they subscribe to in order best to reflect local strengths, weaknesses, cultures and preferences. For scrutiny to be effective the executive must be committed to making it work and to regard it as a valuable contribution to the authority's operation. The Centre for Public Scrutiny is playing a very important role facilitating the exchange of best practice and developing the art of effective scrutiny.

2.12 Members need the skills and knowledge to do their job well and these skills include the ability to scrutinise and to challenge information received from the executive and the ability to recognise when outside advice is needed. Knowledge also needs to be updated regularly to equip members for changing circumstances. Politicians will need to understand the governance structures of the organisations they will be dealing with and this should be

reflected in the induction they receive. New councillors should receive a thorough induction that is tailored to their role. All members should have the opportunity to develop further skills and update their knowledge throughout their period of membership.

2.13 Where scrutiny is working well, there is a far more constructive approach to policy development and scrutiny than was previously the case. For example, where cabinet members suggest something specific is scrutinised. That is not so everywhere and there is still a long way to go. An effective scrutiny function should encourage constructive challenge and enhance the authority's performance overall. The current arrangements for scrutiny in local government do not take account of the political dimension. A weak leadership may fear scrutiny because it appears to encourage hostility from its own supporters and give further weight to the criticisms of opposition councillors. A strong leadership should have nothing to fear from scrutiny and should welcome it, though an arrogant leadership may just ignore it. Where policy matters are concerned, an executive in most local authorities would be able to rally political support to vote down any scrutiny recommendations it disliked however robust they might be.

Local government officers : role and accountability

Views on the role and responsibilities of senior officers

2.14 Attempts to oversimplify the distinctive roles of members and officers (as in politicians do policy/strategy, officers do implementation) can be unhelpful. In practice the leadership of councils is a partnership between members and officers in which each group brings different knowledge, skills and perspectives. Principle 2 of the CIPFA/SOLACE Framework "*Members and officers working together to achieve a common purpose with clearly defined roles and functions*" requires all concerned to be clear about the functions of governance and their own roles and responsibilities and those of others, and to behave in ways that are consistent with those roles. However, this message must come from the top of the authority in order to embed a culture of good governance. The council leader and chief executive share in the leadership role but their precise roles cannot be prescribed by national 'rules'. They will vary in important matters of detail from one organisation to another. The leader's role will usually emphasise effective strategic direction. The chief executive is likely to emphasise leading the organisation in implementing strategy and managing the delivery of services. A good working relationship between the two is fundamentally important for the effective governance of the organisation as a whole.

2.15 Both roles require a degree of independence of mind. Each provides a check and balance for the other's authority. The leader and chief executive should negotiate their respective roles early in the relationship. Their roles should be clearly explained to the organisation as a whole.

2.16 Good working relationships and communications within the leadership team (members and officers) together with a degree of formality and rigour in decision making are also key ingredients in the chemistry of a successful, well governed council.

How successful are the mechanisms currently in place to hold senior officers to account for their actions?

2.17 In order for the accountability mechanisms to continue to operate successfully, it is essential that new ways of working do not obstruct them. In particular, CIPFA is concerned about the introduction of political appointees and special advisors who do not fit into the current accountability framework. In central government such appointees are able to act as 'gate keepers' and restrict access to ministers. If such a scenario were to be repeated in local government, senior officers might find themselves unable to carry out their statutory duties. The introduction of political appointees and special advisors adds an important new component to the top team but this needs to be explicitly recognised and considered carefully in the design of effective governance arrangements.

2.18 Chief financial officers in local government have a unique accountability to the local tax payer. Legislation places particular responsibilities on them and this is reinforced by the other statutory officers. The duty of the chief financial officer to the citizen was clearly established by case law in England and Wales. In *Attorney General v De Winton* 1906, it was established that the treasurer is not merely a servant of the authority, but holds a fiduciary responsibility to the local taxpayers. This responsibility has been incorporated into the role of the responsible financial officer. Under Section 151 of the Local Government Act 1972 and Section 95 of the Local Government (Scotland) Act 1973 the Responsible Finance Officer is given the clear responsibility to make arrangements for the proper financial administration of the authority. Under section 114 of the Local Government Finance Act 1988 there are specific powers and responsibilities around unlawful expenditure. The public's right to question the expenditure of a local authority is reinforced by their right to object to the auditor about any item in the accounts as part of the public inspection of accounts process. The auditor is legally obliged to investigate any objection received through this process. Senior officers are also held to account through other mechanisms through which the authority is accountable overall. For example, through inspection regimes, the CPA and efficient use of resources and the annual financial statements.

2.19 CIPFA seeks to equip finance directors to ensure that they understand and fulfil their responsibilities effectively. The finance director, as the authority's most senior finance professional, occupies a pivotal role, both for external stakeholders and within the leadership team. Finance directors everywhere have a responsibility to ensure that their organisations control and manage money well and that their strategic planning and decision making are supported by sound analysis. In the public services context finance directors must also meet the demand of openness and accountability in decision making, balancing competition for limited resources across a range of worthwhile objectives, delivering value for money and the lawful care of taxpayers' money. CIPFA's publication *A Statement on the Role of the Finance Director in Local Government* (2003) provides advice to finance directors in carrying out both their statutory responsibilities and their strategic and policy development roles. It is also intended to be helpful to local authorities in dealing with tensions and related risks that can arise when revising political, organisational and managerial structures.

Local government accountability and partnerships

How do partnerships ensure effective accountability and open decision making?

2.20 Partnerships and the cross-cutting issues with which they often deal create some special challenges for clear accountability and good governance. The CIPFA/SOLACE Framework recognises the importance of partnerships – in future it is likely that authorities will be less concerned with direct service delivery and more with commissioning and regulation,

influencing behaviour and supporting communities. Again a 'one size fits all', prescribed solution to governance in partnerships is inappropriate as it is unlikely to cater effectively for the myriad of different issues and types of partnerships. Governance arrangements must be proportionate to the risks involved. One specific challenge is that different parties such as councils, police, fire and health - will bring different governance models and expectations to the table. The Good Governance Standard for Public Services provides a helpful 'sector-neutral' framework for developing a sensible local governance scheme for partnerships.