may you live in interesting times

the consequences of political restructuring for officers
Local government is experiencing enormous change. The developing consequences of the modernisation agenda – political restructuring, community strategies, local strategic partnerships, public service agreements, ethical arrangements and best value etc – for the processes, structures, style and culture of individual councils have yet to emerge. The purpose of this series of three discussion papers is to contribute to the current debate. Their starting position is the principles of good corporate governance, from which important questions are asked. The series explores the issues that must be determined in the selection of local solutions, without recommending any particular solution. These papers are aimed at those in local government who have the responsibility for leading the modernisation process. In focusing on the need for a new local constitutional settlement, We Hold These Truths to Be Self-evident (Ref.1) locates the modernisation agenda within recent local government history. This paper explores the implications of the impact of change on officers. Its companion – To Whom Much is Given (Ref.2) – explores the impact on members.

1. ‘Chief executives in local authorities are not always what they seem.’ So began the Audit Commission’s management paper – More Equal Than Others (Ref.3) – on the role of the chief executive in local government. It was followed by other papers on the role of the finance officer – Worth More Than Money (Ref.4) – and the role of the legal officer – Competitive Counsel (Ref.5). Senior officers in local government have to learn a complicated repertoire. Governance arrangements in a democratic and political context are different from those of the private sector. Financial procedures are complicated; accountability is plural; and success is hard to recognise and rarely celebrated. And the roles are not getting simpler.

2. In 1989, the Audit Commission was able to write about the distinction between political management and executive management, even if the boundary between them was often clearer in theory than in practice. Indeed, a frequent diagnosis of the problems of failing authorities of the time was the invasion of executive management roles by councillors. Times have changed. New legislation opens up different and new opportunities for local government. The companion paper to this – We Hold These Truths to Be Self-evident (Ref.1) – argues that a new constitutional settlement has become necessary in each council.

3. The Local Government Act, 2000 (Ref.6) requires the political arrangements of councils to be revisited. The way that members discharge their roles is changing, with different activities for the executive and the scrutiny functions, and with a stronger ethical base promoted by standards committees. Consequently, the accountability of members is undergoing radical revision, both within the council and towards the community. And as members’
accountabilities change, it is inevitable that the roles of leading officers towards members will need re-consideration. Critics argue that the reform of political structures has left ‘unfinished business’ at the officer level. Legislative silence on the implications of political restructuring for officers leaves the way clear for councils to determine these matters locally. Change is endemic in local government. For some officers this will be stimulating; for others threatening. It will be interesting for all.

4. To grasp the potential impact of new constitutional settlements on councils it is helpful to set out the terms of the old settlement and the largely settled role of leading officers under that settlement. The potential impact of new settlements can then be assessed.

The old settlement

5. Councils have much in common with each other. Most are fiercely assertive of their local identity, frequently similar in terms of their structures and processes, but often different in their culture and style. Members, usually belonging to competing political parties, cohere as party groups, taking a political whip. They operate in committees where seats are apportioned according to party representation on the whole council. Committees and council meet on a pre-determined cycle. The work of committees is a blend of strategic decision making, representation and service management. Often, committees and the council are the public face of decisions already taken in private by the ruling party group or coalition. Although seeming to be the decision-making organ, these committees are, in effect, the old settlement’s version of ‘scrutiny’, where opposition members challenge officers and the ruling party.

“What hasn’t changed is the need for good governance to provide a framework in which good management can prosper.”

6. This somewhat ambiguous situation will be remedied by new settlements made under the Local Government Act, 2000 (Ref 6). The executive will be clearly identified as the accountable body for most decisions, and the scrutiny function will hold the executive’s performance to account for its impact on local issues and to assure openness and integrity. What hasn’t changed is the need for good governance to provide a framework in which good management can prosper.
7. Under both settlements the local sovereign body is the council meeting. Although a number of councils use council meetings to assess external bodies or to focus on particular local problems, typically, under the old settlement, the council meeting is a place for inter-party rivalry. Only in councils without overall control does the council operate as a place for the final resolution of issues, and even here decisions are often negotiated in advance. The informal decision making system dominates over the formal system. Political restructuring should reverse this situation. Under the new settlement, the council maintains control of key decisions on accountabilities, budgets and strategies. But most decisions will be delegated to the executive. The statutory officers, and in particular the monitoring officer, have critical roles in ensuring that decisions are taken by the accountable part of the member structure – the executive, scrutiny function, area committees, council or standards committee.

The statutory officers

8. All councils must identify three statutory officers – the head of paid service; the monitoring officer; and the sec 151 or chief finance officer [EXHIBIT 1]. Until the Local Government Act, 2000 (Ref. 6) the roles of the head of paid service and the monitoring officer could be combined in a single person, but no longer. Frequently the chief executive was not the monitoring officer, in which case the council’s secretary or solicitor discharged that role. Normally, the head of paid service is known as the chief executive. But these statements are generalisations. There are exceptions. Rarely, the head of paid service is someone other than the chief executive. And occasionally the sec 151 officer is someone other than the director of finance.

9. Other officers are distinguished by their professional titles. Depending on their functions, councils typically have chief officers who deal with particular portfolios, for example the director of education or the director of housing, etc. However, some councils have experimented with ‘executive directors’, where management team members hold variable portfolios but are supported by professional heads of service. Other councils have considered the possibility of chief officers with a focus on particular client groups or management processes, for example the director of regeneration. There have also been some bold attempts to devolve council services to the neighbourhood level, with neighbourhood chief executives holding responsibility for the co-ordinated delivery of all services to a local community.

10. So, a general pattern of member structures oversees a typical pattern of officer structures, with local variations. The strongest links in the old settlement are the relationships between:
- the chief executive and the leader
- chief officers and the committee chairs
- the leader and the committee chairs
- the chief executive and the chief officers.

The relationship between the leader and the chief executive is usually central to the effective working of this potentially fragile set-up [EXHIBIT 2, overleaf].
**EXHIBIT 1**

The three statutory officers

**Monitoring Officer**
Responsible for advising on the legality of the council’s actions

**Head of Paid Service**
The ‘Management Officer’ – responsible for advising on the health and management of the council

**Finance Officer**
Responsible for overall financial arrangements and for advising on the sustainability of the council’s budget

*Source: Audit Commission*
Future problems?

11. All serving officers are schooled in the old settlement. The presentation of issues to committees is a core officer skill. The formal and official determination of matters is clear, recorded in council or committee minutes, depending on the local system of delegation. But beneath the surface, matters are not as clear-cut as they seem. With the growing importance of party groups as bodies which pre-determine decisions, councils have had to adopt local protocols to guide the relationship between officers and these groups. Formally, officers serve the whole council. In practice, they must work closely with the majority party or coalition to advise on and implement particular policies. In some councils, they are also able to work with opposition parties to develop alternative policies. Although officers should be appointed ‘on merit’, without regard to their political affinities, the importance of good working between senior officers and leading members has led to a degree of ambivalence over the political impartiality of their selection. New political arrangements clarify member accountability, but do nothing to address the ambiguous roles of officers. Indeed, it may make the possibility of role conflict even greater.
12. Normally, good sense, embedded integrity, respect for the law and careful diplomacy from members as well as officers, have enabled this complex web of relationships and responsibilities to survive. But this ambiguous situation has generated problems and sometimes created casualties as officers get caught between the will of the ruling party and their commitment to legal or financial standards. Officers have seen it as their role to propose ways of satisfying the political will of the ruling group without compromising the law. Where genuine new approaches are advised, such activity is in the finest traditions of public service, but where officers enable the ruling political will to maintain the appearance of lawfulness, while pursuing actions that conflict with the spirit or intentions of the law, or simply turn a blind eye, the integrity of local government is diminished.

13. A culture of legal avoidance is unlikely to be conducive to trustful partnership working with other agencies and the community; a relentless assault on fraud, for example in housing benefit applications; or to the creative challenge of old management practices. Complacency over continued standards of integrity in the face of a new constitutional settlement would be unwise. Change is destabilising. There is a danger that new political and operating arrangements could leave officers and members confused about accountabilities and the propriety of decision making. In new and different relationships, it cannot be assumed that old conventions will prevail. They need to be revised and reinforced to meet changed circumstances.

The new settlement

14. Powerful new dynamics are arriving in this complex situation. Councils with populations of more than 85,000 are considering proposals to revise their current political arrangements and to adopt one of three alternative models [BOX A, overleaf]. All Welsh councils, and English councils with populations of fewer than 85,000, have a fourth option. These changes take place in a climate of heightened regard for the principles of good corporate governance and a reinforced duty to promote equality.

15. Ahead of legislation, many authorities experimented with leader/cabinet approaches. This has provided valuable anticipation of the likely effects of the statutory regime. There has been no single, simple interpretation of the new possibilities. In some authorities, a cabinet has been overlaid on the existing committee structure, adding to the process of decision making. In others, the cabinet has been the public face of private decision; and, in some, there have been significant improvements in the efficiency of decision making. Success with scrutiny has been patchy. These are the symptoms of a transitional period. Transition will continue into the statutory period, but with important differences. The ‘experiments’ have been conducted by the
leading edge of local government and, usually, the new approach has been significantly controlled through a good relationship between the leader and the chief executive. Rarely has radical new political energy been experienced. Moreover, some aspects of the statutory regime could not be applied ahead of statute, many of which will change the dynamics of political management [BOX B]. So, while these early experiments are valuable, they do not necessarily provide a conclusive picture of the progressive roll-out of new arrangements generally.

16. Such major change at the political level will have consequences for officer patterns. Not only must councils determine new constitutional settlements at member level, they also need to ensure that the roles and accountabilities of officers are re-formulated to keep pace with the political revisions. The knowledge that three years after the arrival of the mayoral model in New Zealand one could count surviving chief executives on one’s hands, will come as no comfort to their UK colleagues. As UK local government is still at the brink of these changes, it remains unclear how extensive, radical and rapid such changes to officer patterns will be. A key purpose of this paper is to explore the tensions that could emerge, identify possible alternative solutions and pose questions for local deliberation in the determination of new local constitutional settlements.

BOX A

New models for local political arrangements

Mayor and cabinet
An elected mayor with a cabinet of councillors appointed by the mayor.

Leader and cabinet
An executive leader elected by the council, with a cabinet appointed either by the council or by the executive leader.

Mayor and council manager
An elected mayor with an officer appointed by the council.

In England, councils with populations of less than 85,000 are not obliged to adopt one of these models, but must devise alternative arrangements where:

- the full council has an enhanced policy-making role;
- there is effective overview and scrutiny; and
- there is an ability to delegate the implementation of policy to streamlined committees.

In Wales, all councils can adopt a fourth option, a politically balanced board of the council, prescribed by Assembly legislation. Before implementing a new structure, councils in Wales must consult on all four options.
In the late 1980s, it was possible for the Audit Commission to discuss the roles of the three statutory officers and to offer clear conclusions. In 2001, a more tentative situation prevails. Greater variety among local arrangements than existed in the old settlement is likely. Nevertheless, whatever local settlements are reached, the principles of good governance, to secure effective performance and propriety, remain important and must be evident [EXHIBIT 3, overleaf].

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18. A key question in new constitutional settlements is whether a unified officer structure can, and should, survive the widening distinctions between the executive and scrutiny roles among the members. Certainly, legislation requires that the council remains a single employer, but questions remain about the degree of clear accountability that various officers will owe to the different branches of the political structure. Much will depend on the style and culture that the council adopts as part of its constitutional

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**BOX B**

**How will the leader and cabinet model change?**

- Executives will have direct decision-making powers as specified by the authority’s constitution.
- Executives do not have to reflect the political balance of the council. They can be one-party, two-party or multi-party, depending on the authority’s preference.
- Executives will be able to meet and make decisions in private if they so wish, apart from when they are discussing and taking key decisions, where meetings have to be public.
- Individual executive members will be empowered to take decisions when the authority so decides, as set out in its constitution.
- Executives will be expected to set out a future programme of key decisions for a period of four months (on a ‘rolling programme’ basis). Key decisions are subject to a period of public consultation (and discussion in public by relevant overview and scrutiny committees) before being decided in public.
- The decision-making process of executives will be constrained by the requirement to introduce a call-in procedure that enables (in circumstances specified by the authority) executive decisions to be called in and publicly discussed (at overview and scrutiny committees or the full council) prior to a ‘final decision’ being made.
- Welsh authorities are subject to distinctive requirements for the holding of meetings in public and the recording and effect of executive decisions.

*Source: Starting to Modernise: Reviewing Cabinet Leader Models (Ref. 7)*
settlement. What will be the dominant theme locally – one council, or scrutiny versus the executive, or a balance between these positions?

19. Foreign experience, of an executive/scrutiny split among members, indicates that there is no single, simple reformulation of officer roles. Early indications in the UK suggest that variety rather than consistency is likely. The theory underpinning the new settlement was introduced into official government deliberations through the report of the Internal Management Working Party (Ref 8). Fundamental to all of the possible new models considered by the working party was the guiding principle that as executive functions strengthened, so the scrutiny function should equally strengthen to provide necessary checks and balances. A key consequence of setting up balancing mechanisms between the members is the need to

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Source: Corporate Governance in Local Government – A Keystone for Community Governance (Ref 8)

EXHIBIT 3

The principles of good corporate governance

Source: Corporate Governance in Local Government – A Keystone for Community Governance (Ref 8)
re-examine the role of officers – whether or not they can operate across the whole of the balance, or whether they become obliged to be identified with one side or the other. As the executive and scrutiny functions become stronger and more distinct, will officer accountabilities become more differentiated?

20. The local selection of officer models in new constitutional settlements is likely to be influenced by matters of local personality, political chemistry and elected members’ appetite for, and competence in, organisational management, as much as by objective analysis. Within the limits of law, such choices are a local matter, but whatever conclusions are reached, they must be both a convincing ‘good governance’ proposition and an effective ‘good management’ system for local services.

**Issues for officers**

21. Two dominant issues will guide the resolution of officer structures and roles:

1. How distinct will the differences between the executive and scrutiny functions be? The more confrontational the relationship, the more power that resides with the executive, the more likely it is that a distinct and competent scrutiny function will exist, requiring its own dedicated support.

2. To what extent will the political executive assume managerial responsibilities? The more members feel obliged not only to set policy, but also to ensure its delivery, the more likely they are to engage in managerial activities, despite the government’s encouragement of greater delegation to officers.

1. **Supporting both the executive and scrutiny functions**

22. Currently, there is no universal officer model. In the future, with the variety of new local constitutional settlements, there will be even less common ground. Each council will work out in different ways how it will support its political processes and its role in the community [EXHIBIT 4, overleaf]. Each council should ensure that it has arranged its officer structure and processes in order to:

   • support the improving performance of the authority; and

   • ensure that proper proprieties are observed in the conduct of its business.
EXHIBIT 4

Key questions for officer accountabilities

- Who has overall responsibility for advising on the management of the organisation?
- Who has the lead role in partnerships?
- Who runs the council’s performance management system with responsibility for ensuring that the policy objectives of the council are effectively discharged through service delivery?
- Who gives advice that the financial arrangements of the council are secure, that the budget balances and that its consequences are sustainable?
- Who supports and advises the Standards Committee?
- Who provides support and advice to the scrutiny function?

Source: Audit Commission
23. Most officers and members would currently have little difficulty in identifying one of the statutory officers as the answer to each of the questions in Exhibit 4. But will answers be equally clear in the new constitutional settlement? The roles of the three statutory officers clearly illustrate the possible effects of changes in member accountabilities on officer accountabilities.

Head of paid service or chief of staff?

24. The roles and accountabilities of the chief executive need revisiting. As the head of paid service, the chief executive holds responsibility for advising on the management of the entire council – the executive, scrutiny and standards roles. The job is to ensure that all aspects of council life cohere to serve the local community and meet the needs of members, while honouring statutory obligations. As such, the head of paid service is an overarching figure. Most serving chief executives, however, devote most of their energy to ensuring that the objectives of their councils, whether from local choice or government requirement, are effectively discharged. They work intimately with the political leadership and they are the drivers of the council’s performance management system. They manage the authority.

25. Where councils have experimented with executive/scrutiny models ahead of statute, accountability to the leadership has been dominant and chief executives have invariably attempted to become cabinet secretaries. In practice, the scrutiny role has been neglected and under-supported, leading to the disenchantment of non-executive members.

26. So, chief executives face critical questions. Will a mayor or leader seek to assume the performance-driving role? And, if not, is the role compatible with the overarching head of paid service role? There is a risk that the imperative of performance improvement could over-ride the proper observance of legal and financial procedures. With greater emphasis on both performance and propriety in different parts of the council’s political structure, there may be a danger that they can no longer reside comfortably in one over-arching chief executive. How will the chief executive balance multiple accountabilities?

27. Elsewhere in the world, and implicit within the Greater London Authority Act (Ref 9), a distinction is drawn between a ‘chief of staff’, who is the officer agent of the political leadership, and the chief administrative officer. To date, the UK has combined these roles in the chief executive. In most councils they will probably continue to do so, but the possibility of a division of the roles emerges in new constitutional settlements, particularly where strong political leadership exists. Mayors or executives may set up dedicated ‘No 10’ type support units, answerable in practice to the political leadership rather than to the chief executive [BOX C, overleaf]. Similarly, scrutiny functions may be supported by investigative secretariats, at best semi-detached from the core officer structure, as has happened at the GLA – all applying increased tension to the roles of existing chief executives.
The Greater London Authority

The most concentrated form of local executive power in the UK is the directly elected London mayor. The primary role of the London Assembly is to hold the mayor to account. And the provisions of the GLA Act [Ref. 9] in respect of leading officers are instructive. Clearly, the mayor needs the capacity to be executive. So, the Act empowers the mayor to make up to ten personal appointments and two political advisers. The Assembly appoints all other staff, but must ensure that the mayor and the personal appointees are properly supported.

Three primary models are available to the London mayor in deciding how to use the ten personal appointments:

1. **A ministerial model** – the mayor appoints policy portfolio holders, acting like government ministers (at least one leading mayoral candidate favoured this model, including the appointment of a Chancellor for London to provide strategic financial leadership).

2. **A chief officer model** – the mayor appoints the heads of the functional departments, who might then become the core of the mayor’s cabinet.

3. **A No 10 model** – the mayor appoints an advisory team separate from the core establishment (the first London mayor chose this model, albeit appointing more than ten staff and, by agreement, using the appointment capacity of the Assembly, rather than the ten personal appointments).

Subject to ‘on merit’ procedures, the Act gives the mayor substantial choice of structures and individuals, but the Act prevents the mayor from appointing anyone to the three statutory officer roles. These three appointments are for the Assembly. The statutory officers are responsible to the scrutiny function, emphasising their role in integrity, openness and accountability, and giving them the protection of the scrutiny function should they need to make decisions which prove unpopular with the executive. In effect, the GLA Act separates the role of chief executive, which resides with the mayor, from the statutory function of head of paid service, which resides with an officer appointed by the Assembly. The GLA Bill prescribed the title of the head of paid service as the chief administrative officer, in recognition of the mayor’s role as the elected chief executive (the final Act was silent on this point, enabling the London Assembly to determine the role’s title).
As councils decide how the roles of chief of staff and head of paid service are discharged, there should be clarity of accountability and a convincing basis on which the council will be well managed. If a chief executive is to encompass both roles, how is the dual accountability defined? Is that definition owned across the council and is there evidence that the postholder is not compromised in carrying out their duties? If the roles are separated, do the head of paid service and the other statutory officers have unimpeded access to the political executive and any officers dedicated to it, to ensure that advice is available and actions are validated?

Monitoring officer or legal adviser?

The monitoring officer must validate the legality of the council’s activities. The monitoring officer is a recognised link to the local standards committee. That postholder should enjoy a significant degree of acknowledged protection by the standards committee and the scrutiny function to protect his/her role from pressure from the political executive or the chief of staff. With accountability for upholding the lawful integrity of the council’s constitutional settlement, the monitoring officer is likely to be in one of the least comfortable roles in new settlements. If the principal law officer is seen as a part of the standards and scrutiny functions, will the executive have confidence in the creativity of that officer’s advice in overcoming legal impediments to policy objectives? Could the executive feel the need to seek legal advice from a source other than the monitoring officer?

“The monitoring officer is likely to be in one of the least comfortable roles in new settlements.”

Strategic financial adviser or fiscal validator?

The sec 151 officer is also in a potentially ambiguous position. The leadership will need reliable support in discharging its budgetary role. Indeed, the leadership will need to take its financial adviser into its closest confidence when setting and monitoring the budget. If the leader does not assume this role, it is likely that at least one member of the cabinet will have dedicated responsibility for financial affairs. The leadership will need to secure the support of the full council for its budget and, in most settings, the budget proposals will be subject to detailed scrutiny.

Difficult issues arise in the finance function [EXHIBIT 5, overleaf]. Like chief executives, finance officers could be torn between their accountability to the various branches of the council. Many will be sufficiently elastic to cope, especially if the political climate is benign, albeit at the cost of incisive scrutiny. In other places there could be experimentation with a two-headed model, in which one officer is accountable to the executive for financial support and a separate officer, holding the sec 151 responsibility, validates the actions of the executive and advises the scrutiny function.
EXHIBIT 5

**Issues for financial officers**

- Where will the scrutiny function secure its advice on the financial implications of the budget?
- Will the sec 151 officer aid the scrutiny function in asking questions of the budget or aid the executive in answering them?
- If the Finance Officer relentlessly insists that the executive address embarrassing issues exposed by internal audit, could it compromise the chemistry between that officer and leading members?
- Will the scrutiny function be content to be aided by a passive finance officer who responds to questions, or will it want more inquisitive support in knowing what questions to ask?
- Is a position of objective and professional neutrality sustainable in the face of revised constitutional settlements?
- How visible will be internal audit reports?

**Source:** Audit Commission
Other senior officers

32. Service directors and area directors, where responsibilities are devolved, have a clear line of accountability to the executive. They are awarded budgets, assigned policy objectives and have responsibility for service delivery. They are unlikely to find themselves in conflicting situations when responding to constituency queries from non-executive members. However, they could find themselves in difficulty when the scrutiny function seeks to review their activities. Are they able to assist the scrutiny function in assessing performance or will they primarily be concerned with explaining and justifying their own performance? Do they defend their advice to the executive or do they defend the executive’s decisions in circumstances where the executive has rejected their advice? In many cases they may feel compromised, and the scrutiny function should consider securing independent support, either from a cadre of dedicated analysts within the council or from external advisors, or both.

33. In councils that have appointed political advisors to recognised party groups, some reflection on their role is called for. Such appointments reflect the ‘old settlement’ in which the differences between the parties were the critical distinction. The new settlement overlays an executive/scrutiny split over party divisions. And in the case of a directly elected mayor, a political assistant can be appointed to assist that figure. In leader/cabinet models, councils will need to decide whether such political advisors continue as party supporters, or whether they align themselves to the executive or scrutiny functions.

2. The political/managerial interface

34. New member accountabilities will mean that the future political arrangement of councils could be more separated than at present. Officers will find themselves advising executives that are often single-party bodies. Scrutiny functions could be more challenging, and legitimately so, than existing committee situations. With their capacity to take delegated decisions, individual members of the executive could take on more managerial responsibility than before, whether or not they possess the managerial competence to do so effectively.
EXHIBIT 6

Issues for the political/managerial interface

Would a ‘whistleblower’ amongst the staff have confidence in the impartiality of senior officers who were closely identified with the political executive?

Can the distinction between a political executive role and a managerial executive role be maintained?

Given that a council’s leadership will be more visible and accountable to the electorate than under the old constitutional settlement, and that the electorate is likely to judge it on the basis of delivered results rather than on its policy aspirations, is it reasonable for an executive to operate only at policy level, leaving officers to account for delivery?

Will officers be able to continue to discharge the two roles of working closely with the executive to deliver the council’s performance and working closely with the scrutiny and probity wings of the council to validate the council’s actions?

Can the political executive be kept in the political box?

Source: Audit Commission
One of the consequences of the enhanced visibility of members that the directly elected mayor model and, to a slightly lesser degree, the leader model brings is to place leading members in a much more visible, direct-contract relationship with the community. Feeling the strength of that public contract, leading members are more likely to feel the need to ensure that the council delivers. Indeed, it is quite likely that a mayor will have campaigned on a programme of action, therefore, almost inevitably, becoming involved in executive activity. In such an environment only a trusting relationship with leading officers will avoid active member involvement in detailed management. Confused accountability between members and officers for the execution of policy decisions is unlikely to produce an effective council. It is more likely to lead either to a ‘blame’ culture, damaging creative public service, or to a ‘pick and mix’ situation in which officers and members select the roles they like and neglect those that are unattractive. Ideally, members should offer leadership and avoid ‘micro-management’, but there needs to be local clarity about the boundary between the two.

The case for both good management and good political leadership is compelling, but it is not clear that it confirms the inherited officer/member arrangements from the old settlement. Under the old settlement, practices such as devolving decision making to an officer, but obliging that officer to consult a relevant chair, led to unclear accountability. In theory, members should appoint officers, empower them, direct them, give them latitude to succeed and dismiss them if they don’t. But is a relationship with chief officers based only on hiring and firing, a sufficient response to members’ imperative, and increased public accountability under new constitutional settlements to be seen to be making a difference? [EXHIBIT 6, overleaf].

The executive leadership of a council, whether leader/cabinet or mayor (but especially if mayor) may seek to assume greater involvement in operational decisions. Certainly in the United States, many mayors have evolved into hybrids combining both political and executive skills. Instead of the amateur political tradition of British local government, the role of city leadership becomes a profession in its own right. Many would see the British local government political amateur as an endangered species and that the future executive leadership of British councils will increasingly fall to remunerated political professionals. Consequently, officers may find themselves under even greater pressure either to comply with the requirements of the executive or to surrender current responsibilities to it. Therefore, there is a compelling need to revisit local schemes of delegation to ensure that there is clarity of accountability between members and officers within new political structures.
Officer structures

38. Once councils have reflected on the ways in which officer accountabilities in support of revised member accountabilities are to be determined, they are likely to conclude with a version of one of two possible outcomes.

The elastic model

39. Where a council has a tradition of largely respectful, harmonious working and where it values the status quo, current officer patterns may simply stretch to accommodate the new settlement. Basically, this is a re-badging of the old settlement and officers may not find it difficult to cope with servicing both branches of the revised settlement. But will such an approach realise the potential of the new constitutional arrangements? If the ‘elastic’ model is chosen, there must be convincing evidence that it is effective and up-to-date in driving forward community and council performance, doing so with strong assurance about the council’s propriety.

The fragmented model

40. By contrast, in a council with a strongly competitive party political situation, a distinctive, more confrontational approach to scrutiny could emerge. Leading officers could well be the target of scrutiny as much as members. In such a scenario the statutory officers might find their roles ambiguous. Can they give undivided commitment to the delivery of the policy objectives of the executive, which will often be composed of a single party, and still enjoy the confidence of the scrutiny function, where they should provide uninhibited advice and support when these policies are under investigation? The answer is likely to be no, and in such a situation a more compartmentalised, even adversarial, approach among officer structures and roles may emerge.

41. Indeed, in a fragmented model it is possible to foresee situations in which two of the statutory officers – the sec 151 officer and the monitoring officer – are clearly attached to the scrutiny function. Their role would be to advise and validate. They would remain available to advise the executive, but the executive might also seek other sources of advice. Additionally, government guidance in England suggests that the scrutiny role might have its own chief officer under only limited direction from the chief executive, responsible for leading dedicated scrutiny support staff and for facilitating the scrutiny function’s role in examining the performance and probity of the executive.

42. This is the extreme position within current legal possibilities. It brings clarity, clear accountability and integrity of role into focus to a much sharper degree, with potential benefits for ‘challenge’ and improvement. But it also points towards confrontation rather than consensus, and that confrontation could be between officers over professional judgement as much as between members over political judgement. Many serving officers will feel uncomfortable with such a possibility. However, different professional judgements exist between authorities and they may already exist within an individual authority but are censored by chief officers. Providing that a stalemate is avoided by the three statutory officers having the final say,
admitting that there can be variations in professional judgement shows a council’s commitment to the principle of openness.

43. If a council is attracted to a fragmented approach, or some de-tuned version of it, careful attention should be paid to its costs. The streamlining of executive decision-making should liberate considerable resources previously tied up in the labyrinth of the old settlement’s committee system. Aggressive scrutiny will incur financial costs as well as cultural and operational ones. New constitutional settlements should assure the local community that public money is being well spent in their interests. If local political arrangements and controversies appear irrelevant to the issues affecting real people, public disenchantment with local government will deepen.

44. It is unwise to predict how these issues will develop and at what speed. The momentum of current practices is likely to ensure that current elastic arrangements continue in most places. But some councils may adopt more radical solutions. Whatever happens, councils must ensure that clear officer accountability is established for each of the performance and probity roles, for executive action and for scrutiny. If more than one of these responsibilities are invested in a single officer, the council should anticipate future tensions by setting out clear protocols on how those tensions will be resolved.

45. Councils need to clarify the role of officers under their new settlements and the rate of change they will pursue. They must be convinced that their settlement is a good use of public money in their local circumstances. A council’s subsequent achievements should show local people that they have got it right. A lack of clear accountability is often the root cause of failed performance in a council. New constitutional settlements should avoid the mistakes of the past. When accountability is unclear, leading officers will yearn for easier ways of making a living or for an early pension. Clear accountability needs to be determined at the outset and officers should not sleepwalk into the consequences for their roles of changes in member accountability.
Rebuilding officer capacity

46. These key questions for officers should not disguise an even bigger issue. None of these roles has become easier. Social issues are more complex, public expectations rise and performance management objectives and targets become more demanding. Inspection and targets are critical ingredients for continuous improvement, but not alone. They need to be accompanied by investment in staff who are capable of responding to the challenges. Where will a generation of new officers come from? Just as the 1970s saw the role of the town clerk become the role of the chief executive, the 2000s may see equivalent change. How will existing postholders be equipped to adapt? Where will a new generation receive its training? How can esteem be created so that capable young people choose public service for their careers? However much advice is given to local government, however much legislation is passed, inspections undertaken and structures, roles, processes and finances revised, the ultimate guarantor of the quality of public services is the quality of the members and officers who invest their careers in local government.

“The ultimate guarantor of the quality of public services is the quality of the members and officers who invest their careers in local government.”

47. Almost every generation complains that current recruitment is not delivering the calibre of staff of the last generation. But, for once, it just might be true. In those services subject for some years to intense inspection, the debate has increasingly inclined towards recruitment, retention and training. In the volume services – education, police and social services – it has become crucial to secure a sufficient number of staff. There is evidence that the reward/risk equation for the posts of director of education or director of social services is seen as adverse, leading to recruitment difficulties. This is not necessarily an argument for increasing the financial rewards – job satisfaction is even more important. Reviewing job risk is also part of the equation, so that officers avoid failures of performance and probity, rather than feel overwhelmed by events and circumstances beyond their control. The problem is less obvious in other services, but no less present. Sufficiency of numbers is only the first step: sufficiency of quality is the next.
This paper has examined some of the issues relating to the increasing complexity of officer roles in new constitutional settlements. The extent of change cannot be underestimated. The outcome of new political settlements in councils will do nothing to make an officer career more attractive. Political pressures will be even more acute, possibly putting officer careers under pressure and even in jeopardy. So, a major effort should be made throughout the local government service to retrain, learn from each other and evaluate early experiences. To modernise staff skills is as vital as to modernise the legislation. The retraining of existing staff needs to accompany the recruitment of new staff.

Sadly, local government no longer has a coherent graduate recruitment programme and there has never been a staff college. Those universities that provide management training have a limited capacity and are distracted by their own ‘inspection’ regime to meet academic objectives. There are some important remaining leadership training roles, but their capacity to retrain the whole sector in a time of substantial modernisation is insufficient. For an industry with a £75 billion turnover, the extent of training and investment in the 2 million people who work in it is insufficient in a time when so many old conventions are changing. The changing roles of officers should provide new and interesting career opportunities, but recruits need to be trained for them. Local government investment in training does not compare well with an equivalent industry – the health service – which is now to get its own retraining university. If local government officers of all ranks are to meet the challenges of the 21st century, fresh attention needs to be given to the systems that deliver quality staff into difficult roles.

“Local government investment in training does not compare well with an equivalent industry – the health service.”
The purpose of this paper is to contribute to a debate about the changes arising from new constitutional settlements. It is not seeking agreement to a particular conclusion, but seeks to open up sensitive issues in advance of councils’ drifting inadvertently into problems with their new local settlements. Every council must work out its own settlement, within the legal possibilities. But councils should not assume that it is officer ‘business as usual’ under the new settlement. Councils may consciously choose to continue with previous patterns of working as their response to the needs of their new political structures, but they should do so only after carefully assessing whether those old patterns can continue to deliver accountability, integrity, openness and inclusivity in new systems that are effective and up-to-date. And, where they currently enjoy good management, they should not lightly undermine it.

Each settlement of officer structures and roles should provide a convincing answer to the challenges of performance and propriety, and the principles of good corporate governance. Old ways may suffice in new circumstances, or they may not. New ways may be better, or they may not be. These matters need explicit consideration, not assumed continuity. Underlying these concerns is a collective concern, in which every council has an individual stake – is there a convincing response to the challenge of ensuring that the quantity and quality of future generations of public servants is achieved?

The implications of new constitutional settlements for officers are only just being glimpsed. The elimination of ambiguity in the roles and accountabilities of members makes ambiguity in the roles and accountabilities of officers less easy to sustain. The old settlement did not score highly against the principles of good corporate governance – accountabilities were confused, openness was weak and inclusivity was patchy. New local constitutional settlements should produce changes in officer accountabilities and activities that respond to the principles of good corporate governance. Such changes may prove modest or they may prove radical. They will, however, lead to more variety. They are certainly interesting and potentially unsettling. The re-settlement of local government is more likely to be successful where councils anticipate possible difficulties, establish clear propriety, craft protocols before crises break, rather than in the midst of them, and then monitor whether further changes are required. Interesting times do not have to be a curse; they can also be a blessing.
References
