to whom much is given

new ways of working for councillors following political restructuring
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 members. Its companion – May You Live in Interesting Times (Ref. 2) – explores the impact on officers.

1. Elected members of local authorities have never before faced so much change, not only in what they do, but also in how they do it. An old order of service committees is disappearing and a new regime of executive and scrutiny roles is arriving. The moment of change is always the most unsettling. Some members relish the opportunities that the new regime brings, while others do not, wondering why it is needed. The arguments for and against the political restructuring of authorities are over. The Local Government Act, 2000 (Ref. 3) makes change inevitable. The purpose of this paper is not to pick over those arguments. Instead, it explores some of the critical questions that councils should consider in implementing new ways of working.

2. In the companion paper – We Hold These Truths to Be Self-evident (Ref. 1) – it is argued that each council must leave old ways of working and adopt a new constitutional settlement. This is more than the formal selection, by those with populations over 85,000, of one of the three available models – mayor and cabinet; leader and cabinet; or mayor and city manager – but includes reconsideration of the roles and accountabilities of officers and the style and culture of the entire authority. Authorities with populations of fewer than 85,000 will also experience significant change as they adopt streamlined arrangements. The adoption of any of the four new models of political structure will create such substantial changes in council behaviour that it is inevitable that the effects will cascade down to every aspect of corporate governance.
3. The truths that should be self-evident in every local constitutional settlement [EXHIBIT 1] are the key principles of corporate governance (Ref. 4):

- accountability;
- integrity;
- openness and inclusivity
- in systems which are effective and up-to-date

Legislation introduces unavoidable change in the accountabilities of members – some members will be accountable for executive activities and for individual and collective decisions. Other members will become accountable for overview and scrutiny, while some will become accountable for leading on ethical standards. All councillors are accountable to the public.

EXHIBIT 1
The principles of good corporate governance

Source: Corporate Governance in Local Government – A Keystone For Community Governance (Ref. 4)
4. The role of a councillor is ‘to make a difference’ on behalf of their constituents. The new local constitution should provide a range of ways in which they can do so. The principles of good corporate governance provide a number of litmus tests to assess whether local settlements are successful in these regards. In undertaking their new roles and accountabilities, councillors need to pay close attention to the other principles of corporate governance – integrity, inclusivity and openness. The purpose of this paper is to explore issues and questions that members should address as they select a local constitutional settlement that works for them and which respects the principles of corporate governance.

5. Political restructuring is not an isolated reform. Councils must also cope with other important objectives in local government to achieve best value, prepare community strategies, improve their ethical arrangements and work in greater partnership with central government, other agencies and the local community. These innovations should not be seen as separate compartments in an ever-growing change agenda, but rather as elements that can be forged coherently into new local democratic renewal.

6. Preparing the community strategy is the most important function. The performance of communities – in terms of their prosperity, opportunity, security, sustainability and quality of life – is what public service is all about. Partnerships co-ordinate the investment of different agencies in community performance, best value hones the effectiveness of the council’s contribution and ethical standards ensure that the council’s efforts are not undermined by scandal. The aspirations behind the principles of corporate governance and the intentions of the legislation can be summarised as:

- achieving ever-increasing performance for the community through the activities of the council, both in community leadership with other agencies and in service procurement; and
- deepening the commitment to legal and financial propriety.

7. Most of the reforms redesign the means by which local government will meet its objectives. While it is important for the UK to be served by a local government system with up-to-date processes and structures, aligned to modern needs and circumstances, it is equally important to recognise that local government is a democratic and political process, adding subtle complications to already complex managerial tasks.
Local party politics

8. Party political behaviour has not been the long-term tradition of local government, but it has been the dominant culture in the last 30 years. Party-sponsored candidates offer clearly badged alternatives to local electorates, facilitating democratic choice. Voters may not know the individuals, but they usually know the parties. But many commentators observe that competitive political behaviour within councils may not be the best environment within which objective decisions are made. Proposals from a competing political party may be dismissed simply because of their source, rather than be assessed on their merits. Old ways of working may continue simply because the ruling party has associated itself so closely with them that party reputation would be jeopardised by a change. Councils under ‘no overall control’ have had to learn new ways of collaborative working, and recent changes are intended to temper the potentially negative effects of party competition elsewhere – proportional representation in Scotland, Wales and London is one aspect, while directly elected Mayors is another. In councils generally, an executive/scrutiny distinction is another reforming aspect of local democratic renewal.

“The investigative and managerial intentions of the executive/scrutiny split cut across the party political character of elected councils.”

9. The investigative and managerial intentions of the executive/scrutiny split cut across the party political character of elected councils. Given the purpose of scrutiny, using the vote to defend one’s party line is no longer appropriate. Rather than seeking to control the business, the intention is that members function creatively, regardless of party and without whipping, to explore ways in which the council can better serve its community. Perpetual confrontation within the council chamber, in which parties denigrate each other, may simply reinforce negative public attitudes. But old habits die hard! Party competition can provide openness to council business and be a valuable source of challenge. But can such behaviour be suspended at appropriate times and on appropriate issues? ‘Inclusivity’ suggests that councillors should be equally concerned with their common purpose of maintaining the legitimacy of local government. The key to making the new structural arrangements work well will be in harnessing the strengths of party behaviour within the structures of the new constitutional settlements, acknowledging them when they are fundamental to democratic choice and being able to ‘park’ them when they are unhelpful to the improvement of the council’s performance. The design of the executive/scrutiny split and the processes and culture of working that accompany it should enable councillors to reconcile party loyalty with the pursuit of community improvement. They should also feel that the council’s systems serve the community through them, rather than feeling that they are serving the system.
Accountability within the executive/scrutiny split

The Executive

10. Much is given to the executive, whatever the chosen model. In the following discussion the emphasis will be on the leader with cabinet model, but every point applies with even greater force to mayors. Power is passed into the executive’s hands, subject only to the scheme of accountability approved by the full council. Executives frame policies, allocate resources and make delegated decisions. More than ever before, and especially in the case of mayors, they have a visibility in the community and trust is given to them. Increasingly, the public will recognise individuals and may become more likely to vote for those with a record of achievement, rather than simply voting for a particular party. Greater latitude in members’ remuneration will enable some to choose a career of local political activity, in contrast to the old tradition of amateur political activity.

11. But, as in the words of the old school prayer, ‘To whom much is given, much will be expected back’, the community will expect more. Political restructuring is not a process of reshuffling the seating arrangements in the town hall. It is a deliberate streamlining of the exercise of local political power to enable councils to perform better. Moving away from the labyrinth of committee procedures should free executive members to invest more time in the leadership of the council and in engagement with the community and partners. The purpose of all recent innovations – political restructuring, best value, community strategies, public service agreements and local strategic partnerships – is to equip councils to ‘make a difference’ in the local community. An ambitious executive is the driving force that will make a difference. Overseas experience indicates that a streamlined executive can make a real difference. But that difference is not always positive. Mayors in the United States can be found who have transformed their cities, but the problems they have transformed were often created by ineffective predecessors. When streamlined executives are good, they are very good, but when they are bad, they can be awful.

“An ambitious executive is the driving force that will make a difference.”

12. ‘...much will be expected back’ has another, more immediate, sense. Executives are empowered, but they will need to provide a more detailed account than ever before of the use of that power and the council’s resources. The community is the key audience for that account, but intermediaries, evaluating the performance of the executive, are the scrutiny function and the audit/inspection regime. It may not feel as if central government is giving greater freedom to local government, but it is – financial latitude is growing, unjustified legal impediments are being removed, new responsibilities for community leadership are recognised and new powers are available. But along with empowerment comes accountability, hence the greater ability of the local community to hold the executive to account through the scrutiny function. Informing this relationship is the comprehensive inspection of councils, within the best value regime, providing fresh information locally and nationally about the executive’s success.
Choosing one of the new models of political structure is only the first decision. From it flows a number of very significant consequential decisions that the executive needs to take (EXHIBIT 2) in order to organise itself for ambitious activity, to relate to the scrutiny function and to establish reference points against which officer accountabilities can be reconsidered (EXHIBIT 3, overleaf) (Ref. 2). In answering these questions, councils will need to determine what works for them. But that determination must exhibit the hallmarks of good governance – accountability, integrity, openness and inclusivity, resulting in a recognisably ‘well-managed’ council.

**EXHIBIT 2**

**Organising accountability within the executive**

- Will the executive be chosen by the council, the ruling political group or the leader?
- Will the leader be chosen by the council, the ruling political group or the executive?
- Will the executive be single or multi-party?
- How will portfolios be apportioned? Will they be parcelled by service, issue, area or client group?
- Finance – will there be a local Chancellor of the Exchequer, separate from the leader?
- Best value – who will own the responsibility for ensuring that this theme remains at the heart of the executive and is discharged thoroughly across the council’s operations?
- Media handling – what protocols are needed to ensure that our views are fairly and consistently represented?
- Partnership – who will build links with other agencies and the community?
- Best value – who will own the responsibility for ensuring that this theme remains at the heart of the executive and is discharged thoroughly across the council’s operations?

*Source: Audit Commission*
EXHIBIT 3
Officer relations with the executive

How will the sec 151 officer and the monitoring officer gain access to validate the executive’s actions?

Will there be collective responsibility and collective decision-taking, or individual responsibility and individual decision-taking?

Will the executive ensure that its actions always meet legal and fiscal requirements?

Will it use the traditional officer structures of the old settlement, or devise new structures aligned to revised ways of working?

Will the executive be supported by a ‘No 10’ policy and monitoring unit outside of the main departmental structure?

How and when will its decisions be recorded?

Source: Audit Commission
Overview and scrutiny

14. The overview and scrutiny function has been given important roles. It exists as a means of holding the council’s executive to account for the power it wields. And it contributes by assessing the impact made, not only by the council but also by other local agencies, on the needs and opportunities of the local community.

15. In the old constitutional settlement, members were almost imprisoned by the committee system. The cycle of meetings could become a hypnotic treadmill. Officers controlled the agenda and much of the business was unavoidable. Members had the sensation of exercising power, but were often deluding themselves. Operating in scrutiny mode is quite different. Members have much greater discretion over how they interpret their role. It is up to members to decide on their business – they can choose which aspects of the responsibilities of the executive to investigate and can explore issues of their choice in the community and with other agencies. The committee structure of the scrutiny function is available for choice [EXHIBIT 4, overleaf], but there needs to be clear accountability in those choices of scrutiny structures and processes.

16. The executive is likely to have a distinctive set of policies for the community, on which it was elected. Party political competition to form the executive is likely to be strong. But such competitive behaviour is unlikely to be of benefit in the scrutiny process, where incisive examination is the required strength, albeit acknowledging that party differences can provide alternative perspectives to any examination.

17. More than overview and assessment activity is given to the scrutiny function. While the standards committee relates to both the executive role and the scrutiny function, its role of ensuring that officers and members are aware of the required standards of behaviour, addressing complaints and any local issues of misbehaviour, distances it firmly from political executive control. And although the audit committee may not be the most attractive responsibility for members, it is a critical ingredient in the council’s constitution, ensuring that public money is reported accurately and spent well, in accordance with proper financial standards.

18. The reaction of members excluded from the executive might be disappointment. Most members seek election to be able to make executive decisions, but other than in councils implementing ‘streamlined’ arrangements, 80 per cent will not. Nevertheless, once understood, the scrutiny function can become liberating. Power is not confined to those with executive authority. The power of influence – the oxygen of publicity – should never be underestimated. One member is reported as saying, ‘Now we have a scrutiny function, we have the means of knowing whom to blame.’ Such an approach is unfortunate. While there may be occasions when a retrospective inquiry is necessary, the work of scrutiny will be more useful if it is seen as prospective and innovative. Providing that members approach scrutiny in a creative and constructive frame of mind, it will add value to the life of the council and the community it serves. So, choices of style and culture are likely to be of fundamental importance to the success of new political arrangements.
EXHIBIT 4

Organising the role of scrutiny and overview

Will the scrutiny function organise its work by services, issues, areas or client groups?

How will the scrutiny function ensure that its impact is constructive, not destructive?

To what extent will the members in the scrutiny role undertake their work in community settings, rather than in the Town Hall?

Will the scrutiny function, in part, work with the executive to investigate matters of community concern?

What access to public relations resources will the scrutiny role have?

What protocols are needed amongst staff when the executive and the scrutiny function hold different points of view over an issue?

What balance should be struck between standing committees with portfolio monitoring responsibilities and task committees?

Source: Audit Commission
The scrutiny function is unlikely to prosper in isolation from proper professional support. Although members have increased freedom to choose the issues for investigation and to draw on user and community experience and evidence, they still need dedicated officer support. There is a danger that the executive monopolises all officer activity. Scrutiny members need to have control of an adequate level of analytical support for their processes, as well as a budget from which to acquire advice from consultants. The head of paid service, normally the chief executive, has a statutory duty to consider the managerial and resource situation of the entire council, submitting a report if an imbalance is found. Heads of paid service may need to reflect on whether the scrutiny role is adequately supported and organised in the new local constitutional settlement. Government guidance in England suggests that scrutiny functions will be better supported if an officer of chief officer rank is dedicated to and champions their support.

Pulling it back together

The executive/scrutiny split separates out previously integrated processes. Critics liken it to the client/contractor split, seen as duplicative and unnecessarily adversarial, when contracts were awarded to internal providers. But, on the other hand, local government cannot adopt principles like clear accountability and then practise ambiguity. The answer is to realise the potential of clear responsibilities for different aspects of managerial or political processes, but equally to have powerful processes for pulling the conclusions back into a coherent whole. In the final analysis, the council is still a single body serving a single community.

So, as well as differentiating the political and managerial progress between the scrutiny and executive functions, a council needs strong integration processes. How will the executive revisit its approach if seriously challenged by a scrutiny report? What role will the full council play in co-ordinating the interaction between the two functions and reconciling conflict? Will the chief executive have an over-arching responsibility to integrate the whole programme, rather than be entirely identified with the executive? Will the scheme of delegation be revised to clarify responsibility? A council should compensate for any potentially divisive effects of the executive/scrutiny split by ensuring that balancing roles and processes exist to ensure that it remains a powerful and coherent source of leadership and services to the local community.
Key choices of style and culture

Challenging behaviour

23. The architecture of new arrangements in a council is important, but it is not all-important. The processes that operate within that architecture are no less critical, as are the council’s culture and style. Councils face a number of key choices over their methods of operation that should be explicit at the time that a new constitutional settlement is designed.

24. As well as responding to external challenge from auditors and inspectors, a fundamental feature of many of the modernisation initiatives is that councils have been asked to challenge themselves. Whether through ‘challenge’ in the review of best value or through ‘scrutiny’ in the executive/scrutiny split, councils should organise themselves to question the need for their activities, the means of undertaking them and the outcomes that they achieve. Without such self-challenge, councils are unlikely to achieve the radical changes in performance and civic stature that are sought.

25. But two factors tend to temper the power of challenge within councils, to which a new local constitutional settlement should have regard:

- **Councils are political organisations.** Even if the ‘whip’ is explicitly withdrawn from the scrutiny process, intrinsic party loyalties are never far below the surface. Challenge is about controversy. For something to be challenged, an alternative must be promoted. A challenge is usually characterised by proponents for change and defenders of the status quo. So, strong challenge is unlikely to occur in councils with a strong consensual tradition. And challenge within councils with a strong party political tradition risks the closure of issues, simply in the interests of defending the ruling party’s public reputation.

Therefore, the party political character of elected councils cuts across the investigative and managerial intentions of the executive/scrutiny split.

- **Councils are unitary organisations.** One body of staff serves the council, supporting both sides of the executive/scrutiny split. This will incline towards inclusive, non-challenging behaviour, particularly if the senior officers see themselves largely as servants of the executive, rather than as servants of the entire council. There will be a tendency to dampen internal challenge. It would be unusual for staff to challenge their service’s existence. Alternative ideas will be introduced, but with care. In some councils, ‘challenging’ behaviour by an officer may be regarded as dysfunctional and dangerous to the future of that officer’s career.

26. Consequently, the inherited traditions of inter-party rivalry and officer unity are likely to temper the force of challenge within councils. Not surprisingly, experience to date with best value suggests that creative challenge is one of its weakest features. Regrettably, one chief executive remarked that the only challenge he experienced in his council was the reactionary challenge of members to the improvements he was seeking to introduce! These are still early days, but if the benefits of best value are to be realised, steps need to be taken to ensure that a council’s
procedures within the executive/scrutiny split reinforce its role rather than inhibit it. What can be done?

27. The essence of best value is in revisiting accepted ways of doing things, questioning why and how they continue to be done and introducing improvements and alternatives where possible. Particular questions need to be asked of whether aspects of, or the entirety of, a service should be provided by the council, by other local agencies or be left to individuals to provide for themselves. And if the service is to remain a public responsibility, whether the procurement of that service should be restricted to public sources. A focus on outcomes for the community should accompany attention to input/output considerations for the council. Among the various tools of best value, the innovative cutting edge is ‘challenge’. Without inventive challenge, creative change will be absent; local government could lapse into the appearance of conformity with the processes of best value, without realising the substance of a change in performance.

28. Regardless of the particular executive/scrutiny design chosen, where does ‘challenge’ lie in the council? Who asks the difficult questions? Has the council’s local constitutional settlement clarified accountability for local challenge? The point of changing the structure is to facilitate improvements in the operation of the council. The separation of roles in the executive/scrutiny split gives members the responsibility to challenge past performance. Councillors should be at the forefront of questioning received wisdom. Often they will endorse it, but sometimes they will want operations changed to ensure that the community is better served than in the past. However, there are subtle but important differences between ‘challenge’ within the executive and ‘challenge’ from the scrutiny function.

“The languages of best value review and of scrutiny are similar, but there are important differences.”

29. Executives will be made up of a limited number of powerful individuals. In the early days, newly empowered executives are necessarily focused on assuming their new responsibilities. And being few in number, time for the investigative task of undertaking best value reviews is, at best, limited. In some councils the best value review process is being undertaken by the scrutiny role or by officers. The languages of best value review and of scrutiny are similar, but there are important differences. Best value reviews are about the choices made by those with power. Scrutiny is an embracing concept including contributions to policy development and evaluative assessments of current activity. But scrutiny is not expected to follow the disciplined rigour of a five-year cycle, resonates strongly with the representative role of members, is undertaken by committees with proportional membership and specifically excludes members of the executive. Consequently, best value reviews cannot be delegated to the scrutiny function.
Best value challenge is ‘executive’ challenge. Only those with the capacity to decide on change can resolve the core questions of ‘why are we doing this?’ and ‘how are we doing this?’ So, if best value challenge is to be effective, the executive must ultimately own it. For these reasons, the work of the scrutiny function should be seen as making a contribution to best value reviews, but not substituting for them. Nevertheless, scrutiny can be a source of important ‘challenge’ to the executive’s reviews, especially if they are not ambitious enough. Implicit within this discussion are critical choices of style between the parties and between the executive and scrutiny function over co-operation and competition, consensus and confrontation. Being able to operate a repertoire of styles from which to adopt the one most likely to produce constructive community benefits in any particular situation will be profoundly important to the success of the new local constitutional settlement.

### Managing consensus and confrontation

The council needs to decide how it will harness consensus and confrontation to produce constructive results. Constant consensus and agreement is destructive to creative challenge. Often, scrutiny committees have tried to achieve agreement across the parties, especially where councils have bravely allowed scrutinies to be chaired by an opposition member. At the start of the executive/scrutiny split, new arrangements are likely to be delicate and members will tend to tread tentatively. Although there may be circumstances in which all members of a scrutiny committee are persuaded by a different approach to the character and delivery of a local service, such occasions are likely to be rare. More typically, different councillors will hold alternative opinions on a matter. If such differences are suppressed, in the interests of agreement or party loyalty, challenging alternatives are the casualty.

“Scrutiny committees could acknowledge dissent in their reports or even permit minority reporting.”

As the scrutiny role matures, the contribution of disagreement needs to be recognised. Is it possible for the council to develop a style of working that recognises the inevitability of party dogma only on politically vital differences, but admits frank challenge both from political opponents and allies, on most of the issues of the day? Scrutiny committees could acknowledge dissent in their reports or even permit minority reporting. All councillors have an interest in the best use of public money for the local community; local people get tired of inter-personal spats in the council chamber and simply want the council to do better. So, part of the local constitutional settlement...
may include frank negotiations between the parties to identify the territory where inter-party competition will prevail and the often larger territory where the contribution of councillors will be accepted according to the merit of their ideas. Motive is crucial. There is a critical difference between creating tensions and creative tensions. Where challenge is seen as a political or personal threat, it is likely to be resisted. If it is experienced as a genuine attempt to contribute, it is more likely to be given serious attention. By these means, the executive and the community will gain access to a wider choice of positions, and ‘challenge’ is more likely to blossom.

Admitting external challenge

33. If there are inhibitions on the capacity of both elected members and officers to mount effective challenge, influences from beyond the council chamber and offices can be brought to bear. It may sometimes be easier for local politicians to accept challenging views from the community at large, than from sources within the town hall. There are possible sources of uninhibited challenge, capable of enriching the best value process and introducing more radical change into councils, leading to significant changes in performance [EXHIBIT 5].

EXHIBIT 5
Sources of external challenge

Source: Audit Commission
34. **Challenge from users.** It is not unusual for councils to secure the views of users when reviewing services, but this is done under the umbrella of another of the 4Cs of best value – consultation. The process is helpful, but amplified when councils move to the further step of specifically endorsing the role of users in ‘challenge’, building capacity among users to organise their views, mount arguments and enabling them to sustain a challenging role through standing arrangements.

35. **Challenge from the community.** Similarly, councils consult their wider communities. Welcome as such efforts are, the terms of engagement are set by the council. In consultation, the council frames the questions and the community replies. In challenge, the community frames the questions and the council responds. The obligation on the London Mayor and Assembly to stand before a public meeting of Londoners twice a year answering spontaneous questions is an as yet unproven step in this direction. Youth parliaments, civic fora, citizen’s juries, etc. are further developments. Moreover, the use of the internet as another emerging means of community challenge bears experimentation. And, particular attention should be given to engaging ‘hard-to-reach’ groups.

36. **Challenge from peers.** The Audit Commission sponsored peer challenge in the early 1990s as part of the follow-up to its studies of developmental control and environmental health. In recent years, the Improvement and Development Agency (IDeA) has developed the possibilities considerably. Involving practitioners from other councils in evaluating local processes can stimulate the rapid cross-pollination of good ideas at all levels of the organisation. Alone, such a system risks compounding professional consensus, but as one of a range of external sources of challenge, it has its place.

37. **Challenge from consultants.** Suitably qualified consultants, appointed to support best value reviews and/or scrutinies, can be a useful source of alternative thinking. To be successful, their terms of reference need explicitly to invite them to challenge. The council does not need to accept such challenges, but it does need to hear and consider them as a source of inventive thinking.

38. **Challenge from inspectors.** Through its publications and the work of its auditors, the Audit Commission has been a source of challenging approaches for the last 20 years. The professional inspectorates have likewise been a means to challenge complacent local activity, as well as celebrating outstanding performance. A variety of sources of challenging material can be found in the range of Commission products – study reports, management papers, performance indicators and local value-for-money reports. The arrival of the Best Value Inspectorate, including the Housing Inspectorate, introduces comprehensive inspectoral challenge into functions of local government, previously neglected. Inspectors’ reports are powerful voices. The methodology of inspection (Ref. 5) means that inspectors will assess how councils have challenged themselves, but in providing feedback on early reviews, these assessments can usefully inform the processes of challenge in a council’s subsequent best value reviews.
If councils embrace these five sources of challenge and acknowledge the validity of dissent as a source of internal challenge, then the capacity of the best value regime to impart new dynamism into local government will be enhanced and the scrutiny function will benefit from a rich diet of ideas for local improvements. Such a process requires thoughtful management. Without the capacity to evaluate and prioritise, a council could drown in conflicting challenges. But a combination of accessibility to ideas with firm leadership and choice should improve a council’s performance. However, if councils and their executives respond defensively, smothering sources of challenge, beneficial improvements will be the casualty.

Openness and inclusivity

Being a source of challenge is only one role for users, other agencies and the community. Another key issue for the new constitutional settlement is the council’s openness and inclusivity with the community and other agencies. Councils have long complained about the perceived parental approach of central government to them, desiring a more adult relationship. The language of ‘spheres’ of government is preferred to the old settlement language of ‘tiers’ of government. However, do councils practise what they preach in their own communities? The council needs to determine its internal accountability for the links [EXHIBIT 6, overleaf].

A decade ago, the prevailing behaviour of most councils was closed. Enjoying the legitimacy of democratic election, members felt authorised to decide community matters. Officers proposed; members disposed. The committee meeting and agenda were the principal vehicles of administration. Lacking democratic election, other agencies in the community were often denied access to major decisions. The council felt in complete control, and was often offended when others, particularly central government, compressed or invaded its space.

“Gone are the days when the council could pretend to be all-knowing, all-acting.”

Instead of this ‘closed-system’ approach to council business, councils are now expected to operate an ‘open’ system. Democratic legitimacy does provide moral authority to a council, but it does not bestow complete understanding. The rate of change in society – social, economic and technological – has outpaced the capacity of local political machinery to deliver candidates, representative of all local groups – by age, gender and ethnic origin and all relevant life experiences. The issues that must be addressed no longer pigeonhole neatly into service-specific departments and committees. Gone are the days when the council could pretend to be all-knowing, all-acting. The ‘wicked issues’ – environmental sustainability, social exclusion, community safety, etc – elude simple solutions. They are ‘wicked issues’ because conclusive remedies are rarely obvious. While a path of action may be agreed, all local agencies have learned that unexpected side effects, apparently impervious situations and unwanted frustrations await them. Councils have a serious contribution to make to the solution of problems, but only in partnership with other agencies – the

TO WHOM MUCH IS GIVEN

17
community, voluntary, statutory and private — whose perspectives are indispensable. So, openness and inclusivity are crucial to the development of community leadership.

43. Openness and inclusivity are crucial to scrutiny, just as they are crucial to executive partnerships. An antidote to inhibited self-analysis is openness. Councils frequently consult their communities and users but they rarely invite those groups to challenge the council. Scrutiny committees have nothing to lose from co-opting and receiving evidence from relevant members of other agencies and community groups. The scrutiny function should not wait for officers to ‘package’ information into traditional reports. It should be prepared to receive it raw from users and the community. And the work of the standards committee should take place in public, as far as possible.

EXHIBIT 6

Accountability to the community

Will an officer have a leading role in these links and how will members be supported?

How will the scrutiny function maintain its community focus?

Will community links be a responsibility borne by only one member of the executive, or shared amongst all?

Given the many windows and doors through which the council relates to users and the community, how will the council sustain coherence in its dealings with other bodies?

Is the relationship of the council to other agencies and local groups, adult or paternal, open or closed?

Source: Audit Commission
44. Openness will ensure that councils remain in touch with all aspects of the local community, while inclusivity will ensure that a council is nimble in re-adjusting its activities to meet the changing needs of that community. Community leadership does not arise from assertion, but by consent, and it must be genuine. Nothing contributes more to public cynicism than councils that are seen to talk about inclusivity, but who then fail to carry it out. A council must operate sensitively, marshalling the enthusiasm of other players if it is to succeed in leading locally. With democratic legitimacy, the local council is the only body that can discharge community leadership, but the style should be leadership, not authoritarianism.

“Community leadership does not arise from assertion, but by consent.”

Maintaining integrity within the council

45. For the improving performance of the council to be secure, sustained and uncompromised, it needs to be underpinned by a deepened regard for the integrity of the council’s legal and financial systems, and of the people elected to or employed by the authority.

The independent element – the ‘weakest link’?

46. The machinery to oversee performance in local government is comprehensive. It includes performance indicators, best value and other performance plans, inspection, public service agreements, value-for-money auditing and annual reports. The machinery for overseeing propriety in local government is less impressive. While auditors will review the propriety of financial decisions, they do not undertake a systematic review of the lawfulness of non-financial decisions, for example, compliance with the law governing new constitutional settlements. As with all statutory requirements, the obligation is on the council to comply. Transparency is a great protection, but in a political environment there is always a danger that expediency can compromise propriety.

47. The monitoring officer is the key custodian of impartial advice on propriety. But in the first instance that advice is likely to be given privately and, as an employee of the council, the monitoring officer has been known to be pressed to amend or withdraw that advice. Given the enhanced role of the monitoring officer as arbiter of the respective responsibilities of the executive and the council for particular decisions, pressure to provide acceptable advice will continue. On financial issues, the sec 151 officer is in a similar situation. In advising the executive, the statutory officers are in an ambiguous position when validating the decisions of the executive. Close working with the executive has the advantage of affording the opportunity of influencing proposals at their inception, but
it could complicate or even compromise the position of such officers in the eyes of the scrutiny function if those proposals were subsequently challenged.

48. A key ally of the monitoring officer should be the ‘independent element’ on the standards committee, who can exercise voice and influence to assure integrity without fear or political favour. Such a propriety role is unambiguous and not compromised by association with the executive. Therefore, it is vital that those who serve in the role of the independent element are truly independent, well advised and supported. Wales has adopted a particularly strong theme of independence for standards committees, as both the chair and 50 per cent of the membership of the committee must be independent. However, there are no external supports such as auditors or inspectors to back up the role of such independent elements. If the independent element is to avoid becoming the ‘weakest link’ in the armoury of propriety, there is a strong case for independent elements to establish a network within which they can receive training, exchange experiences and provide each other with mutual support. And, in time, it may be appropriate for more systematic support to be provided to the propriety dimension of local government life to ensure that the standing of monitoring officers and independent elements is bolstered to assure the integrity of councils.

“It is vital that those who serve in the role of the independent element are truly independent, well advised and supported.”

Maintaining propriety

49. Councils can usually take a high level of propriety for granted, but they shouldn’t. Complacency is the gateway to problems. Councils need to ensure that proper procedures are established, known and followed. Are the register of interests and the hospitality register up-to-date? Does the council have learning processes to benefit from external reports from the ombudsman, auditor and inspectors? Have thorough procedures been installed to discharge the council’s duty to promote equal opportunities? Do standing orders reflect the council’s chosen culture, style and processes? The local standards committee can have a pivotal role in these matters.

50. Local standards committees should not regard themselves as passive. They are the key guardians of good proprietal behaviour in councils. There is a danger that they meet initially to adopt certain conventions and then withdraw into hibernation, to emerge only if some problem or complaint arises. In addition to reviewing standing orders and adopting formal codes of conduct, they could pursue a pro-active approach to the development of desirable styles of behaviour [BOX A]. The standards committee could become the relentless conscience of the authority, particularly on such issues as the promotion of equality throughout the community, ensuring that the council’s own house is in order. Its reports should be made public.
Similarly, there is a need for an active audit committee. The Audit Commission promoted the case for audit committees in 1996 in the report *Called to Account* (Ref. 6), setting out the need for focused attention on the financial aspects of corporate governance [BOX B, overleaf]. Many councils responded to this advice, but not all. Political restructuring reinforces the case for an audit committee. The concentration of power in an executive increases risk, requiring equivalent and balancing checks to ensure that financial transparency and control are maintained. Councils should review their approach to audit committees, ensuring that they have a continuing role in the protective armour of local corporate governance.

**51.** Similarly, there is a need for an active audit committee. The Audit Commission promoted the case for audit committees in 1996 in the report *Called to Account* (Ref. 6), setting out the need for focused attention on the financial aspects of corporate governance [BOX B, overleaf]. Many councils responded to this advice, but not all. Political restructuring reinforces the case for an audit committee. The concentration of power in an executive increases risk, requiring equivalent and balancing checks to ensure that financial transparency and control are maintained. Councils should review their approach to audit committees, ensuring that they have a continuing role in the protective armour of local corporate governance.

**BOX A**

A programme of work for the standards committee

- Promoting the values of the council in matters such as its regard for personal dignity, respect for diversity, promotion of equality, dedication to local public service and custody of human rights principles.
- Examining the extent to which bullying (member/officer, officer/officer and member/member) is a feature of the council.
- Investigating whether the council’s behaviour as perceived by other agencies is as it would wish.
- Considering the extent to which officers feel able to suggest innovation.
- Reviewing whether the council’s standards of behaviour towards the public are of the highest quality.
- Undertaking a regular ‘risk analysis’, perhaps with external help, of the local reality of the principles of good corporate governance.
- Ensuring that ‘whistleblowers’ are respected, not in jeopardy, and that their concerns are thoroughly examined through clearly defined processes.

*Source: Audit Commission*
Key recommendations of Called to Account for audit committees

- Audit committees should draw together the key components of corporate governance in relation to audit – promoting internal control, focusing audit resources and monitoring audit performance.
- Audit committees are more effective if their meetings are conducted apolitically.
- Key roles include the promotion of internal control through the systematic appraisal of controls demonstrating a continuing and corporate commitment to an anti-fraud culture, and regularly reviewing procedures to ensure probity and the proper use of resources.
- Councillors themselves should oversee the approval of audit plans to ensure that resources, both internal and external, are well directed.
- Councillors should monitor the performance of auditors to ensure that it is of a satisfactory standard.
- The audit committee should act as a forum to ensure the rapid delivery and implementation of audit recommendations, ensuring that auditors and officers collaborate effectively.
- Councils should ensure that the audit committee has an effective constitution – its membership and the frequency of its meetings; has protocols – the terms of reference, reporting arrangements and work practices; and is effective through leadership and monitoring.

Source: Audit Commission
Officer/member chemistry

52. Bullying is not a phenomenon that is left at the school gate; it prevails in the workplace too. It is a matter of concern that when the issue of bullying is raised, in too many councils it rings a chord of truth, not only with statutory officers but also with other staff and among members. Members are responsible for holding officers to account and sometimes campaign on such a mandate, but accountability is about clear responsibility, not about demeaning those who invest their careers in public service. An individual may experience what feels like bullying when they are answerable to someone who is in a non-negotiable situation, feeling that they must close down discussion and operate authoritatively. Explanation will solve such a problem, but no explanation will solve situations in which someone exercises power manipulatively, for its own sake, or to compromise another's integrity.

53. Officers offering clear and proper advice that conflicts with the policy or political intent of members have felt threatened. While the law gives statutory officers a degree of protection from dismissal – an independent element must investigate allegations – the reality is that members can make the life and career of an officer intolerable. Where there is a breakdown of trust between members and officers, it is usually inevitable that the officer must go. But shooting the messenger should not be a means of avoiding the message. A situation should prevail in which members accept and respect constructive but lawful advice from their officers – even if it is unwelcome.

54. A strong scrutiny function should provide the statutory officers with a degree of additional protection. But this could prove ineffective where a ruling group is able to dominate both the executive and the scrutiny roles and seeks to use its power to control the advice it is given. The local standards committee should provide a fresh local capacity to sustain local integrity. And the independent element on the standards committee should be the final local guarantor of that principle of good governance.

“Shooting the messenger should not be a means of avoiding the message.”

55. Progressively, a culture of repression can be changed into one in which creative change is welcomed, alternative ideas are appreciated even if they are not always accepted and members and officers alike feel that they are valued members of a worthwhile organisation. A council that lacks these features is unlikely to make a good partner to other agencies, nor promote effective challenge as a key driver of best value.
Equipping members for their roles

56. In addition to all of the legal powers given to members of both the executive and scrutiny sections, something more may be needed. New roles and accountabilities need new skills. Political parties may need to reflect on whether their selection procedures for candidates need to be reviewed to ensure that councillors have the appropriate skills for reformed political structures. In local settings, officers sometimes find it difficult or presumptuous to suggest that members need training. However, new roles in new constitutional settlements call for new skills in critical thinking, strategic planning, community liaison, communication and leadership.

57. Undertaking scrutinies requires new skills of members. Unlike the traditional ‘closed-system’ approach of councils, for effective scrutiny members set the agenda, not officers. Passively processing officer reports is unlikely to lead to incisive scrutiny. Rather, members of a scrutiny committee need to assess and probe. Instead of asking only for information, many members are reporting a need for fresh critical thinking skills to draw out understanding from witnesses. They also need to understand performance indicators, comparative data and financial processes to an extent that was previously unusual. In making a success of scrutiny, councils should recognise that members need new skills and should arrange appropriate training opportunities.

58. Similarly, executives need help in assuming their responsibilities. With a ceiling limit of ten to the size of cabinets and new cross-cutting portfolios, executive members may have wider responsibility than the old committee chairs, as well as collective responsibility within the cabinet. Cabinets create a useful environment for dealing with cross-cutting issues because a limited number of powerful members work closely together across the whole local agenda, well able to identify the many aspects of complex local problems. While working in this way is stimulating, members need support. Training in executive activity will be beneficial; while collective training in team working will also help. But even more may be needed.

“...new roles in new constitutional settlements call for new skills in critical thinking, strategic planning, community liaison, communication and leadership.”

59. One of the valuable benefits to emerge from the IDeA peer review process has been the experience of participating members. Over a career, officers have the opportunity of working in several councils. They can transport experiences from one to another. Such mobility is rarely an option for members. With a few exceptions, political careers are likely to be spent entirely in one authority. So, members have less opportunity to appreciate alternative ways of working. Conferences help, but are a poor substitute for a member spending time in close observation and candid conversation in another authority. Many members involved in IDeA reviews have commented that they got more out of their visits than they felt they put in.
Among all of the other pressing demands on executive and leading scrutiny members, finding time to examine other councils’ activities and attending appropriate training courses is important. Locally, councils should legitimise such activity, fund and facilitate it. Defensible investment in member development is beneficial, while no investment in member development is indefensible. Nationally, the government and the collective agencies of local government should arrange programmes to invest in member development, such as the IDEAS Leadership Academy and Modern Members’ Programme. Beacon councils provide a training laboratory for visits. Local government spends trivial sums on training, especially for its leaders – the members – and yet their calibre and capacity are the bedrock of good public service. Even if real costs are involved, a bursary and expenses scheme to enable members to examine different practices elsewhere would be money well spent in the drive for modernisation, leading to creativity and the spread of innovation and best practice.

“Defensible investment in member development is beneficial; no investment in member development is indefensible.”

Conclusion

Members are being given a great deal – whether in the executive or scrutiny functions of the authority. They have new accountabilities within the council and towards their communities. And the discharge of these revised accountabilities should be characterised by integrity, openness and inclusivity in arrangements that are effective and up-to-date. Members may need to be given even more in terms of training, remuneration, recognition and esteem.

Much is expected of members. Community leadership, best value and partnerships are all aspirational themes that require aptitude and commitment, particularly to tailor such national initiatives to satisfy local circumstances; and high standards of ethical and propriettorial behaviour need to permeate all of these activities. Councils and their members are the key link in the process of delivering national objectives locally, and in using national and local resources to meet the diverse requirements of different neighbourhoods and communities. New constitutional settlements provide a fresh opportunity to improve local working in a way that is satisfying for members and beneficial to the communities that they represent. Local situations will always be more complex and confusing than can be described in a national discussion paper, but the principles of good corporate governance should be evident in local diversity.


References


