

New development: Accountability in public partnerships—The case of Local Strategic Partnerships

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Present arrangements for the accountability of Local Strategic Partnerships (LSPs) and Local Area Agreements (LAAs) are confused. While only local authorities have a direct accountability to the electorate for them, yet they lack powers over their public partners to make that accountability genuine. These partners should be obliged to follow the lead of the local authority.

The development of partnerships in the public domain raises many issues of concern, above all the issue of public accountability in and for partnerships. This article explores the problems of the present arrangements and the principles that should be followed. Since partnerships are institutions exercising public powers, using public resources and providing public services, they need to be accountable to those on whose behalf they act. That principle is easily stated; it is more difficult to apply in practice. We examine the complex issues involved through a focus on Local Strategic Partnerships (LSPs) and their role in Local Area Agreements (LAAs). The problems of accountability we discuss apply also to other partnership relationships.

The fundamental issues are whether the partnership is accountable, or the partners constituting the partnership, or both. Where both are accountable, the relationship between the accountability of the partnership and the separate accountabilities of the partners has to be resolved.

The opening definition of accountability

Accountability is no abstract requirement, but is the key to many of the problems of our system of government and the state of our democracy, in particular of local democracy. Democracy—government by the people—rests in the final resort on the accountability of government to its citizens, which must be given expression in the institutions and processes of government. Accountability is the means to ensure governments are responsive to their citizens. While it is often argued that citizens are interested less in the details of accountability than in particular services, they are concerned with their relationship to government, which can have a significant effect on services, and that relationship is determined by the nature of

public accountability.

Accountability is the liability to give an account to another of what one has done or not done, and to be judged accordingly. It is the antithesis of autonomy, where accountability is to oneself alone. Accountability implies an obligation to explain to someone else, who has authority to assess the account and allocate praise or blame for what was done or not done.

Accountability can take many forms, such as management accountability and professional accountability, but they are subordinate to public or governmental accountability. We have long regarded local public accountability as the essential component of local representative democracy. It is a means to control the exercise of governmental power, as the critical link in the chain of relationships of citizens, councillors and officials. Through accountability citizens are enabled to control the councillors they have elected, and councillors are enabled to control the officials and contractors they employ. Elections have their impact over time and not merely at the moment of the election. They determine the responsiveness of councillors to citizens and legitimate the role of councillors in the authority. The challenge is to produce similar clear lines of accountability for partnerships.

Swamps and blind alleys

In discussions of accountability some observers spread confusion by stretching the word 'accountability' to encompass certain relationships that fall short of genuine accountability, as defined above. While one might characterize real accountability as involving *bonds* that bind entities together in chains of accountability, the other relationships constitute more *links* that relate entities together more loosely. Diagrams often depict this

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distinction as between entities linked by solid lines, our *bonds*, and those linked by dotted lines. These latter relationships can be regarded as encompassing answerability, involving responsiveness, listening, explaining, reporting, dialogue, scrutiny and transparency, often enforced by inspection and regulation. This ‘answerability’ is distinct from accountability. Public managers in all public bodies in a democracy have to be accountable in the final resort to representatives elected by voters. This accountability should not be confused and equated with their relationships with other players: customers, consumers, users, patients, victims, stakeholders, the business community and the public.

One danger from conflating answerability with accountability is that the mechanisms of answerability become so complicated, intrusive and confusing that they overshadow the fundamentals of accountability and entangle public managers in complex webs of interactions. Another danger is that public managers may try to maximize their freedom to act by playing off one group against another, and using these other relationships to weaken their accountability to elected representatives, and indeed to spread so much confusion that they themselves can escape being held accountable.

Local Strategic Partnerships and Local Area Agreements

The key features of LSPs and LAAs are:

- Local authorities were given the duty to prepare community strategies by Section 4 of the Local Government Act 2000. These strategies were to be prepared in consultation with partners and the community, and were to cover the improvement and development of the economic, social and environmental well-being of the area. Section 7 of the Sustainable Communities Act 2007 renames community strategies ‘sustainable community strategies’.
- Government guidance promoted LSPs as the main means of consulting about the community strategy. They are not statutory bodies and have no legal and corporate identity. LSPs brought together local authorities, other public bodies as well as representatives of the private, independent and voluntary sectors. Their main work has been assisting the preparation of the community strategy and pursuing the actions required to achieve that strategy. They might be seen as co-ordinating devices to tackle the

‘wicked issues’ that cross administrative and organizational boundaries.

- Counties and single-tier authorities have been given by the Local Government and Public Involvement in Health Act 2007 (Part 5, Chapter 1) the duty of preparing and submitting LAAs in consultation with their partners who are involved in the achievement of the LAA and its targets. These agreements contain up to 35 targets that are negotiated with central government through its regional offices. Central government can require and impose changes in the LAAs.
- The Audit Commission will replace community performance assessments (CPAs) with comprehensive area assessments (CAAs) that will cover the work of local authorities, including LSPs and LAAs. It will assess not only outcomes delivered by local authorities alone but also those delivered in partnerships.

Accountability of LSPs and LAAs

Some regard LSPs as accountable not only to their partners, but also to central government for the performance of the LAAs through its regional offices and to the Audit Commission through the CAAs, although the Audit Commission would say it considers local authorities accountable for the LSPs and the LAAs. Beyond these accountabilities, there is accountability to the local community and its citizens on whose behalf the LSP acts and whom the LAA affects. But citizens can hardly hold an LSP to account: there are no means for them to do so. The local authority, as the only directly-elected member, plays the leading role in the LSP, and will be the target for complaints by citizens. The public perceive the local authority as accountable.

These different accountabilities of LSPs and LAAs—both recognized and unrecognized—are not easily reconciled, especially when they are inconsistent.

It is difficult to see how they are accountable to the local community. There are no processes for ensuring this accountability, nor are many of the partners directly accountable to local people. The LSP is for most people an unknown body. If they were told the LSP had decided something, most would be mystified. The LSP and LAA do not meet two necessary conditions of accountability: comprehensibility and visibility.

Local authorities are accountable to their local electorates, while most of their public partners are accountable to the separate departments of central government. It is not

clear that these accountabilities are consistent with each other. The LAAs highlight this issue. For the public partners, meeting the requirements of the separate central government departments is likely to be more important than meeting the targets in the LAA, and certainly more important than contributing to targets that are another body's priorities rather than their own. Will a health authority give weight to contributing to law and order, or a police authority to public health, or both of them to the local authority's priorities, merely because they are priorities in the LAA? Both will plead they must put first their own statutory responsibilities.

The LAA and the CAA can turn the attention of the local authority away from its local community to meeting the requirements of central government and its regional offices, and the Audit Commission inspectorates, making the local authority more accountable to them than to their own electorate. It might be argued that these issues for the local authority and for its partners should have been resolved or reconciled in the consultations and negotiations leading up to the LAA, so that no conflicts of priorities should arise later, but that is hardly realistic, particularly since central government can require and impose changes in the LAA draft targets.

The local authority faces special problems. It has responsibility for the LSP and the LAA. Only the local authority has the duty to prepare the LAA. The other public partners have only the uncertain duty to co-operate, take account of and have regard to LAA targets. The local authority has no direct powers to ensure the effective working of the LSP or to secure that targets set within the LAA are met, when those targets do not lie within its direct responsibilities. Supporters of LSPs and LAAs might say that their intention is to give local authorities some leverage over other local bodies, which the local authorities can use for the benefit of the local community. But they cannot compel a recalcitrant partner; they have no real leverage on the other bodies.

The LAA raises the issue of the extent to which the local authority can be held accountable for performance under the LAA when that performance depends on its partners over whom it has no powers. In addition, the local authority has its own responsibilities to its local electorate which must have its own priorities for the local authority, only some of which will be reflected in the LAA. Particular difficulties arise in two-tier areas where responsibility for the LAA is given to the county

whose views on certain issues may not be acceptable to the district councils, and certain matters are a district and not a county responsibility.

The government will emphasise the local authority's accountability for the achievement of the targets in the LAA, and the Audit Commission will assess it on that basis. The democratic legitimacy given to a local authority by its accountability to the electorate is used to legitimate the LAA and provides an assumed basis for holding it accountable for the achievement of the LAA, even for matters that lie outside its direct responsibilities. How can it be accountable for matters over which it has no control?

The requirements of accountability

The above analysis shows the confusion about the accountability of LSPs and for the LAAs. This tangle needs sorting out. We suggest a focus on the following questions.

What are the confusions of accountability?

There is a natural tendency to build on the existing accountability of the partners. It cannot, however, be assumed that those processes are adequate. There are problems about the accountability of the many appointed public boards or quangos at the local level, and of bodies in the private, voluntary and independent sectors, since they are in no way directly accountable to local people. Equally, many note that, while local authorities are accountable to local people at elections, the electoral process may not give full expression to what is required by public accountability. The growing importance of partnerships can highlight weaknesses in the accountability of existing institutions. If the existing accountability of the partners can be questioned, then challenges raised by accountability for the partnership become particularly acute. In addition there are the issues of the relationship between the accountabilities of the partners and between the accountabilities of the partnership and the partners. Who is accountable to whom and for what?

What is the relationship between responsibility and accountability?

There is a tendency to separate responsibility from accountability. The statement 'we fully accept responsibility for the mistakes that have been made' has been a way of avoiding accountability rather than a step in securing it. It is right to distinguish responsibility from accountability, but they should be recognized

as linked. Responsibility is about the powers, duties and resources of an authority: accountability is about how the authority has used its powers, duties and responsibilities. Where there is responsibility there is a need for accountability as to how that responsibility has been exercised. Responsibility defines the boundaries of accountability. One should not be held accountable for matters beyond ones responsibility, but one should be held accountable for matters within it. The accountability for the working of LSPs and for the achievement of LAAs should relate to where responsibilities lie. Only if responsibilities are clear is there a firm basis for accountability. Responsibility without accountability is dangerous: accountability without responsibility is misleading.

To whom are LSPs accountable?

The LSP can be regarded by some as accountable to the partners that constitute it, to the inspectorate that appraises it, to the regional offices of central government and the separate departments of central government or to the local community. There can be diverse chains of accountability. Thus the LSP can be regarded as accountable to its partners, each of which has its own basis, adequate or inadequate, in its own accountability. Or the LSPs can be regarded as accountable to the inspectorates and through them to central government. An analysis of the basis of accountability raises the possibility of multiple, and conflicting, accountabilities. In any discussion of the accountability of LSPs and for LAAs the first step must be to clarify to whom these accountabilities lie and should lie. This task may be impossible, since it may be that the idea of partnerships is to obscure responsibility and accountability, even legal liability, deliberately creating ambiguity to allow the separate actors flexibility to do what each judges appropriate. Partnerships embody the 'fudge' factor. Since an LSP lacks a clear separate legal and organizational and corporate identity, it may make no sense to talk of its accountability. The local authority is accountable for the LSP, while it lacks powers to ensure performance by the partners.

Accountability for what?

One can distinguish between:

- Accountability for probity and legality.
- Accountability for process or the way decisions are taken.
- Accountability for performance.
- Accountability for policy.

It is possible for these different types of accountability to give rise to different processes. Thus accountability for probity and legality will depend on the courts, the Standards Board, or the Audit Commission, and for process on the Ombudsman.

How is accountability to be achieved?

It is a mistake to regard accountability as limited to a single moment of time, such as a specific election. Elected representatives cannot ignore those who might vote them out at the next election: anticipating the results of future elections helps make representatives accountable to their electorate. Accountability is a relationship therefore that extends over time between the organization and those to whom it is accountable. And representative democracy is not limited to elections, but is informed by a continuing relationship with citizens through a variety of modes of participation. Ashworth and Skelcher's (2005) review of the impact of the government's modernization programme on the accountability of local government reflects this concept of accountability in distinguishing between:

- Taking into account the views of those to whom accountability lies.
- Giving an account to those entitled to receive it.
- Holding to account, in which the account is appraised and judgments formed.
- Redress based on that judgment which can include compensation for those suffering from failure, and sanctions and rewards.

The issue for discussion is how far these aspects have been and should be developed for LSPs and LAAs.

How can multiple relationships be handled?

A distinction was made above between a *bond* of accountability and a *link* of some other nature. A bond of accountability gives expression to the full requirements described above. Many relationships do not require the full bond of accountability. In this case there can be a link through which the organization can be expected to give an account, but not be held to account. It can provide answers but not have to endure sanctions: this relationship is answerability. An issue for discussion is where the primary accountability lies for partnerships and what other links have to be provided.

Perhaps central government can provide a way of cutting through the confusion. It

operates with two key concepts: individual ministerial responsibility and collective cabinet responsibility. While each individual minister has his or her own specific responsibilities, for which they are held accountable, each is also committed by the decisions of the cabinet of which they are members. They are obliged to accept publicly the decisions reached by the whole cabinet, as if these decisions were their own. They present a united front to the world outside the cabinet. If they cannot agree, they have to resign. If they stay, they are accountable for the cabinet's decisions. Joint responsibility and joint accountability are reconciled with individual responsibility and accountability by cabinet responsibility. Can this arrangement be transferred to LSPs and LAAs? Can the partners fuse their separate accountabilities into one they jointly agree to, allowing the joint responsibility and accountability to trump their separate accountabilities?

Can local authorities be genuinely accountable?

Under the Local Government Act 2000 local authorities have the role of community leaders, responsible, in Sir Michael Lyons' words, for 'place-shaping', that is for determining the development of their localities. As leaders of their local communities local authorities have a critical concern with LSPs and LAAs. Legislation and government guidance place a duty on local authorities for the working of LSPs and for the preparation and implementation of LAAs. CAAs focus attention on the local authority at which assessment is directed. Thus, because of the democratic legitimacy conferred by elections, local authorities are given the primary responsibility for LSPs and LAAs and hence accountability for them. In a partnership all members are not equal: because of their leading role, local authorities are the senior partners in the partnership. The problem is that the local authority does not have the powers to support its responsibility and therefore cannot be held fully accountable for either the working of the LSP or performance under the LAA.

Is accountability to the centre or the locality?

There is the issue of whether the local authority is accountable to central government or to the local electorate both for the LSP and the LAA. There is tension between accountability to central government and accountability to local people. Our position is that a local authority's primary responsibility is to its local electorate. The Concordat signed in December 2007 between central government and the LGA should have expressed this constitutional

relationship stating explicitly that the primary role of a local authority is the government of its locality, enabling its well-being, for which it needs adequate powers, finance and responsibilities, and for whose discharge it is primarily accountable to its own local voters.

What about other partnerships?

Beyond LSPs and LAAs there has been an explosion of partnerships, adding to the complexity of the issues of accountability. Sullivan and Skelcher in 2002 found at least 5,500 local partnerships, spending £4.3 billion a year, with 75,000 partnership board members (Sullivan and Skelcher, 2002). There must be many more in 2008. The issues we have raised about LSPs and LAAs apply to them too, or do they? The multitude of partnerships produces tangled lines of accountability for controlling, monitoring and auditing the different streams of public money and for decision-making.

In 2007, Capita issued a white paper for local authorities and their partners called *Shared Services: A Means to an End*. In a brief section on 'Transparent accountability', it observed there 'may be a case for introducing new agreed standards for...wider issues relating to transparency and accountability for performance, financial as well as operational'. It later mentioned developing 'standardized elements for shared services contracts', including standards and protocols on open book accounting, performance reporting, performance transparency and public scrutiny and external audit. This list, although enhancing answerability, neglects the issues of democratic accountability and needs further discussion.

Is shared accountability a way ahead?

Some may think that partnerships, which involve sharing responsibility, should have an accountability regime that shares accountability: multiple accountabilities may be appropriate for partnerships. But if accountability is shared in an arrangement of joint-accountability, then any partner can always shuffle off his or her responsibility to others, so that no one can ever be held to account. Shared accountability becomes, in practice, joint irresponsibility, where no one is accountable.

Conclusions

This article has raised many issues about the accountability of both LSPs and LAAs. The more importance given to them, the more important is the issue of accountability. The present position is confused, weakening the

democratic basis of British government at local level.

Is not the solution to the problems of accountability that the elected local authority in its community leadership role should be in the driving seat of the LSPs and LAAs? The local authority should be accountable to the citizens for their effectiveness. It should have the powers and the resources to ensure its partners accept its leadership enshrined in legislation. While it can be argued that partnership is most effective when partners work readily together in the interests of citizens, it cannot be assumed that this harmony will always prevail. Only the local authority is directly accountable to the electorate, and only the local authority has direct responsibility for the LSP and the LAA, but it has no direct powers over its partners whose contribution will in part determine the working of the LSP and the performance of the LAA. Duties on the partners to co-operate or to have regard to the LAA, or powers of local-authority scrutiny without powers to enforce, fall far short of what is required. If community leadership through

LSPs and LAAs is to be effective, it must be sustained by powers and resources that can be used in the final resort. Then the public partners should be obliged to follow the lead of the local authority. ■

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References

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PMPA report

The Future of Local Government: Has It One?

By George Jones, Emeritus Professor of Government, London School of Economics & Political Science, with a foreword by Roger Latham, Vice President CIPFA, formerly Chief Executive, Nottinghamshire County Council.

Local government in Britain has become less powerful in recent years. In this important PMPA report, George Jones outlines what needs to be done to re-invigorate local government. If local authorities are given powers to do things that matter to people in the locality, if they have discretion over what they do and how they do it, and if they can finance their expenditure decisions by levying local taxes that bear on local voters, then local politics will revive. People will be interested—they will want to have their say and to vote, and to become candidates. Local government and local politics will matter. The way ahead for strengthening local government, and local representative democracy, is not by keeping the centre in the driving seat.

The Future of Local Government: Has It One? was published in May 2008 by the PMPA.

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