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**OFFICE OF THE
DEPUTY PRIME MINISTER**

**LOCAL AND REGIONAL GOVERNMENT
RESEARCH PROGRAMME**

Research Summary

Implementing the 2000 Act with respect to New Council Constitutions and the Ethical Framework: Baseline findings from a long-term evaluation

The Local Government Act 2000

This report examines how local authorities have implemented the Local Government Act 2000. The Local Government Act, 2000 put in train the Government's intention to modernise local authorities, with a broad ranging scheme to promote democratic renewal. Specifically, Part II of the Act provided for new constitutions offering four options for the establishment of executive arrangements including two forms of elected mayors, the cabinet form and a streamlined committee system for smaller authorities. Part II also provided for the establishment of overview and scrutiny committees, while Part III set out provisions for a new ethical framework. The Act makes it a requirement to change from a system of council and committee decision-making to a mayoral or cabinet system of local leadership or to adopt alternative arrangements. To ensure that local authorities are equipped to function in this new era, the wholesale

modernisation of political structures was mandated, together with the measures to promote a greater degree of trust in councils. Appropriate management structures were seen as crucial in making councils more responsive and accountable to their local communities.

In April 2002, the Department commissioned a research team based at the Department of Government, University of Manchester to undertake a long-term evaluation of the New Council Constitutions and the New Ethical Framework.

The evaluation

This report marks the first mile stone in a five year evaluation of new political management arrangements in local authorities. The key task in the first year of the evaluation, which is reported on here, is to document the approaches local authorities have adopted in implementing the Local Government Act 2000. As local

authorities were offered four options for change and there is the possibility for local flexibility in the development of processes, it is necessary to identify and map the differential approaches taken to develop an appropriate evaluation framework. The data provides a picture of implementation and a baseline for further work.

In future years the evaluation task will move on to examine what processes have been adopted in implementing the Act. Finally the task will be to consider the outcomes and impact of the Act in terms of the overall policymakers' objectives of increasing efficiency, transparency and accountability in local authority governance, as well as trust, consistency and clarity in governance relationships. Therefore as well as picking up data on how authorities have implemented the Act, the study is also concerned with identifying how the Act itself is working and whether there are issues which affect how well practitioners are able to operate and work to the new council constitutional arrangements.

The information base for the findings

The findings here are drawn primarily from the survey of all English local authorities and from one day site visits to a representative sample of 40 local authorities. In addition discussions were held with policy makers and local government specialists at the centre, as well as with local authority leaders and pressure group officials. In June 2002 a questionnaire was sent to all English local authority chief executives. The questionnaire explored the extent to which councils were adopting new arrangements in response to the Local Government Act, 2000, including decision making structures, overview and scrutiny provisions, and standards of conduct. The census survey of all English authorities, together with an inspection of local authority websites, was intended to provide a baseline for tracking future changes, and establish the population for the site visits and more detailed sample survey which is to follow. A total of 289 responses were received, constituting 75 per cent of those surveyed. Of these, two proved unusable, making for a usable response rate of 74 per cent. Response rates by type of council, region, political control and constitutional form compared with the population of authorities at large and indicate that there was no response bias¹.

40 local authorities were visited between November 2002 and April 2003, a sample of over 10 per cent in England. No statistical inferences can be drawn from the site visit data but it is used to illustrate the different and diverse arrangements adopted in local authorities in response to the Act.

The structure of the report

The focus of the report is on the key themes emerging from the changes that the 2000 Act has set in motion. The report has three broad parts. First the context is set out and then a brief review of the background is given to the problem of political management of local authorities and the recurrent attempts to modernise the traditional committee system. Some of the key ideas behind the reform are noted as set out above and the atmosphere of opposition that surrounded the change process at least from many local authority councillors. The report presents some initial thoughts about how to understand the processes of institutional change that were witnessed at the beginning of the first phase of the evaluation. There are different accounts of how institutions might change. Path dependency models suggest that organisational actors look to recreate some past practice. Rational choice models expect institutional actors to respond to new opportunities and incentives. Normative theorists try to discover whether particular institutional values are driving the response to change.

The second part of the report provides a general account of the process of implementation drawing on the survey findings and the case study visits. It deals with the initial experience of all local authorities in implementing the Local Government Act 2000, the functioning of overview and scrutiny systems, the establishment of standards arrangements and the role taken by area decision-making. It also focuses on the operation of executives in the 81 per cent of authorities operating the leader cabinet form.² The analysis of local government sees councils as being about local representatives making decisions in the best interests of local people. The third part of the report seeks to move beyond a description to an evaluation of the way the system is working. The framework developed here should be regarded as aimed at exploration rather than being definitive. The aim is to spark thought and discussion. Different broad responses to new political management are outlined based on the strength of leadership and

1 Further details of the survey response rates, a copy of the questionnaire, and of the site visits can be found in the full Implementation Report on the ELG website www.elgnce.org.uk.

2 This report must be read in conjunction with the earlier and more detailed report on the survey findings which is available at the ELG website www.elgnce.org.uk (Stoker 2002). This earlier report provides more detail for example about the operation of mayoral and alternative arrangement authorities.

scrutiny arrangements. It examines connections between the approach of local authorities to political management and data on their performance. It concludes by relating the findings to wider understandings of the processes of institutional change.

The findings

Experience of implementation

The survey mirrored the national picture showing most authorities have opted for the leader cabinet form. Nationally 316 or (81 per cent) have chosen this option. Many authorities with populations below 85,000 (59 authorities) opted for a system of alternative arrangements although approximately a third of these smaller authorities also chose the leader cabinet form. There are ten mayor-cabinet authorities and one mayor-council manager authority. The mayoral authorities constitute a very small proportion of the new political management arrangements adopted by councils at just over three per cent. Just over one third (36 per cent) reported that the new arrangements had been implemented easily or very easily, 63 per cent reporting some difficulty and just five authorities reporting great difficulty. Respondents reported the principal advantages were more efficient and quicker decision making (111 authorities), clearer and more accountable decision making (64 authorities) and stronger and more focused leadership (41 authorities). The principal disadvantages were reported to be non executive members disengaged (109 authorities) and confusion over the scrutiny role (34 authorities).

The frequency of meetings in leader cabinet councils

The frequency of meetings of the executive were compared with the frequency of committee meetings under the old system. The survey findings suggest that cabinets meet more frequently than the average committee under the old system. The site visits provided a similar picture suggesting more frequent but shorter meetings. Within the leader and cabinet form over half the executive cabinets meet monthly or less often (54 per cent) and one in ten (11 per cent) met on a three weekly cycle. A large group (35 per cent) meets fortnightly or more often. However, although the survey provides a good baseline for the frequency of executive cabinet meetings it may not provide a valid measure of the continuity of attention or total time given to council affairs by leading councillors under either system.

The size and composition of the executive

The findings of the census survey are that the average size of cabinets is close to the statutory maximum of ten in all but district authorities perhaps reflecting the different functional range of different types of authorities. Within the leader and cabinet form, the average size of a cabinet is seven, it is 8.7 in unitaries and exceeds nine in metropolitan, London and county authorities. The vast majority of authorities under the control of a single party have a cabinet drawn from that party (95 per cent Labour, 96 per cent Conservative and 90 per cent Liberal Democrat). The site visits revealed the significant and diverse changes which have occurred in authorities with no overall control where the establishment of an executive has encouraged the formation of formal or semi-formal coalitions.

The average age of leaders is 55 years, close to the average of all councillors and the average age of cabinet members of 48. Just 17 per cent of leaders are women. Party differences are apparent with Liberal Democrats having both the highest proportion of women leaders (39 per cent) and the youngest average age of cabinet members (40 years). Although on the site visits concerns were expressed about the 'greying' of local government it was not generally held that the new political management arrangements had made matters better or worse.

The practice of executives

The way in which executives operate varies greatly depending upon the degree of delegation to leaders, portfolio holders and officers, formal and informal practices for meetings and decision-making and the extent to which both officers and portfolio holders have adapted to their new roles. Using the survey data three indicators of the formal distribution of decision-making power in local authorities are used. Firstly whether the leader can take decisions alone, secondly whether the leader can appoint cabinet members and thirdly whether the leader can allocate portfolios. The site visits suggested these aspects were strongly linked to party traditions and history.

In leader cabinet authorities the study suggests that when leaders have all three powers they have a 'concentrated' power and this was the case for only 16 per cent of leader cabinet authorities. Where a leader exercised none of these decision making powers we described the form of leadership as 'de-concentrated' this was the case for 27 per cent of authorities with many other authorities falling in between. The concentrated form of leadership is more likely to be found in Conservative authorities.

The organisation of overview and scrutiny functions

The survey found there was no uniformity in the way in which councils organise their overview and scrutiny functions. The average number of committees is 3.7 but one in five authorities maintain only one committee whilst 38 per cent have five or more. Scrutiny committees have an average membership of 12 councillors on each committee and an average of two independent members. Nearly two in five authorities (39 per cent) report that pre-party meetings are held prior to scrutiny committee meetings and in nearly one in ten authorities (nine per cent) report that committee decisions were subject to a party whip. The site visits suggested that dissent is still more likely to be aired through internal party meetings.

The development of the scrutiny function

The site visits suggest that there were several factors which encouraged the development of the scrutiny function. Firstly the involvement of councillors in a successful scrutiny activity for example task and finish groups. Secondly effective and committed chairing was important. Thirdly good officer support was key in assisting the development of a work plan and understanding the scope of the scrutiny function.

The survey showed the range of activities being undertaken by scrutiny committees with 87 per cent being involved in reviewing service outcomes, 66 per cent exploring innovative forms of service delivery, a similar number (68 per cent) involving external stakeholders in their deliberations and two in five (42 per cent) investigating non-local authority service providers. The site visits also point to a great variety in the balance between policy development, overview of the forward plan, post decisional scrutiny, policy monitoring and performance management. In some authorities scrutiny had concentrated on examining best value work. In others, scrutiny activity had focused on post decisional scrutiny. Finally in others (largely majority councils) scrutiny had focused on pre-decisional policy development work. Almost uniformly there were attempts now that scrutiny was 'bedding down' to move to have a more balanced work plan. Call in powers appear to have been used responsibly in all but one of the site visits although it was noted that there were some potential constraints on its use arising through institutional and party factors.

Adapting to new roles in relation to scrutiny

The introduction of overview and scrutiny in local authorities represents a huge change of role for the majority of non executive councillors and for officers. The survey invited respondents to identify advantages and disadvantages of the new arrangements. The most common disadvantage cited was non-executive dissatisfaction. This experience was not uniform however and the site visits suggested that levels of dissatisfaction were less where members had been involved in a successful scrutiny activity and where there had been an influx of newer members. Officers too had had to adapt for example changing the way they write and present reports but this was not reported as problematic in the site visits.

Standards of Conduct

The survey showed the size of standards committees varied from two members in two authorities to 19 (in one authority). The average number of elected members, independent members and parish representatives is four, two and one respectively. Half the committees were chaired by the independent member (51 per cent). The site visits revealed greatly varying frequency of meetings and activities by standards committees. Nearly all were frustrated however by the delay in bringing forward regulations which would allow standards committees to consider misconduct cases.

Area committees

The legislation did not require local authorities to set up area committees, and in many places they already existed, but area committees were found to operate in half (51 per cent) of leader-council systems. District councils were slightly more likely to set up area committees than other councils (60 per cent) and in Conservative controlled councils nearly two thirds had area committees (61 per cent), roughly twice the proportion of Labour councils with area committees (35 per cent). Where they existed in Labour authorities over half of all area committees were simply consultative (52 per cent), whereas nearly three-quarters had decision-making responsibilities (72 per cent) in Conservative-controlled councils with area committees. The Liberal Democrats were also more prone to give power to their area committees than were Labour authorities with 75 per cent having decision-making responsibilities.

The emergence of a strong leadership and strong scrutiny model

It is argued that in response to the Local Government Act there is the potential for local authorities to be independently strong³ or weak along two dimensions of change – leadership and scrutiny. Leadership autonomy and independence of scrutiny can either be strong or weak creating four possible types of response. A *fusion model* is where authorities have both weak leadership and weak scrutiny and are seen in the study as resisters to change. Authorities with weak leadership and strong scrutiny have been termed *collective accountability model* and are seen as adapting the Act but not adopting all the reforms. Likewise authorities where there is strong leadership and weak scrutiny have been termed the *executive autonomy model* as parts of the Act have been adopted but not all. Finally where there is strong leadership and strong scrutiny they have been termed the *separation of powers model*. Authorities that adopt this model can be seen as exemplars of the spirit and principles behind the reform.

The researchers were able to use data from the survey to attempt to identify the numbers of authorities who would fit in the quadrants of the model. Using the three indicators for leadership autonomy identified earlier (leader taking decisions alone, leader appointing cabinet members and leader allocating portfolios) authorities that scored none or one were classified as having weak leadership and those authorities that scored two or three were classified as having strong leadership.

Three questions were used from the survey to establish indicators for the independence of the overview and scrutiny function. The first was whether pre-party meetings are held prior to committees, the second was if councils provided officer/expert support for committees or a special officer unit and the third is whether committees explore innovative forms of service delivery. Scoring on two or three of these indicators gave a high independence score or strong scrutiny and scoring on none or one gave a low scrutiny independence score or weak scrutiny.

Therefore the study identified councils that have implemented the new political management arrangements in a variety of ways. Relatively few councils (17 per cent of majority party councils, and 16 per cent of all councils) can be seen as having strong scrutiny and strong leadership and fitting the *separation of powers model*. The most common model

is a relatively collectivist or weak pattern of leadership with strong scrutiny – the *collective accountability model* (32 per cent majority control councils and 33 per cent all councils). Less popular are councils that fit the *executive autonomy model* where there is high executive control but weak checks on executive action (28 per cent majority control councils and 25 per cent all councils). Finally around a quarter of all councils are operating like the *fusion model* where there is weak leadership and weak scrutiny (23 per cent in majority control councils and 26 per cent all councils).

It was found that there is a significant association between type of authority and political management arrangement. More London authorities are in the *fusion group*. It is the unitary authorities that have developed *executive autonomy* and the metropolitan and county authorities are more likely to correspond to the *collective accountability* form. Party differences are also apparent: the Conservatives favour stronger patterns of leadership whereas Labour authorities tend to have high scrutiny scores and low leadership along with the Liberal Democrat authorities.

Political management and the performance of councils

The study explored the extent to which political management arrangements make any difference to the performance of the council by correlating the Government's Comprehensive Performance Assessment (CPA) against the leadership-scrutiny typology. It found a high, statistically significant and positive relationship between authorities that belong in the separation of powers or strong leadership/scrutiny box and their CPA score. In other words the *separation of powers* local authorities tended to get a better CPA score than those in the other groups.

Conclusions

This report presents information on the way in which local authorities have implemented the Local Government Act 2000. The survey and site visit evidence suggests that a significant structural change in the legal and institutional framework of local authority decision-making has occurred and has produced a variety of responses. It concludes that the current situation is fluid and represents only a snapshot. The 2000 Act allows considerable scope for choice and experimentation in implementation which local authorities have utilised to the full.

³ By referring to strong leadership the researchers are referring to the constitutional position of the leader rather than personal qualities.

The responses of both members and officers has varied from grieving for the committee system to seizing and exploiting new opportunities.

The research found examples of both constraints and opportunities for further change. Institutional path dependency was found to be a constraint in the way that party loyalties still constrain the operation of overview and scrutiny and councillors and officers with long experience under previous arrangements are finding it difficult to develop new patterns of working. Equally some support was found for the rational choice model in that there is evidence of cabinet members, non executive councillors and officers using the new structures to take decisions in different ways and undertake a range of new activities. Here it would appear that party traditions have encouraged especially in Conservative councils a willingness to experiment with more concentrated forms of leadership. Little evidence was found of substantially new normative ideals to guide institutional actors. The new rules and roles have yet to be fully formulated and internalised by institutional actors. However this is not surprising given the early state of the reform.

Further Information

Copies of this summary and the full report are also available on the ODPM website:

<http://www.local.odpm.gov.uk/research/index.htm>

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