

Governance and devolution: challenges for a new Government

Centre for Governance and Scrutiny

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77 Mansell Street, London E1 8AN info@cfgs.org.uk / @cfgscrutiny

About the Centre for Governance and Scrutiny

CfGS exists to promote better governance and scrutiny, both in policy and in practice. We support local government, the public, corporate and voluntary sectors in ensuring transparency, accountability and greater involvement in their governance processes.

Governance and scrutiny are essential for the successful working of any organisation. Now, more than ever, trusted decisions are needed. We believe that decisions are better made when they are open to challenge and involve others – whether that's democratically elected representatives, those affected by decisions, or other key stakeholders.

At the heart of better governance and scrutiny are the right behaviours and culture. Our work champions these relational aspects and designs the structures to support them, leading to more effective decision-making and improved outcomes for organisations and people.

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Introduction

The forthcoming English Devolution Bill will commit the new Government to an ongoing role for combined authorities (CAs) in the delivery of their national missions¹.

We know that CAs will be a permanent fixture of the landscape, and that Government wants to see them operating across England in the near future. But there is much about their governance that remains open to review and reform. In particular, Government's aim to develop a mission-driven form of governance is certain to provoke different thinking on the mechanics of how devolution arrangements will need to be managed and overseen.

There is also a wider governance challenge at sub-regional and regional level – one that transcends the devolution agenda, but which is still connected to the Government's capability in leading a system focused on delivering its missions.

This paper aims to set out the nature of this challenge, and a solution to it. The approach we suggest – one that focuses on "**system governance**", is not new – it builds on thinking and research carried out by us, and others, over a long period.

We are keen to make a contribution to the ongoing conversation on this issue, and therefore see the ideas in this paper not as a perfect blueprint for future governance around English devolution, but as an attempt to set out some of the key principles and likely arrangements that will underpin that governance.

This paper is accompanied by a technical publication which sets out our further thoughts on the operation of regional Public Accounts Committees. This the fourth edition of a paper first published in 2013.

What system governance is

"The challenges of fragmented services, rigid structures and short term, reactive approaches all mitigate against the conditions for working effectively with communities. For people's needs to be met and priorities recognised, they need the opposite – services working together, capable of adaptation to local circumstances and able to plan long term for early intervention and support." (Denham and Studdert, 2024²)

"To date, devolution has focused principally on direct economic levers [...]. However, economic outcomes are determined by a wider set of government services and interventions

¹ King's Speech (2024): <u>https://www.gov.uk/government/speeches/the-kings-speech-2024</u> (Accessed 29 July 2024)

² Denham and Studdert, "Place-based public service budgets: making public money work better for communities" (New Local, 2024): <u>https://www.newlocal.org.uk/publications/research-reports/place-based-budgets/</u>. (Accessed 29 July 2024)

[...].In the short term, the government should empower mayors to develop strategies for enhanced co-ordination between public services operating in their area; for example, to focus more on prevention." (Paun et al, 2024³)

"The key question for a mission-driven government to tackle is how to establish meaningful accountability frameworks, when the first few years of a mission are likely to be characterised by lots of experimentation. Work will need to go into demonstrating progress to the public, capturing improved outcomes, sharing stories that bring the missions to life and being transparent about gaps to galvanise action." (Mazzucatto, 2024⁴)

"To fully unlock the potential of people and places we need a new conversation between national and local government about how funding for one place can be combined, rather than being divided into different pots, in order to improve outcomes and drive efficiency." (LGA, 2024⁵)

Government's emerging vision

The new Government's approach to devolution in England is beginning to take shape. In the autumn of 2024 we expect to learn more – in the form of the English Devolution Bill and a new "devolution framework". However, before that happens, it is already possible to mark out the key features. We consider these to be:

- An approach to governance framed around the delivery of "missions";
- More freedom for local areas to determine relevant action to deliver against these missions⁶;
- The formalisation of some of the accounting mechanisms for delivery of missions. (Local Growth Plans – which reflect New Local's suggestion of the establishment of "Local Public Service Plans"⁷ – appear to be Government's mechanism for assuring this accountability);
- Consequently, longer term thinking about both spending and accountability for outcomes from public spending;
- A "messy", iterative, experimental approach to public service design and delivery across a range of geographies.

A reason why we talk about the Government's approach needing to be "messy" is that a mission-led government is one that needs to knit together action at all levels. This knitting

https://www.local.gov.uk/publications/local-government-white-paper (Accessed 29 July 2024)

³ Paun et al, "A new deal for England: How the next government should complete the job of English devolution" (Institute for Government, 2024): <u>https://www.instituteforgovernment.org.uk/sites/default/files/2024-</u> 05/How-the-next-government-should-complete-english-devolution.pdf (Accessed 29 July 2024)

 ⁴ Mazzucato, "Mission critical 01: Statecraft for the 21st century" (Future Governance Forum/UCL, 2024): <u>https://www.futuregovernanceforum.co.uk/resource/mission-critical-01/</u> (Accessed 29 July 2024)
 ⁵ Local Government Association, "Local Government White Paper" (2024):

⁶ Inherent to the delivery of missions at local level is an approach to governance typified by experimentation – a "messier" approach to governance than many might be used to, and an approach which by definition requires greater freedom and discretion on action at local level.

⁷ Denham and Studdert, 2024 (supra)

together cannot be carried out by a traditional, "command and control" system of governance. One of the lessons of the pandemic was that agile, dynamic, local collaboration and accountability is more effective than unwieldy national systems.

It is unrealistic to assume that moribund "big data" theories of public management would be any more effective at dealing with the kinds of challenges that the Government's new missions pose. National systems can provide guidance (we consider that Local Growth Plans will need to provide a proportionate route for these national systems). But local systems will need to provide the driving force behind the action. Government and its partners will have to be careful that "status quo" assumptions around how accountability work do not drag thinking and action back into a world driven by central decision-making in Whitehall.

An aspect of the expected "messiness" is that fact that devolution arrangements only form part of this story. Partners will also work together on other matters – some which relate to statutory duties, others which may relate to local (and national) priorities, and statutory duties, unconnected with devolution. While devolution framed around Government's missions is likely to be a core driver of some change there is a far wider hinterland for public service reform which demands action – and which has the potential to muddy the waters of delivery.

This potentially confused landscape presents challenges for governance and accountability.

Framing the solution: moving towards "system governance"

"Missions exist in unpredictable, messy contexts. This approach needs to emphasise experimentation, prototyping, rapid feedback loops and learning – continually questioning how well policy ideas will survive contact with reality." (Mazzucatto, 2024⁸)

"While [mission-oriented policymaking] is usually seen, conceived and interpreted as a new innovation policy approach, we have been missing out on an enormous opportunity to seize it as more than that: i.e., as a vehicle to challenge established ways of thinking, doing, and implementing governance." (Bjork et al, 2022⁹)

In 1999, Ron Davies (then Secretary of State for Wales) described devolution (in the Welsh context) as "a process, not an event"¹⁰.

To this we might add that is a process, but not an outcome. Devolution is not an end in itself – it is a means to better deliver the outcomes that local people need, to deliver against Government's missions in a way that will ultimately support growth.

⁸ Supra, n4

⁹ Bjork et al, "Missions for governance: unleashing missions beyond policy" (Demos Helsinki, 2022): <u>https://demoshelsinki.fi/wp-content/uploads/2022/10/Missions-for-Governance-Demos-Helsinki.pdf</u>

¹⁰ Davies: "Devolution: a process not an event" (Address to the Institute of Welsh Affairs Seminar, 9-10 Jan 1999)

Furthermore, devolution is not the only mechanism by which partners will work together to deliver local priorities – and not the only mechanism by which Government's missions can be acted on. While the actions of CAs and their partners are important, there is a far wider public service landscape in place.

And while the overall objectives around those missions may be clear, the delivery mechanisms are not. Public services in England are typified by a messy, overlapping set of arrangements in which there are few shared priorities. While nationally-articulated missions will provide a galvanising force for overall thinking, the way that we deliver these outcomes will likely be messy and unclear – they will require iteration, experimentation, and collaboration.

Moving away from thinking about this as an institutional problem of "structures"

Our thinking about the solution should, we think, focus on culture and behaviour rather than the intricacies of institutional design. Importantly, this involves moving away from the assumption that governance should be based on "deliverology", in which management and oversight is based on target-driven compliance, and where we try (probably futilely) to redesign institutions to meet these objectives¹¹.

Equally, we think that a new model should be one that rejects the idea that a new institution or institutions needs to be created to control, lead and co-ordinate everybody in a place¹² - or that existing institutions should be substantially reformed in order to ensure that they knit together more "neatly". We think that trying to create a new institution – or repurpose a new institution like a combined authority – to carry out the broad, expansive role of decision-making across a place in its totality will risk fracturing existing relationships.

Instead, the right framing for a "systems"-informed theory of governance is about leaning into the messiness of contemporary public service governance and creating a framework in which that messiness can provoke and promote challenge, experimentation, and innovation. System governance understands that everyone holds a different range of overlapping responsibilities in both leadership and accountability, and that these will look different from area to area. It provides a framework within which that "messy" reality can be accounted for.

Trying to fully reform or amend institutional structures to take account of this need for collaboration is functionally impossible. We can make structural reform to make these ways of working easier – but those changes are likely to represent a "minimum viable" proposition. There is a strong argument that the plans for Mission Boards at national level are a necessary development, along with some of the institutional changes suggested in the Demos report "Citizens' White Paper"¹³ to support deepened public participation. We ourselves suggest later in this paper some form of structural change that will support the behavioural shifts that we are about to discuss.

¹¹ Dodd, E: "Moving away from deliverology" (June 2024, Collaborate CIC): <u>https://collaboratecic.com/insights-and-resources/moving-away-from-deliverology/</u> (Accessed 29 July 2024)

¹² Although we do suggest that a regional public accounts committee could perform the job of curating the system

¹³ Demos, July 2024: <u>https://demos.co.uk/research/citizens-white-paper/</u>

A balance of interests: principles that will underpin collaboration and joint working

System governance, then, is a form of governance that recognises that we need a way of balancing the array of interests that may exist across a single sub-regional area, in the interests of collaborating to make a positive difference in the lives of local people. It is a form of governance that recognises that no one person owns the "system". This is a challenge for traditional thinking about accountability.

System governance is fundamentally about **relationships**. It is about looking at the alreadyexisting model of governance in a place and – rather than attempting to bring about structural reforms to that "machinery" – understanding how the human beings operating that machinery can understand their role, and the role of others, better, through fuller and franker dialogue. This is about culture and behaviour.

A system approach to governance has a number of behavioural attributes:

- Leadership is multi-nodal no one person or institution is "in charge". We think that there is a danger in assuming that a directly elected Mayor will "lead" or assume the role of "first amongst equals". A Mayor can take a role in convening conversations relevant to the matters covered in their devolution deal but other partners will have other interests or accountabilities that need to be taken into account and Mayors will not have the power to override those interests (because some will be set by Government, and/or defined by statutory obligations beyond the Mayor's control, or the control of any local partner). System governance needs to create the arrangements that allow decision-making and clear accountability in this "multi-nodal" world;
- Partners are able to understand their own goals, and how those goals intersect with the goals of others. Missions may frame the core priorities of some institutions, but the complex framework of different statutory functions (and wider duties) may lead to divergence. Partners will need to understand where they are aligned, and where and how their mutual and collective goals and priorities intersect. This will help both to provide a conscious space to identify those points of divergence and the ability to eliminate, or account for, those differences depending on how important they are to everyone;
- Partners know and understand where, and when, they need to work with others in order to deliver their goals – and to manage potential conflicts with the goals of others. Mutual accountability will need to be the cornerstone of a system governance approach. Clear commitments on goals and outcomes will help people to understand their own place in delivery;
- There is consistency in what these conversations look like, and how partners ensure that those conversation are inclusive (ie that the right people are involved at the right time). People need to know what to expect. The power

dynamics between different people, and different institutions, need to be taken into account in how decisions get made that might affect a whole area. Some partners might – legitimately – be concerned about engaging in these kinds of partnership discussions because they might think they will lose out to the interests of powerful institutions who will subvert the system for their own benefit – consistency is needed to reduce this risk;

- There is transparency in these conversations, both to other partners and to the community at large. Hitherto, decision-making at partnership level has been criticised as being opaque. This is the case within, and beyond, devolution arrangements. Conversations about priorities and delivery need to therefore be visible to others in order to enhance legitimacy;
- There is a natural link between these professional and political partnership conversations and wider engagement with local people. Other people thinking about and designing systems for mission-led governance have talked about the importance of centring the public voice in those discussions. This paper isn't directly about that need, but any approach to system governance would need to be designed to smoothly incorporate whole area approaches to consultation, participation and involvement. It may that, in a broad sense, system governance would also mean system-wide, area-wide engagement and participation, rather than a model of participation led by individual institutions;
- The commitments that partners make a clear and are subject to robust scrutiny.
 We discuss this need below we think that regional PACs provide the most attractive model to meet this need.

"Missions exist in unpredictable, messy contexts. This approach needs to emphasise experimentation, prototyping, rapid feedback loops and learning – continually questioning how well policy ideas will survive contact with reality." (Mazzucatto, 2024¹⁴)

"While [mission-oriented policymaking] is usually seen, conceived and interpreted as a new innovation policy approach, we have been missing out on an enormous opportunity to seize it as more than that: i.e., as a vehicle to challenge established ways of thinking, doing, and implementing governance." (Bjork et al, 2022¹⁵)

¹⁴ Supra, n4

¹⁵ Supra, n9

How to do it

We think that there are two practical "structural" components to the creation of a sustainable model of system governance in a place. Both of these components are designed to support changes in behaviour and relationships – embedding the attributes we talked about in the last section. These changes in behaviour are not ones that will come automatically if these structural components are put in place – the structural components are the "thing" within which new relationships and behaviours need to be consciously built.

This recommendation of a partially structural solution is not at odds with what we have said elsewhere in this paper about moving away from formalised, institutional approaches to governance. For a new system of culture and behaviour to be created, there are two needs:

- A framework within which partners come together to articulate their priorities and, and within which they can work to experiment and iterate policy ideas. We are calling this framework a "community constitution" because it speaks to duties, roles and responsibilities across a place – and because it emphasises the fact that this framework needs to be rules-based;
- A body which can curate, or act as a caretaker, for this framework. We think that this
 will be one of a range of wider roles for a regional Public Accounts Committee a
 body which could be created to knit together accountability, governance and
 responsibility at a local level, with a focus on the value for money of public spend.

Element 1: The "community constitution"

A rules-based framework needs to be built to support the attributes and behaviours about which we have been talking. This is necessary to regularise and systematise behaviours, to ensure consistency and transparency, and to manage power dynamics. Without such a framework – as we note above – partners might be worried that powerful local actors will seek to impose their own will, and priorities, on the wider area unilaterally.

In short, then, what we are talking about is a framework within which positive relationships, and behaviours, can be fostered. Those behaviours will not emerge automatically, though, which is why we think that a separate, and more formal, part of the system is required to provide a measure of oversight and accountability in the interests of all partners, and the area at large.

In 2019 we published "Governance, culture and collaboration"¹⁶, a discussion paper which sought to explore and better understand the implications for the move towards a more relational form of governance.

Central to our theories, and explored in depth in that paper, was the creation of a "community constitution". Since then, we have refined our thinking on what such a

¹⁶ Hammond, "Governance, culture and collaboration" (CfGS, 2019): <u>Https://cfgs.org.uk/wp-content/uploads/Governance-and-Culture-2019.pdf</u> (Accessed 29 July 2024)

"constitution" might help local areas to do¹⁷. At its heart, such a document or set of documents would help local partners to put in place the kind of consistent, predictable and transparent relational working arrangements to help to deliver, together, the outcomes that local people need.

It would:

- Be "owned" by partners across an area (but have a "caretaker" or custodian with responsibility for taking a lead on its health);
- Set out roles and responsibilities and how they will be managed;
- Provide a mechanism for those partners to hold each other to account on their commitments and responsibilities.

We do not suggest that a community constitution should seek to map out all of the organisations active in working across a local area. Instead, it is about providing a way for organisations to find their partners, to work with them, and to ensure that work is transparent, and outcome focused.

A community constitution would also set core expectations around things like information sharing and transparency across a place. While it is not possible to set out a "single version of the truth", an agreed and conclusive picture of the area that partners can use to support policymaking, a shared approach to information management and use would be useful.

Element 2: The regional public accounts committee

Introduction

"The local PAC should have the power to scrutinise all public expenditure in a local area (with reservations for national policymaking - eg around defence and security, some aspects of work and pensions and any other areas where policymaking is wholly centralised)." (CfGS, 2013¹⁸)

"A local PAC would engage head-on with the challenge of the governance of complexity. To be effective in doing this it would need to focus not on the structures of partnerships, the legal relationships between partners or the way that performance and delivery are "formally" managed, but on culture. They will exist to act – to identify, act and report on risks, to knock heads together, to give local organisations, Government and local people the confidence and assurance that public services are properly joined up, and to shine a light on novel delivery methods which might currently sit outside the governance systems of any one organisation. They are about promoting a culture of innovation, learning, sharing and openness – between partners, and between partners and the public." (CfGS, 2018¹⁹)

¹⁷ See in particular Hammond, "Docking in: making traditional governance fit for purpose in a hyper-localist world" (CfGS, 2020): <u>https://www.cfgs.org.uk/docking-in-making-traditional-governance-fit-for-purpose-in-a-hyper-localist-world/</u> (Accessed 29 July 2024)

¹⁸ Crowe, "A local Public Accounts Committee for every place (technical paper 1st edition" (CfGS, 2013)

¹⁹ Hammond, "Local Public Accounts Committees: consultation (technical paper 2nd edition)" (CfGS, 2018)

The framework, or "community constitution", that we describe needs a custodian or caretaker. This is not someone to direct and lead, but to challenge participants to ensure that the way that they work aligns with that framework. Without this, there is a risk that the model of "collective" ownership of the system that we have described elsewhere in this paper leads to a position where no-one takes direct responsibility for the health of that system overall.

In one model, such a caretaker might be a Mayoral combined authority, but we have already noted our dissatisfaction with placing MCAs (or CCAs) in an overt leadership role in this space. CAs are important institutions and there are compelling arguments to be made that Mayors have a unique democratic credibility and legitimacy. But there is at the moment no serious move to give them formal, legal authority over the totality of public spend across an area – to do that would be the most significant act of public service reform since the creation of modern local government in the 1800s.

Instead, we have to recognise that they are one partner amongst many – and that expecting them to take on this "system" role is to unbalance existing accountability arrangements.

As such, we think that this caretaking responsibility should be a key role for a regional public accounts committee.

Roles and powers

Where a number of a public service partners are aligned to a particular geography – it might be a combined authority area, a county area, or similar – a regional public accounts committee should exist for that area. In this model a regional PAC is different from a "local PAC", which we originally (2013²⁰) conceived as being a structure for every council area in the country.

Inevitably, this would mean misalignment on some boundaries (the boundaries of Integrated Care Systems are an obvious example). But this messiness is not insurmountable – a lack of coterminosity in public services is a permanent feature of the system.

Fundamentally a regional PAC would exist:

To hold to account the delivery of public services by organisations working together across a locality, and to investigate the value for money of those services.

We think that the core roles of a regional PAC would be:

- System curation/caretaking: as we have already said, this would involve custodianship of the community constitution and support and challenge to local partners on their cultural commitment to developing better relationships;
- Reviewing public spend across the place with a "value for money" lens: this is about understanding how budgets are pooled, and used, to support collective aims and

²⁰ Supra, n18

priorities. The regional PAC could seek to understand, and test, how partners are working together to deliver against missions, and/or other priorities arrived at locally or set by central Government. This regional VfM focus would complement the national focus brought by the National Audit Office and the Government's proposed Office of Value Money²¹;

 Support to the internal governance / non-executive functions of individual partners. The regional PAC would provide a support to institutions' own accountability and governance systems – bolstering them and knitting them together. For example, one way that this could be useful would be to develop a shared understanding of strategic risk across a "place". We think that a regional PAC may also be able to play a supportive role to failing institutions, or those at risk of failure.

A regional PAC would act as a focus for system governance, while respecting the presence of institutions' own accountability arrangements, which it would not replace. It would instead look at how those institutions work together to deliver shared outcomes (and it would identify where priorities are diverging). This overarching remit requires focus, and we think that focus is provided by the regional PAC's primary obligation to focus on the value for money of local services.

In order to carry out these roles, a regional PAC would need the following powers:

- "Enter and view": the right to directly investigate public services and speak to those in receipt of those services. For the avoidance of doubt this would be in support of the roles set out above, rather than PACs having a roving brief to investigate anything and everything happening in a local area;
- Rights of access to papers and document held by organisations operating locally where those documents relate to public spend;
- Rights to require people to attend and answer questions, where necessary in order to transact the PAC's core roles;
- Power to require a specific response to recommendations.

We do not consider that a regional PAC would immediately hold an operational role relating to audit, although it could play a role in ensuring that strategic risks are identified and acted upon. Government will shortly be taking forward existing plans for the establishment of the Audit, Reporting and Governance Authority (ARGA). There may be a space in due course for regional PACs to act as a "local" systems leader on audit, alongside ARGA at national level – bolstering and supporting the audit functions of individual institutions at local level²².

²¹ Civil Service World, "Reeves to announce efficiencies drive and consultancy spend squeeze in major speech" (29 July 2024): <u>https://www.civilserviceworld.com/professions/article/reeves-efficiencies-drive-consultancy-spend-controls-speech</u>

²² We note the letter from the Chair of the (then) Levelling Up, Housing and Communities Select Committee to Government prior to the dissolution of Parliament in May 2024, recommending that "Oflog should be temporarily re-constituted as a system leader for local audit in England [...] Alternatively, the Government

<u>Membership</u>

A regional PAC would be:

- Comprised of a majority of elected councillors;
- With representation from non-executives on other partner bodies in the area;

A regional PAC could be chaired by an independent person or could have an independent person appointed as a member, in the same manner as some Audit Committees.

Resourcing

Regional PACs would be independent bodies – possibly hosted by another organisation locally. They would be funded either directly as part of a devolution settlement or through local precept. They would employ a small team of staff. Members would be paid a fair allowance. We think that the costs involved in operating a single regional PAC would be somewhere in the region of £250,000 a year²³.

Alternative models

Two alternative models have been discussed in recent years to enhance accountability at sub-regional level. We briefly consider them here to explain why we do not have a role to play in the system governance model we discuss.

Elected assembly

In a combined authority area, a directly elected assembly (similar to the London Assembly) would hold to account a Mayor and the Mayor's Cabinet. This approach falls down because of its institutional focus – we have noted that for Mayors to "grip" a wider range of local public services would require a fundamental reorganisation of duties, responsibilities, and roles at local level. Without this, an elected Assembly would simply introduce further institutional complexity at regional level, embedding a siloed approach to accountability that would run counter to mission-led governance.

Scrutiny by MPs

<u>Regional Select Committees originally sat in the latter days of the 2005-2010 Labour</u> Government; they were boycotted by the Conservative Party and were convened only briefing before their abolition. "Place-based" select committee would, we think, be an interesting supplement to the model we set out in this paper – and would bring transparency

should scrap its plans to establish ARGA altogether and instead transfer its responsibilities and functions to Oflog" (<u>https://committees.parliament.uk/publications/45109/documents/223486/default/</u>)

²³ This figure is explained in more detail in our separate technical document on regional PACs.

to local areas' accountability to Government. But they cannot supplant the need for meaningful accountability at a local level.

More recently, "trailblazer" devolution deals have included the requirement for Mayors to submit themselves to regular scrutiny from groups of MPs representing their respective electoral areas. It seems to us unlikely that the new Government would wish to take this forward; it again embeds an institutional model of accountability and duplicates existing (and proposed) Mayoral accountability arrangements at local level.