Corporatisation of Local Authorities in England in the Wake of Austerity 2010-2016

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Alternative Service Delivery and Corporatisation

The growth of neo-liberal policies enacted through New Public Management practices of the market, competition, private sector managerialism and ultimately pseudo-profit have been prevalent in reform of public services and rolling back the state since the 1980's (Pollitt, 2018). These developments have again been at the forefront of public sector reforms in the wake of the austerity that has followed the global financial crisis (Griffiths and Kippin, 2017). Perhaps nowhere more so than in English local government, which has experienced a real-term budget cut of nearly 50% since 2011/12 and where there is substantial appetite for alternative ways of "doing more with less" (National Audit Office, 2018).

One key institutional driver of the current reforms within English local government is an emphasis on 'alternative service delivery' by central government, the Local Government Association and other sector-wide organisations. For example, local authorities across England have been experimenting with new forms of contracting-out, shared services, social enterprises and public-private partnerships (Sandford, 2016). Many of these alternatives have now been widely adopted in practice and are extensively covered in the academic and policy literatures, but the phenomenon of corporatisation has been relatively missing from academic debates and the wider policy implications are underdeveloped (Voorn et al., 2017). The process of 'corporatisation' – the creation of local authority companies - is a significant and far-reaching development in the governance, performance and efficiency of local public services.

In English local government, corporatization principally involves moving a function from hierarchical line control within a local authority bureaucracy and placing it into a wholly or partly-owned corporate entity. Nevertheless, the forms that corporatisation may take and the models of control that are employed vary considerably, and it is likely that some of these will be more popular than others in the wake of austerity. To further our knowledge of the dynamics of corporatisation in the wake of austerity, we have undertaken a comprehensive review of the accounts for all single and upper tier local authorities in England between 2010/11 and 2016/17 in order to identify the levels of interest those authorities hold in an array of commercial and nonprofit-making entities.

Our review of councils' annual accounts suggests that corporatisation is a growing phenomenon across the whole of English local government. So much so, that it now constitutes a major field-level change at the interstices of the institutions of state, market, corporation and community. In this new development piece, we briefly sketch the ways in which corporatisation could be regarded as a field level change, before presenting the findings from our review and reflecting on their implications.

Corporatisation as a Field Level Change

Corporatisation is not new to English local government. Indeed the establishment of modern company formations goes back to Victorian England (Skelcher, 2017). More recently, for English local government, the power to trade in the Local Government Act 2003 and through the Localism Act 2011 that allowed local authorities to undertake any activity unless specifically prohibited by statute, have set in place conditions more favourable to enabling local authorities to establish a range of corporate forms if they so desire. These legal developments have set in place a regulatory framework that can support field level change in the commercial service delivery opportunities for local authorities.

Corporatisation is a complex form of alternative service delivery, but potentially offers a number of benefits for a local authority, especially in the period of financial constraint that English local Government has endured over the past decade in the wake of austerity. For example, corporatisation enables a local authority to overcome legal constraints on its ability to undertake trading activities and thus can generate a new revenue stream. It can offer flexibility in employment and reward systems. And where companies are also registered as charities, it can bring tax advantages and access to sources of charitable income. The extent to which a local authority is able to realise these benefits depends in part on the legal structure chosen – which may be a private company limited by shares or by guarantee (the latter may also be registered as a charity), a joint venture plc, a community interest company, or a limited liability partnership.

The development of corporatisation in the wake of austerity has not been subject to great scrutiny in the academic literature, although there are some prior studies concerning corporatisation of Portuguese local authorities in the 1990s (Tavares and Camoes, 2007, 2010; Rodrigues et al., 2012; Saz-Carranza and Longo, 2012), German and Italian local authorities in the 2000s (Grossi and Reichard, 2008), and by other public organisations during the same era, e.g. hospitals (Lindlbauer et al., 2016; Rego et al., 2010) and universities (Parker, 2011; Pop-Vasileva et al., 2011).

Although there is considerable guidance from professional bodies, consultancies, legal firms and sector organisations on the benefits of companies and how to establish them (e.g. CIPFA, 2016; Grant Thornton, 2015; Local Government Association, 2012), there has been little consideration of the medium-term and longer-term implications for local authority governance, management, performance and democracy. The extent to which local authority services are now the responsibility of these wholly or partly-owned companies has implications for the community and especially capacity of citizens to exercise their civic and democratic rights, for example in challenging issues of poor performance or governance.

Our review and evidence from other sources (e.g. NAO, 2018), suggests that corporatisation is now manifest as a widespread, field-level, change. This is because it has become prevalent across all local authorities in England. Studying this field level change as it impacts on the population of individual organisations could enable us to respond to the call by Greenwood et al. (2014) and others for researchers to use institutional theory as an analytical tool to explain organisational responses to changes at field level. Corporatisation involves great complexity of organisational design (especially around corporate governance, service management and financial control) due to the internalisation of plural institutional logics (Kraatz and Block, 2008). These logics represent frames of reference that condition actors' choices for sense-making, the vocabulary they use to motivate action, and their sense of self and identity. The principles, practices, and symbols of each institutional order differentially shape how reasoning takes place and how rationality is perceived and experienced (Thornton et al., 2012). There is considerable potential to add to the small literature on the response of public and non-profit organisations to plural institutional logics (e.g. Modell, 2009, 2012, 2013;

Pache and Santos, 2013; Skelcher and Smith, 2015; Ahrens and Ferry, 2018), especially by giving greater attention to the impact at the level of the field.

We will therefore now set out some preliminary findings with regards to changes at the field level from our study.

Findings from Study

To identify an authority's interest in a company, the type of company in which they had an interest and its continued existence, a coding frame was developed and applied to the information presented in councils' annual statements of accounts. Our analysis was conducted on the accounts for 2010/11 through to 2016/17 and a number of findings are worth highlighting. Firstly, from an analysis of the results for our sample of local authorities it was found that corporatisation increased by 50% from the presence of around 400 companies in 2010 to about 600 companies in 2016. Again these companies covered a diverse range of trading concerns.

Secondly, it was found that the number of companies limited by shares (and especially wholly owned companies) increased by over 50% from under 200 in 2010/11 to over 300 in 2016/17. This is now the dominant form of company structure and importantly reflects how local authorities attempt to get the benefits of company formation for delivery of certain public services whilst retaining control through ownership of the share capital. Profit made through these types of company can provide dividends for reinvestment in other public services administered by the local authority.

Thirdly, in contrast to companies limited by shares, those companies limited by guarantee and community interest companies have fluctuated within the range of 150 and 200 companies between 2010/11 and 2016/17 and so have not seen the growth in popularity as those limited by shares over the same period. This may reflect the restrictions placed on such companies reinvesting profits outside the company.

Fourthly, a similar pattern of modest growth is found for the use of arrangements involving charities, trust and industrial and provident societies for corporatisation purposes that saw a 25% increase from just under 40 in 2010/11 to just under 50 in 2016/17. The small involvement in these types of entities suggest that opportunities for commercialisation are of more interest to local authorities.

Fifthly, the number of limited liability partnerships has increased threefold but importantly this is from a very low base of just under 10 in 2010/11 to just over 30 in 2016/17 and so remains relatively small as a vehicle of corporatisation for local government compared to companies limited by shares. However, it is noteworthy that most LLPs were used for development companies, in particular to form joint ventures with private organisations to deliver planning and development projects. These structures are subject to less accountability than companies limited by shares, and in a few places there transparency has already been questioned by the local media.

Sixthly, over the period of the study from 2010/11 to 2016/17, closures of companies have went from 0 in 2010/11 to almost 20 in 2016/17. This is small when compared to the relative increase in not only companies limited by shares but all forms of corporatisation. However, if some of these companies were closing due to making deficits, poor service levels and quality problems this raises important questions about the basis for corporatisation.

Seventhly, from the results it is particularly noteworthy that certain services have been more prone to corporatisation over the period of study. For example, commercialisation in the areas of planning and social services has greatly increased. This may reflect the decision by many authorities to commercialise development and the need for all of them to find new ways of working in social care. Somewhat surprisingly, we did not observe much change in the corporatisation of housing and leisure services, perhaps because many local authorities have already externalised these services or because corporatisation in these areas mostly occurs amongst lower-tier district councils that did not form part of our analysis.

Summary

In summary, the corporatisation of local public services has greatly increased in the wake of austerity, representing a substantial change in delivery mechanisms at the field level of English local government. In particular, companies limited by shares have become the favoured form of corporatisation for English local government, and now number more than all other forms of corporatisation combined. Institutionally, this poses challenges for the combination and management of the logics of the state, market, corporation and community. In part this is because corporatisation creates a further hybridisation of logics enabling retention of state control through share capital, promoting commercial capabilities by opening up new markets and generating new potential revenue streams that can help with financial and service sustainability. Nevertheless, such a multi-layered approach to service delivery is clearly not without risks. Companies could make a deficit and the financial, reputational and democratic consequences of service failure will still fall at the door of local government. Better understanding of how these risks can be managed effectively by local authorities is therefore required to ensure that corporatisation delivers on its promise of service transformation.

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