

Organisations, Functions and Spaces: Institutional Logics and the Changing Shape of English Governance

Skelcher, Christopher; Tonkiss, Katherine; Flinders, Matthew; Dommett, Katharine

Document Version

Early version, also known as pre-print

Citation for published version (Harvard):

Skelcher, C, Tonkiss, K, Flinders, M & Dommett, K 2013, 'Organisations, Functions and Spaces: Institutional Logics and the Changing Shape of English Governance', Paper presented at Political Studies Association Annual Conference, 54th, 1/01/04.

[Link to publication on Research at Birmingham portal](#)

Publisher Rights Statement:

Working paper - not for citation without author's agreement

General rights

Unless a licence is specified above, all rights (including copyright and moral rights) in this document are retained by the authors and/or the copyright holders. The express permission of the copyright holder must be obtained for any use of this material other than for purposes permitted by law.

- Users may freely distribute the URL that is used to identify this publication.
- Users may download and/or print one copy of the publication from the University of Birmingham research portal for the purpose of private study or non-commercial research.
- User may use extracts from the document in line with the concept of 'fair dealing' under the Copyright, Designs and Patents Act 1988 (?)
- Users may not further distribute the material nor use it for the purposes of commercial gain.

Where a licence is displayed above, please note the terms and conditions of the licence govern your use of this document.

When citing, please reference the published version.

Take down policy

While the University of Birmingham exercises care and attention in making items available there are rare occasions when an item has been uploaded in error or has been deemed to be commercially or otherwise sensitive.

If you believe that this is the case for this document, please contact UBIRA@lists.bham.ac.uk providing details and we will remove access to the work immediately and investigate.

Political Studies Association Conference 2013

Panel – Arm’s-Length Governance: Accountability, Performance and Change

ORGANIZATIONS, FUNCTIONS AND SPACES: INSTITUTIONAL LOGICS AND THE CHANGING SHAPE OF ENGLISH GOVERNANCE

**Chris Skelcher, Katherine Tonkiss (both University of Birmingham),
Matthew Flinders and Katharine Dommett (both University of Sheffield)**

This paper draws on the institutional logics approach to analyse the reform of arm’s length public bodies (‘quangos’) by the UK’s Coalition government. This perspective provides a valuable way of analysing government reform because it recognises that logics are plural. Thus, reform can be conceptualised as a process of contestation resulting from the agency of strategic actors. Our central argument has two elements. First, that public bodies’ reform exposes a clash between the centrifugal ‘logic of discipline’ that rationalises the delegation of governmental roles and the centripetal ‘logic of democracy’ that requires politicians to exercise due authority. Secondly, it stimulates contestation between deeper logics within the machinery of the state – between legislature and executive, and government’s corporate centre and its departments. These zones of contestation are analysed drawing on a rich qualitative data set. We conclude that institutional logics offer new insights into the wider politics of governmental reform.

INTRODUCTION

This paper analyses the early years of the UK’s Coalition government in respect of one aspect of its desire to reshape the organisational landscape of government in England – the reform of arm’s length public bodies (‘quangos’). Our central argument has two elements. First, that this reform programme exposes a clash of institutional logics between the centrifugal ‘logic of discipline’ that rationalises the delegation of governmental roles to enlightened experts (Roberts 2010) and the centripetal ‘logic of democracy’ that requires politicians to exercise due authority over and accountability for public functions. But secondly, we see public bodies’ reform as an epiphenomenon, analysis of which reveals two deeper tensions within the machinery of the state – between legislature and executive, and between government’s corporate centre and its departments. We employ the literature on institutional logics to tease apart and

understand these governing dilemmas. Our argument is not so much that the existence of these tensions is either new or novel to the United Kingdom – a vast body of scholarship focuses on the problems of delegation, autonomy and control within public governance (e.g. Hooghe and Marks 2003; Talbot and Pollitt 2004; Verhoest et al. 2011) – but that (1) scholars need new analytical tools and methods of exposing and analysing these tensions; and (2) when applied these new tools reveal the manner in which the Coalition government’s approach to statecraft is developing.

There is a large body of research on the delegation of functions and the potential pathologies of attempting to ‘govern at a distance’ (i.e. through arm’s-length bodies of one form or another). The constitutional configuration of the American political system has, for example, spawned a huge literature on agency problems (e.g. Bertelli 2012; Epstein and O’Halloran 1999; Huber and Shipan 2002) and the evolution of governance within Europe has fuelled a related body of work on non-majoritarian institutions, democratic deficits and credibility-dilemmas (e.g. Elgie 2006; Flinders 2010; Thatcher and Stone Sweet 2002). These literatures therefore focus attention on the *centrifugal thrust* of dominant reform paradigms and their impact in terms of ‘unravelling’, ‘unbundling’ or ‘hollowing-out’ the state. The literature on the converse *centripetal logic* is less explicit in terms of an attachment to the analysis of delegation, but does highlight the existence of a centralising dynamic within democratic governance. The most extensive is on political responsibility in general, and ministerial accountability in particular, and explores the conditions under which politicians have an obligation to take some personal responsibility for the activities of arm’s-length bodies and the appointees who run them, however tenuous that might be in reality. Such obligations often come into play during legitimacy crises where arm’s length bodies are somehow seen to fail or underperform, and politicians emerge as ‘lightning rods’ for social outrage, discontent or angst, often irrespective of whether the source of concern offered any element of political control. This connects to Jonsen’s discussion of the ‘rule of rescue’ in healthcare: ‘Our moral response to the imminence of death demands that we rescue the doomed. We throw a rope to the drowning, rush into burning buildings to snatch the entrapped, dispatch teams to search for the snowbound’ (Jonsen, 1986, 172). What Jonsen terms the ‘rescue mortality’ is arguably synonymous with the imperative on politicians to interfere in or take back control of delegated functions.

The tension between maintaining some element of political control within a democratic polity on the one hand, while facilitating managerial flexibility, judicial discretion or expert judgement on the other, is therefore a critical element of modern governance. But this tension does not play out in isolation, as much of the literature in this field tends to imply. The Coalition government’s public bodies’ reform programme is located in and interacts with a wider political and governmental landscape, and thus provides a valuable window through which to explore and tease apart the broader and competing institutional logics. We structure our discussion in the following way. First, we provide a context to the world of arm’s-length bodies and the episodic demands for a ‘bonfire of the quangos’. This leads into a theoretical discussion of institutional logics and their

potential for enhancing the analysis of government. We follow this with empirical material on the three tensions, and use these to develop findings in relation to the empirical case and the application of an institutional logics approach to problems of government and politics.

ARM'S LENGTH BODIES AND THE IMPERATIVES FOR REFORM

Arm's length bodies come in many forms. In the English context they include non-departmental public bodies, executive agencies, public corporations, non-ministerial departments, public-private partnerships, and a large number of sub-national single purpose bodies delivering health, education, economic regeneration and other functions. Their common characteristic is that they are special purpose vehicles created to enable public policy to be formulated and/or delivered with a degree of autonomy from elected political principals, or to bring together experts to offer independent advice to politicians, or to exercise lay judgement in administrative tribunals (Flinders 1999). There is a long-standing definitional problem in this field of study, as the variety of terms employed above illustrates. In this paper we are concerned specifically with the Coalition government's 'public bodies' reform, which applies to organisations officially classified as executive, advisory or tribunal non-departmental public bodies (NDPBs) together with a smaller number of public corporations and non-ministerial departments (Cabinet Office 2012c). Hereinafter, we use the term 'public bodies' to refer to this group of organisations.

Such public bodies are colloquially referred to as 'quangos', a term with largely pejoratively connotations associated with political patronage in chair and non-executive appointments, boardroom extravagance, lack of good stewardship of public resources, poor transparency, limited accountability, and a host of other characteristics deemed undesirable for governmental bodies (Skelcher 1998). Nevertheless, they have proved an irresistible mechanism for UK governments dating back a considerable time, who have found them advantageous by virtue of their role in discharging public functions at a distance from ministers (Flinders 2008).

Since the mid 1970s, there have been episodic campaigns by individual MPs, political parties, the press, and pressure groups to reduce the number, role and autonomy of quangos, and a number of governments have also launched reform initiatives. The main points of reform prior to that of the Coalition government are as follows. In 1979 the incoming 1979 Thatcher administration commissioned Sir Leo Pliatzky, a senior civil servant, to undertake a comprehensive cataloguing and review of NDPBs, public corporations and other arm's length bodies across Whitehall (Pliatzky 1980). The government accepted his recommendations and closed a large number of advisory bodies, abolished some executive bodies, and also undertook a limited programme of merger and transfer of functions. The next major set of reforms was in the mid 1990s, in response to public concern about patronage and poor standards of public conduct. An early report by the Committee on Standards in Public Life resulted in a number of

changes to the governance of public bodies, but did not address the question of the size or cost of the appointed state. Some reforms were undertaken by the first Blair administration, but in the context of that government's widespread creation of arm's length bodies of various forms. Reports by the Public Administration Select Committee at the end of the 1990s/early 2000s again highlighted problems of accountability and governance, but no significant reforms were proposed for public bodies operating in England or England plus other parts of the UK¹ until the closing months of the Brown administration in 2009/10 (HM Treasury 2010). Separate reviews and reforms were undertaken by the devolved administrations in Northern Ireland, Scotland and Wales during the 2000s (e.g. Birrell 2008).

In the 2010 general election campaign the Conservative, Labour and Liberal Democrat parties all committed to reform of quangos and this was subsequently written into the Coalition agreement. The new government then launched the cross-Whitehall Public Bodies Review led by Francis Maude MP, Minister for the Cabinet Office. The Review was conducted over the summer 2010, and covered 263 types of non-departmental public bodies, public corporations and non-ministerial departments – over 900 bodies in total.² The background to and conduct of the review has been discussed in depth elsewhere (Flinders and Skelcher 2012; Gash, et al. 2010), and we provide further detail in the empirical sections later in this paper. In essence, the proposed that approximately 500 public bodies would be reformed to some degree, with 199 abolished and a further 120 merged.

The Coalition government's public bodies' reform provides an ideal empirical focus for our analysis for three reasons. First, arm's length bodies embody the tension between control and autonomy (Verhoest et al. 2010). They are created in order that political principals can delegate functions to them, thus placing these functions at a distance from ministers, but at the same time they are accountable to ministers and, in some cases, Parliament and other bodies for the exercise of these functions. Thus a government's approach to arm's length bodies tells us something about the relationship between centripetal and centrifugal logics. Secondly, the Coalition's reforms have been highly contested in and beyond Parliament. The passage of the Public Bodies Bill generated (and continues to generate) an unusually large number of select committee inquiries, it took much longer than anticipated, and it emerged having undergone significant amendment. Thirdly, the reform of public bodies is associated with a wider set of changes in the relationship between the centre of government, particularly the Cabinet Office, and policy departments. There has been an attempt to centralise control of spending by departments and their public bodies, to rationalise departments' sponsorship relationships with their public bodies, and to control the management of information. These three changes destabilise the temporary settlement between competing institutional logics and thus open up points of contestation. We now turn to the literature on institutional logics to show the ways in which this can add value to our analysis.

INSTITUTIONAL LOGICS AS A FRAMEWORK FOR ANALYSIS

The concept of institutional logics emerged within the field of institutional theory, and especially its concern in recent decades to explain social action in terms of cultural norms and cognitive structures. There is now a considerable empirical literature employing institutional logics as an analytical and explanatory device, but principally in studies of business organisations undertaken within the organisational sociology and management fields. There has been relatively little application of this approach in the political science discipline, nor the wider public or not-for-profit domains, although there are some exceptions. These include Meyer and Hammerschmid's (2006) analysis of the reform of Austrian public bureaucracies, Mullins (2006) discussion of change in housing association governance, and Saz-Carranza and Longo (2012) on public-private partnerships. However we think it has considerable potential because it understands the world as one in which there is contestation as actors seek to renegotiate the tensions between logics.

The institutional logics approach is located squarely within the context of institutional theory and institutional analysis. Phillip Selznik and Talcott Parsons originally argued that institutions functioned through universalistic rules, contracts and authority. A second phase of development – led by scholars including John Meyer, Brian Rowan and Lynne Zucker – highlighted the role of culture and cognition in institutional analysis. More specifically this phase emphasized the role of modernization in rationalizing previously informal rules and operating procedures. An externally imposed model of rationality was therefore depicted and processes of isomorphism were theorised, notably by DiMaggio and Powell. The final decade of the twentieth century witnessed a third phase of institutional analysis – led by Roger Friedland, Roger Alford, Richard Scott and others – that posited *institutional logics* as defining the content and meaning of institutions. The focus of organisational analysis therefore shifted away from isomorphism and rationality towards exposing and understanding the effects of differentiated institutional logics in a variety of contexts.

The term *institutional logics* was first coined by Friedland and Alford to describe the contradictory practices and beliefs inherent in the institutions of modern western societies. Their research argued that the organisations of capitalism, state bureaucracy and political democracy were forged upon three contending institutional logics which, in turn, shaped the practises and beliefs of the individuals working within those sphere and how they interpreted specific threats and opportunities. Institutional logics therefore matter because they shape both individual and organisational behaviour through providing social actors with a set of principles, with a vocabulary of motive and a sense of identity within an increasingly fluid social milieu. Institutional logics also provide individuals, groups and organisations with resources – in the form of a common or legitimating narrative of self and value – that can be deployed as a cultural resource to either facilitate or obfuscate transformation or reform. This is a critical point from the perspective of political science as institutional logics effectively become contested

interpretations of 'the rules of the game' and, as Friedland and Alford (1991) emphasize, are available to individuals, groups and organizations to further elaborate, manipulate and use to their own advantage. Since institutional logics are plural, they are therefore the arena for *intra* and *inter*-organisational power struggles as individuals and groups seek to change their content and the relationship between them. However, as Greenwood et al (2010) argue, this central political feature of the concept of institutional logic has not been sufficiently exploited, with most attention being devoted to structuring by a dominant logic, and thus its isomorphic effects.

The salience of institutional logics in the analysis of government reform arises because of this recognition that logics are differentiated or plural. In other words, reform can be conceptualised as a process of adjustment at the boundary between two or more institutional logics, and thus is a process of contestation, although this important implication is sometimes not expressly recognised in the literature. This provides a clear link to the empirical focus of our paper but it also highlights the manner in which institutional logics are not simply sets of shared cultural concerns but are also *logics of action or inaction*. This is a critical point. Institutional logics provide conceptions or models of what is 'legitimate' or 'illegitimate', 'right' or 'wrong', 'good' or 'bad' at any particular time or in any given relationship. This is more than just a return to the notion of institutional isomorphism, however, since this underplays the contestation that is inherent in a world of plural institutional logics. What the institutional logics approach adds is this focus on contestation and agency at particular moments (Thornton and Ocasio 2008).

Our analysis posits three specific zones of contestation (table 1). First, there is contestation between the logic of greater political control over and improved accountability by public bodies, and the logic of delegation to and autonomy by such arm's length agencies. However, what this paper's analysis of the public bodies reform programme reveals is the interplay between the contestation around these logics and two further zones of contestation. This is a critical point. To date, the analysis of delegation and control has primarily focused on the relationship between political principals and arm's-length bodies. We argue that this needs to be seen in the wider context of the second zone of contestation between the logic of the legislature as the protector and guarantor of constitutional principles, and the logic of executive ministerial authority especially in the context of a new government and a perceived crisis; and a third zone of contestation between the logic of a more centralised approach to the organisation and management of government, and that of departmental responsibility.

Table 1 Zones of Contestation in Public Bodies’ Reform

ZONE	LEVEL	TENSION	FOCUS	ACTORS
1.Executive	Micro-level	The tension emanating from ministerial attempts to impose greater coordinative and control capacity while at the same time seeking to delegate functions to public bodies and other agencies..	Transfer of functions; creation of new public bodies; reviewing bodies	Ministers and departmental sponsor teams; public body boards
2.Constitutional	Macro-political	Contestation between the reassertion of legislature, as the protector and guarantor of constitutional principles, and the executive where the latter wishes to implement rapid and significant reforms to the machinery of government and governance.	Ministerial authority; Parliamentary scrutiny; pre-emption of parliament	Legislature and executive
3.Governmental	Mid-range	Contestation between the development of a more centralised approach to the organisation and management of government in contrast to a tradition rooted in pragmatic departmentalism.	Impetus for reform; cross-Whitehall controls; approach to sponsorship of public bodies	Central departments and policy departments

ANALYSING CONTESTATION IN THE REFORM OF ARM’S LENGTH BODIES

The three zones of contestation are examined using data gathered from an extensive programme of interviewing, document analysis and observation between January and

December 2012. Working with the Cabinet Office Public Bodies team and the Public Chairs Forum, we were able to negotiate high level access across Whitehall and with individual public bodies. Interviews were undertaken by the authors with 32 senior civil servants from across Whitehall, 23 chairs and chief executives of public bodies, 14 MPs and Lords, and four representatives of other organisations with specific interests in arm's length governance. Interviews were face-to-face or by telephone, recorded, and fully transcribed or compiled into field notes. In addition, we observed and were invited to contribute to a number of internal meetings, workshops and conferences both in Whitehall and within the public chairs network. Our research drew on relevant documentary sources, including government statements about and proposals for public bodies' reform, Hansard and select committee reports, reports from the National Audit Office and Institute for Government, and various working papers.

Data were collected on the origins and goals of reform, the involvement of and relationships between actors, stages in the reform process, approaches to and outcomes of strategising, and consequences for the functioning of government, public bodies themselves, and Parliament. This enabled us to document the public bodies' reform process from the pre-election manifesto preparation stage in mid 2009 to the publication of the Government's update on progress in December 2012. Within this, we were able to distil out the main lines of contestation, and thus to construct the three pairs of institutional logics that we present below. Our analysis has been scrutinised by our advisory group, which contains academics in the field together with policy actors from the major organisations/sectors involved, and through more frequent and detailed discussion with key informants. In addition, we have used these data to provide written and oral evidence to two select committee enquiries, thus exposing our work to additional scrutiny. These processes give us confidence that we have a credible understanding of the politics of the reform process and thus a solid empirical basis from which to develop the analysis contained in this paper, to which we now turn through a consideration of each of the zones of contestation.

Executive contestation: political control or delegation to boards?

The central zone of contestation is between the competing logics of political control and delegation to public bodies; in essence, where does executive authority lie? The former logic posits that key government functions must be under direct political control if the demands of representative democratic accountability are to be met. It is argued that arm's length bodies are unaccountable because of their distance from ministerial control, and therefore rectifying this problem involves moving the functions undertaken by these bodies back in to government departments which are more directly under the remit of ministers. This logic was overtly evident in the Government discourse surrounding the public bodies' reform programme, with Prime Minister David Cameron commenting prior to his election in 2009:

I'm convinced that the growth of the quango state is one of the main reasons so many people feel that nothing ever changes; nothing will ever get done and that government's automatic response to any problem is to pass the buck and send people from pillar to post until they just give up in exasperated fury' (Cameron, 2009).

Minister for the Cabinet Office Francis Maude re-iterated this commitment to increasing accountability through public bodies reform when, in a speech in June 2010, he stated that 'we are committed to cutting the number of public bodies to *increase accountability* and cut costs' (HC Deb, 9 Jun 2010, c. 313; emphasis added). The centrality of increasing political control to the public bodies reform agenda was again stated in the Cabinet Office *Public Bodies 2012* report, where it was argued that 'overall responsibility for public functions should rest with democratically-elected ministers' (Cabinet Office, 2012d).

However, the public bodies reform agenda did not aim for the abolition of all forms of arm's length governance; rather, it set out a number of conditions under which a public body could be permitted to continue to exist. Passing one of the following three tests would mean that a public body would not be abolished, but rather may continue to exist in its current, or in a reformed, form:

1. Does the quango undertake a precise technical operation?
2. Is it necessary for impartial decisions to be made about the distribution of taxpayers' money?
3. Does it fulfil a need for facts to be transparently determined, independent of political interference? (Cameron, 2009)

The claim that a public body should continue to fulfil key functions of government rests on the institutional logic of delegation. This logic assumes that functions should be delegated to arm's length bodies because some require a certain degree of independence from government, or perform a specific technical function which may be carried out more efficiently and effectively at arm's length.

The tension between these institutional logics is apparent in three areas of policy debate. The first of these relates to the transfer of functions. The reform plans demonstrate that the Government is abolishing arm's length bodies and is moving functions closer in to Government – for example moving functions into departments, or transferring them to executive agencies which in theory sit closer to government. In all, nine functions have been transferred to executive agencies, and sixteen into departments.³ In moving functions under the more direct control of departments, the reform agenda appears to perpetuate the institutional logic of ministerial control. However, in reality the number of functions being brought 'back in' to government is relatively small, with the bulk of functions from abolished bodies being transferred to other arm's length bodies. 57% of the functions of abolished bodies being continued in

whole or in part by other such organisations⁴, and £43.2 billion of public expenditure remain at arm's length despite the purported aim of the reforms to bring functions back under government control (National Audit Office, 2012). Further, for functions which are brought back into departments when arm's length bodies are abolished, the designation of responsibility and accountability is complex. For example, where regulatory functions have been brought back into departments, our research suggests that it has sometimes required 'Chinese walls' to be created in order to ensure the separation of responsibility for advice and decision-making at official and ministerial level. This is particularly the case where functions carry specific regulatory or inspection powers, and therefore require a degree of critical distance from the department and from Ministers.

The second area of policy debate relates to the creation of new public bodies. The creation of new bodies is an embodiment of the institutional logic of delegation, and indeed the birth of new bodies has occurred since the Coalition Government came to power in 2010, albeit to a more limited extent. For example, the Social Mobility and Child Poverty Commission, the Independent Commission for Aid Impact and the National Employment Savings Trust are all NDPBs which have been created since the Coalition came to power. Looking further than those bodies formally classified as NDPBs reveals other types of arm's length bodies which have been created under the Coalition Government. For example, four new executive agencies have been created in the in the Department for Education⁵, as well as the Legal Aid Agency and the National Crime Agency. These new bodies have changed status from NDPB to executive agency without any changes to their functions, but it is argued that such executive agencies are closer in to ministers and thus more subject to control and accountability.

Such creations suggest the continuing relevance of arm's length bodies, and demonstrate that the institutional logic of delegation is apparent in the approach taken by the Coalition Government. However, this logic is clearly strongly contested by the logic of political control which is driving the abolition of NDPBs across Government, and is also embodied in a climate where proposals to create new arm's length bodies are seen as undesirable. Guidance issued by the Government on the creation of NDPBs suggests that they are to be considered as a last resort:

It is stated Government policy that new NDPBs will only be set up as a last resort, when consideration of all other delivery mechanisms have been exhausted, and that approval for setting up a new NDPB must be sought formally from Cabinet Office Ministers before any decision, or announcement, about any NDPB is made (Cabinet Office, 2012a, 4).

Such a strong aversion to creating NDPBs serves to reinforce the institutional logic of political control underpinning the abolition of NDPBs by attempting to ensure that the number of NDPBs does not mushroom in the future. This feeds into the final policy debate, which concerns the legacy of public bodies' reform. In both the desire to cast

NDPBs as the ‘last resort’ in the delivery of government functions, and the implementation of a programme of ‘triennial reviews’, it is apparent that a logic of political control is guiding the way in which the legacy of public bodies reform is being shaped.

Triennial reviews are reviews of public bodies which are undertaken by departments for each of their bodies every three years. These reviews are designed first to question whether there is still a justification for the body to continue to exist. If the answer is yes, then the second stage is a review of the corporate governance of the body, to ensure that it is being run effectively and efficiently (Cabinet Office, 2011a). The existential nature of the reviews reflects a desire to enhance the logic of ministerial control; however, to date these reviews have focused on small, non-contentious bodies and to date none have recommended the abolition of the body in question. Rather, in recommending their continued existence, these reviews can serve to embody the logic of delegation after the initial phase of public bodies’ reform.

This is evident more widely in the way in which the public bodies’ reform agenda is being increasingly recast away from abolition. The Cabinet Office Public Bodies Team has been relocated to the ‘Transformation Cluster’ under new Minister for Civil Society Nick Hurd MP, together with other work of the Cabinet Office which emphasises alternative business models for NDPBs, such as mutualisation, as ways of delivering cost reductions. While the extent to which these models will be taken up by NDPBs remains unclear, given to date that only one public body – British Waterways – has been mutualised (into the Canal and River Trust), the emphasis being placed on these alternative models once again demonstrates that abolishing and reforming NDPBs has not led to the demise of arm’s length governance in general.

The emphasis of this institutional logic dovetails with the civil service reform plan (HM Government, 2012) in driving forward efficiency through alternative models of service delivery. The public bodies reform agenda largely developed independently of the civil service reform agenda, and it does appear that the logic of political control underpinning the former clashes with the logic of delegation that is embodied in the latter. However, given the analysis presented here which has demonstrated the endurance of the delegation logic, the two may have far more in common than first appearances would suggest.

Constitutional contestation: Parliamentary authority or ministerial discretion?

Beyond this central clash of institutional logics, we discern two other zones of contestation. The first involves the constitutional tension between parliamentary authority and ministerial discretion. Since the 2010 general election the Coalition government have advanced their programme of public bodies’ reform and intend to have abolished 300 bodies by 2015. A number of these changes are contained in the Public Bodies Act 2011, which was introduced into the Lords in October 2010. The

passage of the Bill is of interest here as it exhibits key debates about the powers and duties of ministers in relation to the authority of Parliament, exposing underlying contestation between what can be termed a 'parliamentary' and a 'ministerial' institutional logic.

The Westminster model of government gives rise to these logics as it is founded upon the idea that the executive (and ministers therein) initiate policy and exercise powers either gained by prerogative or granted by statute in order to govern the State. Far from wielding these powers unfettered, ministers are held accountable by the Houses of Parliament who scrutinise, challenge and can amend or forestall legislation; allowing Parliament to exercise a degree of influence over the legislative process. As Blackburn and Kennon argue, the Westminster Model is founded upon a tension whereby 'If bills are not passed, new policies cannot be implemented. And, as bills require parliamentary approval, there is no way governments can avoid the parliamentary struggle' (2003, p.5). In this manner the British political system exhibits an inherent rivalry between the ministerial logic of policy formation and implementation, and the parliamentary logic of authorization and scrutiny which can place pressure on, amend and even derail ministerial policies.

Whilst at conflict these two logics are held in check by several mechanisms and conventions which ensure that deadlock cannot emerge between the two parties. For example, whilst Parliament formally holds the cabinet to account, as Lijphart reflects, 'In reality, the relationship is reversed. Because the cabinet is composed of leaders of a cohesive majority party in the House of Commons, it is normally backed by the majority in the House of Commons, and it can confidently count on staying in office and getting its legislative proposals approved' (2012, p.12). In addition more formal powers such as the Parliament Act 1911 (and later 1949) removed the Lords' power to reject money Bills and veto ordinary public Bills, replacing this with a power of delay for a maximum of two years following second reading in the Commons. Such provisions allow the executive to force through legislation in the face of parliamentary opposition, ensuring that ministers maintain a degree of control over legislation (Baldwin, 2005, p.11).

Recognising the tension between ministers' desire to initiate and embark on new programmes of reform, and Parliament's desire to protect constitutional principles and ensure measured change is of great value when seeking to understand the passage of the Public Bodies Bill as in this case three areas of conflict can be detected. First it is possible to discern conflict over the scope of this Bill. In Parliament Francis Maude presented an ambitious reform programme and clear statements of intent, asserting:

Today, the Government have taken decisive action to restore accountability and responsibility to public life. For too long, this country has tolerated Ministers who duck the difficult decisions they were elected to make. For too long, we have had too many people who were unaccountable, with a licence to meddle in people's lives...The landscape for public bodies needs radical reform to increase

transparency and accountability, to cut out duplication of activity and to discontinue activities that are simply no longer needed. My written statement this morning outlined the start of a process to curtail the quango state. (HC Deb, 14 October 2010, c505).

Yet despite this intent ministers experienced significant resistance from Parliament, with members of the Commons and Lords highlighting concerns with the constitutional and policy implications of the bill. In presenting the Public Bodies Bill the government outlined seven schedules which, if passed, would convey considerable delegated power to ministers. In addition to seeking approval for specific reforms such as abolishing, merging or modifying bodies' constitutional arrangements, ministers also included the, now infamous, schedule 7. This provision would have conveyed significant Henry VIII powers to government, allowing ministers to reform bodies in an unspecified manner at a future date. Accordingly it would become possible for ministers to abolish or dramatically reform bodies whose creation had been the subject of significant parliamentary debate without recourse to Parliament. These powers aligned with ministerial logic and the desire for sweeping reform, but they were in stark contravention of parliamentary logic as they bypassed parliamentary scrutiny – removing the check on government behaviour. In reaction to these proposals Baroness Royall, Shadow leader of the Lords branded the public bodies bill 'badly thought out, badly structured, badly executed, bad for the constitution, bad for public bodies and bad for government' (HL Deb, 9 Nov 2010, c. 68). Accordingly significant opposition was mobilised in the Lords, resulting in the removal of schedule 7, and the amendment of several government proposals (either by saving bodies by removing them from the Bill entirely – as in the case of the Youth Justice Board and Chief Coroner - or amending scheduling). This represented a significant challenge to ministerial authority, exhibiting Parliament's capacity to hold the executive to check.

The fundamental question of ministerial authority posed in debates on this Bill has continued to be aired since it gained Royal Assent. This is apparent in a second conflict concerning statutory instruments and parliamentary consideration of orders brought forward under the Public Bodies Act. In the passage of the Bill an amendment was passed which allowed for an enhanced scrutiny procedure to be triggered by the Committee charged with reporting on public bodies orders (the Merits Committee) or by the House itself. This provision allowed Parliament the opportunity to subject ministerial plans to greater scrutiny and call the minister responsible to justify plans in greater detail. However, the minister has no requirement to implement committee recommendations and can submit the order in its original form for approval by a resolution of each House of Parliament. The absence of a parliamentary veto over orders therefore significantly weakens the ability of the Lords to inhibit ministerial authority.⁶

As at 1st March 2013 19 draft orders (relating to 37 public bodies) have been laid before Parliament and all have been approved, having first been considered by the relevant

departmental select committee in the Commons and the House of Lords Secondary Legislation Scrutiny Committee (House of Lords, 2012, p.3). In large part the order making process has been uncontentious. Thus far the enhanced affirmative procedure has been triggered in three cases, with the Secondary Legislative Scrutiny Committee once calling in the minister to give oral evidence, and once making formal recommendations. These have focused on four issues: the quality of evidence justifying the proposed order, a failure to make the case for reform, the minister's decision not to put the proposal out for public consultation, and the monitoring and scrutiny of future arrangements. Whilst some evidence of good practice has been noted the Committee has concluded that 'In a few instances, the explanatory material provided with the draft order may have given rise to an impression that the Department concerned viewed the public bodies order process as a rubber stamping mechanism; and we have sought to challenge such assumptions' (House of Lords, 2012, p.12). Such outcomes suggest ongoing tensions over parliamentary and ministerial logics.

The third conflict concerns the pre-emption of Parliament. In the aftermath of the Bill members of the Lords have turned their attention to consider whether ministers have exceeded their authority in relation to – amongst other things – public bodies reform by beginning to reform bodies prior to legislative scrutiny and approval. The House of Lords Committee on the Constitution has initiated an enquiry into the 'pre-emption of Parliament' in order to establish whether there are guidelines on the extent to which ministers can initiate change in advance of legislation. Although their report is not yet published, the evidence sessions reveal ambiguity as to the extent to which ministers can act in advance of parliamentary approval. Whilst certain ministerial conventions such as the 1932 concordat and the Ram Doctrine guide behaviour, it is by no means transparent when pre-emptive organisational change is constitutionally appropriate.⁷ Accordingly the tension between Parliament and the executive remains in evidence.

Departmental contestation: Centralising control or sustaining departmentalism?

A final dimension of contestation between institutional logics in relation to the Coalition government's public bodies' reform programme is between the competing logics of centralisation and departmentalism. On the one hand, control over the public bodies landscape is seen to be exerted by the 'centre' – that is, the Cabinet Office and the Treasury; a dynamic which we will term the institutional logic of centralisation. On the other hand, departments continue to exert control over the arm's length bodies within their jurisdiction, a theme we term the institutional logic of departmentalism. Once again, our analysis highlights three areas of debate with regards to these logics.

The first area of contention relates to the underlying impetus for the reform and abolition of public bodies since 2010. The implementation of the Public Bodies Reform Programme has been led through a dedicated team at the Cabinet Office, under the leadership of Minister for the Cabinet Office, Francis Maude. As we noted earlier, Maude shaped this programme of reform according to goals of increasing the

accountability, efficiency and effectiveness of the public bodies landscape. The leadership of Maude and the Cabinet Office team has been central to realising the abolition and reform of bodies. The team has ensured the full implementation of the reform programme within departments, working with departments through a Public Bodies Working Group and Strategy Board, and monitoring the extent of abolition and reform through the regular reporting of statistics related to the implementation of the programme. It is clear that, from the perspective of the centre, the abolition and reform of public bodies has been conceived of, steered and monitored by the Cabinet Office, and this points towards a logic of centralisation.

However, from our extensive research in departments, it has become increasingly apparent that the public bodies' reform programme was not the only agenda driving these changes. Specifically, due to government's commitments to a programme of deficit reduction, departments have faced challenging budgets which have changed the ways in which they manage key functions. For example, following the 2010 spending review DCMS faced a departmental budget cut of 30%. While, of course, the decision to cut this budget stemmed from the Treasury, it was up to the department itself to decide in which areas resources should be cut. In DCMS, along with a number of other departments, the need to make substantial savings has driven the reform of public bodies and changes to the ways in which those that remain are governed. Therefore, while the key headline of a Cabinet Office-driven 'bonfire of the quangos' suggests a logic of centralisation underpinning the approach to public bodies reform taken by the Government, the extent to which departmental decision-making over public bodies reform rests on the need to reduce resources due to budget cuts suggests a less overt but nonetheless competing logic of departmentalism.

The second line of debate concerns the 'spending controls framework' which has been implemented by the Cabinet Office and the Treasury. This framework was quickly introduced when the Coalition Government came to power as part of a desire to improve the control of spending across central government, and has a significant impact on the actions of public bodies, covering spending on advertising, consultancy, IT, procurement and the hiring of new staff (Cabinet Office 2012b; Institute for Government 2012). Some are set by the Treasury, and others are set by the Departmental Engagement section of the Cabinet Office. In addition, the Cabinet Office and the Treasury have increased the amount of data that public bodies must regularly provide, including the publication of all salaries over £150,000, and all spending over £25,000.

These controls have significant influence over the day to day autonomy of public bodies, and indeed some have expressed concern that they inhibit the effective working of public bodies, particularly where they are involved in significant commercial activities (Institute for Government, 2012). Yet the Government has made clear that the controls framework is a permanent addition to the public bodies' governance architecture, and

this represents a strong commitment to the institutional logic of centralisation, whereby the Cabinet Office and Treasury exert significant control over public bodies.

Yet still, within this controls framework, there is also a significant part for departments to play. For lower level spending, it is at the discretion of the department to impose controls on spending as it sees fit – once again reflecting the apparent dependence of changes to the governance of public bodies on departmental resources, rather than on the public bodies reform agenda per se. Departmental discretion in setting financial controls demonstrates further complexities in the notion that the institutional logic of centralisation is driving the controls framework, and highlights an institutional logic of departmentalism in the delegation of core tasks related to this framework to the departmental level. Further, the intersection of Cabinet Office, Treasury and departmental controls has led to some challenges for public bodies in understanding lines of accountability and to whom they should turn for a particular application for spending; in itself, this demonstrates both the co-existence and the contestation between centralisation and departmentalism in the implementation of the spending controls framework.

Finally, a third line of dispute is apparent in the sponsorship of arm's length bodies, meaning the day to day management of the relationship between a department and its arm's length bodies. Here, the logic of centralisation is apparent in the steps taken by the Cabinet Office to develop centrally-led principles of good sponsorship against an historic record of poor sponsorship performance (see Flinders, 2008 for details). These principles were intended to be informed by Cabinet Office classifications, meaning that different classes of public bodies would each receive the same form of sponsorship relationship. Further, the Cabinet Office is also in the process of developing a 'civil service learning pathway' for sponsorship skills, intended to drive the professionalization and standard of sponsorship across Government. An additional dynamic of the centralisation logic in this area concerns the implementation of the aforementioned triennial reviews, which are led by the Cabinet Office and demonstrate the centre taking an active interest in the governance of arm's length bodies.

However these dynamics can be contrasted against a conflicting logic of departmentalism. While corporate principles of good sponsorship were sought, it quickly became apparent that the departments themselves took the view that sponsorship should be enacted in different ways for different bodies, according to different needs. There has also been an emphasis by departments on learning from 'best practice', rather than 'developing a common, centrally-imposed skills set.

CHALLENGES IN THE ANALYSIS OF GOVERNMENTAL REFORM

The application of an institutional logics analysis casts light on the major cleavages in the Coalition government's public bodies' reform process. It reveals that within the overall tension between the centrifugal force for autonomy and the centripetal force for

control lie two other zones of contestation – at constitutional and intra-governmental levels. An understanding of the overall reform process thus involves an analysis of the specific politics of each of these zones. Our analysis shows that the intention to reform an aspect of government thus stimulates pre-existing tensions between institutional logics. Although rival institutional logics can be sustained over long periods of time through the creation of mechanisms of adjustment and accommodation, proposals for reform constitute a point where these mechanisms come under pressure and may ultimately falter or fail (Reay and Hinings 2009). The politics of reform, therefore, must be understood as an epiphenomenon in relation to these deeper contestations.

The institutional logics approach also helps explain the somewhat contradictory outcome of the legislative process, namely that the Bill to abolish a large number of quangos was significantly reduced in scope despite widespread public and political antipathy to these bodies. As our interviews and the Hansard debates illustrate, what particularly exercised the Lords was the disruptive effect of the Bill's provisions on the prevailing accommodation between parliamentary and ministerial logics. It would have significantly shifted the weight towards the latter, and set a precedent for the future. Some Lords, of course, were opposed to the abolition of particular bodies whose work they valued, but in the main they emphasised the implications for the constitutional settlement. Thus reform proposals need to be understood not just in their own terms, but as an expression of agency affecting institutional logics in the wider governmental and political system. This presents a somewhat different approach to that taken by other widely used theoretical approaches to understanding governmental reform, for example those that emphasise policy windows and policy entrepreneurs, isomorphism in the search for legitimacy, or the advocacy coalition framework which stresses value congruence. These approaches underplay the wider institutional tensions within the governmental system and the way in which reform dislodges temporary settlements that may have been reached.

There are a number of more detailed theoretical and empirical questions that arise from applying the institutional logics approach to questions of politics and government. A fundamental challenge is to extend our analysis into the debate about depoliticisation. This is a high level institutional logic that appears to operate over longer timescales than those with which we are concerned. In addition, we need to know more about how institutional logics as a form of cultural capital can be deployed to prevent or facilitate governmental reform, thus opening up the politics of isomorphism to greater critical scrutiny by considering agencies' strategies of resistance, adaptation and compliance. For example, a separate stream of work within this study has identified complex but strategically advantageous responses by some public bodies to the threat of reform. These include public bodies emphasising the importance of continuing the function undertaken by the organisation but not seeking to save the organisation itself. In some cases this has secured a moderation of the proposed reform.

We also need to understand the way in which the promotion of and resistance to competing institutional logics take place in the discursive realm, and the place of discursive strategies in gaining advantage in the contest between logics. Detailed analysis of utterances by actors in the reform of one public body is beginning to illuminate the way in which their timing, placement, and potential for amplification impact on the dominance of an institutional logic. Finally, it is important to explore the role of social classification and bureaucratic categorization as a mechanism by which institutional logics shape individual and group cognition. Changes in institutional logics can lead to the creation of new strategies and/or changes to the rules surrounding existing categories. For example, the overtly technical process employed by the Office of National Statistics recently to reclassify further education and sixth form colleges from the government sector and into the non-profit sector has a wider consequence in terms of changing the social understanding of these types of organisation. This technical process, therefore, conceals a significant resource in a wider political contestation between public, third sector and market logics.

We have not had the space within this paper to explore the wider agenda of arm's-length body reform in England, especially its manifestations at sub-national level. This includes the Department of Health's complete restructuring of the NHS system, removing one set of sub-national arm's length bodies (primary care trusts) and replacing them with another (clinical commissioning groups) as well as introducing health and well-being boards to formalise the relationship between the NHS and local government in relation to a range of interconnected responsibilities. A number of other changes were also taking place which had the indirect effect of increasing the population of arm's length bodies, for example with the promotion of academy and free schools as free-standing entities, although their private sponsorship and public financing places them in a somewhat unique position as a type of organisation. These would benefit from the application of an institutional logics perspective to reveal their connection to deeper tensions in the governmental system. Finally, this paper has focused on England. Reform of quangos in Scotland, Wales and Northern Ireland pre-dates the reforms introduced by the Coalition government, and has not generally raised the same issues. There is clearly the potential to develop this comparative aspect of the study of arm's length body reform.

Notes

The authors acknowledge the financial support of ESRC research award ES/J010553/1 'Shrinking the State: Analysing the Reform of Arm's-Length Bodies'. The views expressed are their own and do not necessarily reflect those of respondents.

1. Devolution to Northern Ireland, Scotland and Wales during the 2000s meant that these devolved administrations were responsible for public bodies operating solely within their jurisdiction. The UK government remained responsible for public bodies

operating either only in England (as there is no devolved administration this remaining part of the UK) or in England plus one or more of the other parts of the UK.

2. Some types of public body contain multiple individual organisations each operating over a distinct geographical area – e.g. 8 x regional development agencies.
3. Analysis of data contained in Cabinet Office (2011b). Small numerical differences are due to bodies still under consideration and interpretation of proposals.
4. As note 3.
5. The Standards and Testing Agency replaced the Qualifications and Curriculum Development Agency; the Teaching Agency replaced the Training and Development Agency for Schools; the National College for School Leadership replaced the National College for Leadership of Schools and Children’s Services; and the Education Funding Agency replaced both the Young People’s Learning Agency and the Partnership for Schools.
6. Orders to abolish or reform a small number of other public bodies are laid under departmental legislation that pre-dates the Public Bodies Act, and are not subject to the enhanced affirmative procedure.
7. House of Lords Committee on the Constitution, ‘The Pre-emption of Parliament: Oral and Written Evidence’, <http://www.parliament.uk/documents/lords-committees/constitution/preemption/PPEvidence.pdf>, accessed 1st March 2013.

References

- Bertelli, A. M. (2012) *The Political Economy of Public Sector Governance*, Cambridge: Cambridge University Press.
- Birrell, D. (2008) ‘Devolution and quangos in the United Kingdom: the implementation of principles and policies for rationalisation and democratisation’, *Policy Studies*, 29:1, 35-49.
- Cabinet Office (2011a) *Guidance on Reviews of Non-Departmental Public Bodies* [online]. http://www.civilservice.gov.uk/wp-content/uploads/2011/09/triennial-reviews-guidance-2011_tcm6-38900.pdf (accessed 11/3/13).
- Cabinet Office (2011b) *Public Bodies Reform: Proposals for Change* [online]. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/62125/Public_Bodies_Reform_proposals_for_change.pdf (accessed 11/3/13).
- Cabinet Office (2012a) *The Approval Process for the Creation of Non Departmental Public Bodies* [online] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/80074/Approval_process_for_the_creation_of_NDPBs_Dec12_0.pdf (accessed 4/3/13).
- Cabinet Office (2012b) *Cabinet Office Controls, Guidance version 3.1*, <http://www.cabinetoffice.gov.uk/resource-library/cabinet-office-controls-guidance> , accessed 1 March 2013

- Cabinet Office (2012c) *Categories of Public Bodies: A Guide for Departments*, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/80075/Categories_of_public_bodies_Dec12.pdf , accessed 1 March 2013
- Cabinet Office (2012d) *Public Bodies 2012* [online].
<http://resources.civilservice.gov.uk/wp-content/uploads/2011/09/PB12.pdf>
(accessed 11/3/13).
- Cameron, D. (2009) *People Power: Reforming Quangos: Speech, 6th July 2009* [online].
http://www.conservatives.com/News/Speeches/2009/07/David_Cameron_People_Power_-_Reforming_Quangos.aspx (accessed 11/3/13).
- Elgie, R. (2006) 'Why Do Governments Delegate Authority to Quasi-Autonomous Agencies? The Case of Independent Administrative Authorities in France' *Governance* 19 (2): 207-227.
- Epstein, D. and S. O'Halloran (1999) *Delegating Powers: a transaction cost politics approach to policy making under separate powers*, Cambridge: Cambridge University Press.
- Flinders, M. (2010) *Democratic Drift*, Oxford: Oxford University Press.
- Flinders, M. (1999) 'Why do governments love them?' in M. Flinders and M. Smith (eds.) *Quangos, Accountability and Reform*, Basingstoke: Macmillan, 26-39.
- Flinders, M. (2008), *Delegated Governance and the British State: Walking Without Order*, Oxford: Oxford University Press.
- Friedland, R. and R. Alford (1991) 'Bringing society back in: Symbols, practices and institutional contradictions' in Powell, W. W. and P. J. DiMaggio *The new Institutionalism in Organizational Analysis*, Chicago: University of Chicago Press, 232-263.
- Gash, T., Magee, I., Rutter, G., and Smith, N. (2010) *Read Before Burning: Arm's Length Government for a New Administration*, London: Institute for Government.
- Greenwood, R., A. M. Díaz, S. X. Li and J. C. Lorente (2011) 'The multiplicity of institutional logics and the heterogeneity of organizational responses', *Organization Science* 21(2): 521-539.
- HM Government (2012) *The Civil Service Reform Plan* [online].
<http://www.civilservice.gov.uk/wp-content/uploads/2012/06/Civil-Service-Reform-Plan-acc-final.pdf> (accessed 11/3/13).
- HM Treasury (2010) *Reforming Arm's Length Bodies*, London: TSO.
- Hooghe, L, and G. M. Marks (2003) 'Unravelling the Central State. But How?', *American Political Science Review* 97(2), 233-43.
- House of Lords (2012) *Secondary Legislation Scrutiny Committee 19th Report of Session 2012-13 Special Report - Public Bodies Act 2011: one year*, HL Paper 90.
- Huber, J. D. and C. R. Shipan (2002) *Deliberate discretion: the institutional foundations of bureaucratic autonomy*, Cambridge: Cambridge University Press.
- Jonsen, A. (1986) 'Bentham in a Box', *Law, Medicine and Healthcare*, 14(3-4), 172-174.
- Lijphart, A. (2012) *Patterns of Democracy. Government forms and performance in thirty-six countries*, 2nd edition, New Haven: Yale University Press.

- Meyer, R. E. and G. Hammerschmid (2006) 'Changing Institutional Logics and Executive Identity: A managerial challenge to public administration in Austria', *American Behavioral Scientist*, 49(7), 1000-14.
- Mullins, D. (2006) 'Competing institutional logics? Local accountability and scale and efficiency in an expanding non-profit housing sector' *Public Policy and Administration* 21 (3): 6-24.
- NAO (National Audit Office) (2012) *Reorganising Central Government Bodies*. Report by the Comptroller and Auditor General. Session 2010–2012. HC 1703. TSO, London.
- Pliatsky, L. (1980) *Report of Non-Departmental Bodies*, Cmnd. 7797, London: HMSO.
- Reay, T. and C. R. Hinings (2009) 'Managing the Rivalry of Competing Institutional Logics', *Organization Studies* 30 (6): 629–652.
- Roberts, A. 2010. *The Logic of Discipline*, Oxford: Oxford University Press.
- Saz-Carranza, A. and F. Longo (2012) 'Managing competing institutional logics in public-private joint ventures', *Public Management Review* 14 (3): 331-357.
- Skelcher, C. (1998) *The Appointed State: Quasi-governmental Organizations and Democracy*, Open University Press, Buckingham.
- Talbot, C. and C. Pollitt, (eds.) (2004) *Unbundled government: A critical analysis of the global trend to agencies, quasi-autonomous bodies, and contractualisation*. London: Routledge.
- Thatcher, M. and Stone Sweet, A. (2002) 'Theory and practice of delegation to non-majoritarian institutions', *West European Politics*, 25: 1, 1–22.
- Thornton, P. H. and W. Ocasio (2008) 'Institutional Logics', in Greenwood, R., C. Oliver, K. Sahlin and R. Suddaby (eds.) *Handbook of Organizational Institutionalism*, CA: Sage.
- Verhoest, K., S. van Thiel, G. Bouckaert and P. Lægreid (2011) *Government Agencies: Practices and Lessons from 30 Countries*, Basingstoke: Palgrave
- Verhoest, K., P. G. Roness, B. Verschuere, K. Rubecksen and M. MacCarthaigh, (2010) *Autonomy and Control of State Agencies: Comparing States and Agencies*, Basingstoke: Palgrave.