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Governing and Governance: A Social Housing Case Study

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Abstract

This research project concerns the role of members of governing boards of formerly public assets, where these assets are transferred to a private or quasi-public organisation. Members of these governing boards, although drawn from particular constituencies, are meant to be neutral and experts. We use a case study approach and a qualitative methodology. The case study concerns the governing board of a housing association, which was set up to take on the management of properties formerly managed by a local authority (referred to as a 'large-scale voluntary transfer'). The research notes tensions in the notion of neutrality and explores what counts as 'expertise'.

Keywords : governance; neutral; expertise; housing; representatives; transfer

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CONTENTS

1	INTRODUCTION	3
2	POLICY BACKGROUND	6
	Significant implications of LSVT.....	7
	Benefits of Transfer	8
	Problems of transfer	9
	Comparability	12
	New forms of governance	13
	Conclusion	14
3	METHODOLOGY	15
4	CASE STUDY: BACKGROUND ISSUES	20
	Getting Involved	20
	Interest in housing	20
	'Reaction'	21
	General Interest.....	22
	'That stage in life'	22
	Personal experience (general).....	23
	Type of Organisation	23
	Counterposing Wandland.....	24
	What is Wandland?	27
5	APPOINTING THE BOARD.....	29
	The Wandland Approach.....	30
	Councillors	31
	Independents	33
	Tenants.....	34
6	THE CONSTITUENCY MODEL.....	36
	Derivation	36
	Purpose	39
	Tenants: Consumers and Stakeholders.....	39
	Councillors: Accountability, Strategy, Ethos	42
	Independents: Reassurance, Skills and Expertise.....	44
	Critiques of the Constituency Model.....	46
	Tenant board members and tenant participation	46
	Recruitment and Retention	46
	Quality Issues	47
	Balance.....	49
	Working Relationships	49
	Embedding the constituency model: The case of Wandland.....	50
	Conclusions.....	50

7 THE 'NEUTRAL ALLEGIANCE MODEL'	52
Introduction	52
Derivation	52
Tensions in the neutral allegiance model	54
Wandland HA: Pragmatism, contradiction and conflict.....	58
An Accommodation: Board Members as Strategists.....	60
Contradiction and Conflict: Specific Issues	60
Conclusion	66
8 THE CONSTRUCTION OF EXPERTISE.....	67
Introduction	67
Meanings and uses of 'expertise'	68
Why have 'experts' on the board?.....	69
Expertise within the 'constituency' groups	71
Independents	71
Councillors	73
Tenants.....	75
Financial in-/expertise	77
Private finance and funders	79
The role of consultants	81
Deferring to expertise	81
Second class board members?	82
Conclusion	83
APPENDIX A: Case Study report provided to the Board, Wandland HA	85
The Role of Board Members in the Governance of an LSVT RSL	85
Introduction	85
This document is a summary of our findings. For ease of reference, each section begins by highlighting the key points made in that section.....	85
External constraints on decision-making	85
(a) Regulators	86
(b) The Council and offer document	86
Expertise	86
(a) Meaning of expertise	87
(b) Financial expertise	87
(c) Areas of future difficulty	88
Representativeness.....	88
(a) The problem	88
(b) Examples of the contradictions.....	89
(c) Councillors and the non-representative model	89
Other issues	90
APPENDIX B: Interview Questionnaire for use with Key Actors	91
APPENDIX C: Interview Questionnaire for use with Wandland HA	92
BIBLIOGRAPHY	93

1 INTRODUCTION

This research project concerns the role of members of governing boards of formerly public assets, where these assets are transferred to a private or quasi-public organisation. We ask two fundamental, broad questions about these governing bodies.

- The first concerns the balance between the role and responsibilities of board members. Governing bodies adopt corporate governance models which, interpreted strictly, require allegiance to the organisation itself, rather than to other interest groups. In this research, we refer to this as '*the neutral allegiance model*' of governance. Where the governing body includes consumers of the service provided by the organisation, who have an individual and community 'stake' in that organisation, and/or elected representatives, how is such a neutral role managed. In this research, we refer to this as '*the constituency model*' of governance. Put simply, do these people regard themselves as consumers, representatives or strategists (or some combination of each)?
- The second question concerns the relationship between the knowledge brought to the governing table by board members. In particular, we looked at the relationship between knowledge and expertise, which we call '*the construction of expertise*', and how the construction of expertise affects the interactions amongst board members.

In order to answer these questions, we use a case study approach and a qualitative methodology. Our case study concerns the governing board of a housing association (or, more properly, Registered Social Landlord, referred to in this paper as 'RSL'), which was set up to take on the management of properties formerly managed by the public sector, by a local authority. This take-over process is usually referred to in the literature as a 'large-scale voluntary transfer' (or LSVT).

RSL boards of governors in LSVTs are generally made up from three different constituencies. One third of the board are occupiers; one third are councillors from the local authority; and one third are independents. This is the constituency model. These people are said to be responsible and accountable to the RSL and not to other organisations, persons or interests. They are not representatives other than of the RSL itself. This is the neutral allegiance model. This concept of neutral allegiance appears to have been first codified in the National Federation of Housing Associations' (NFHA) Code of Governance (NFHA, 1995a) which came out of an inquiry set up in 1995 by the NFHA (the trade body of housing associations, now the National Housing

Federation, NHF) under the chairmanship of Sir David Hancock (NFHA, 1995b). Paragraph 3.2 of the Code notes that

All Board members share responsibility for its decision. Each should act only in the interests of the association and not on behalf of any constituency or interest group.

Our work tests the practicability and desirability of this proposition in this specific context. Although the issues raised by the constituency and neutral allegiance models clearly interrelate, they are conceptually separate and are dealt with separately in this report.

Secondly, occupiers might be expected to bring their knowledge as occupiers to the board, but there is uncertainty as to what other knowledge they might bring. Councillors clearly bring knowledge of council business as well as political allegiances and, maybe, ideologies. Independents are generally recruited to provide particular skills such as business knowledge, legal and financial expertise. This diversity raises questions not only about their ability to divorce themselves from their extra-board lives, but also about the range of expertises at the Board's disposal as well as how the construction of expertise might impact on the interactions between Board members at meetings. Our work considers these issues.

These questions are considered in this paper both at a general level through analysis of interviews with key national actors and policy literature, as well as through a combination of qualitative research techniques working with an LSVT RSL which we refer to throughout this paper as 'Wandland Housing Association' and Wandland Council.

Our work has been qualitative, given the framing of our research questions in this way. It is necessarily small-scale, partly because of the limits of time and money on the research team, but partly also because this approach was best suited to considering these research questions. Our case study has provided a rich dataset, which we have analysed extensively. We do not claim that our work is representative of the RSL sector as a whole – nor could we given its limited nature. However, it is likely that our investigation will contain many points of reference – both by comparison and contrast – with other similar organisations within and outside the housing sector. Whilst LSVT is unique to housing, and contains sector-specific issues, there may well be more general lessons to be learnt.

In the next chapter, we consider certain background issues of policy, setting out the importance of LSVT within current housing policy. In the following chapter, we outline our methodology, detailing our case study and setting the scene. In chapter 4, we look at background issues discussed with the key actors and raised during our qualitative research with Wandland . In particular, we ask how the board members themselves viewed the organisation. In chapter 5, we discuss how the board members were appointed, as this raises issues pertinent to the discussion of our research questions. In chapter 6, we discuss the constituency model and we follow that in chapter 7 with a discussion of the neutral allegiance model. In chapter 8, we consider how the

expertise of board members was constructed, and how expertise was utilised in the power relations within the board, and with the association's executive. In all chapters, we draw on our interviews with key actors and our work with Wandland.

We wish to state at the outset that we were extremely grateful to all members of Wandland HA, at board and officer level, who granted us access to all parts of their organisation. They did so without question and engaged with us about our research questions. Indeed, from the researchers' perspective, they were a model organisation with which to work. We have provided them with a shorter report of our research findings, which is attached as Appendix A.

2

POLICY BACKGROUND

The first LSVT of a local authority's housing stock occurred in or around 1988 by a transfer from Chiltern DC to Chiltern Hundreds HA. This was quite a remarkable event for two reasons. First, it occurred beyond the state, so to speak. It was a process set in train by housing managers, and not by local government councillors nor by central government. The problem of the time was the increasing control exercised over local housing authorities by central government, particularly in terms of financial controls. Local authorities were forced to cut their new developments and programmes of repair and rehabilitation as financial and accounting controls inhibited them. Furthermore, the rhetoric was that these controls were the thin end of the wedge – central government was intent on further controlling the sector.

It should be said at the outset that an LSVT involves a significant shift in the web of available accountability mechanisms. Local authorities are publicly accountable organisations, and, where things go wrong, that accountability can ensue through a variety of different locations (through the ballot box, or the web of regulatory bodies designed to call such public sector organisations to account). RSLs operate in a netherworld, between the public and the private. They are neither one nor the other. The web of regulatory bodies to which they are responsible are different from local authorities. RSLs are primarily accountable to the Housing Corporation, a state-run quango, which is responsible, perhaps uniquely, both for the regulation of RSLs as well as their part-funding. However, the Audit Commission, which has a statutory responsibility to set performance indicators for and audit local authorities, now has the role of inspecting RSLs with more than 500 homes. Inspection 'focuses on service delivery outcomes as experienced by tenants, leaseholders and other service users' (Ashby, 2005: 10). RSLs may also be subject to regulation by the Financial Services Authority and/or the Charity Commission, depending on their legal status..

Whilst the Housing Corporation and the Audit Commission have a responsibility to consider the views of tenants, leaseholders and other service users, direct accountability to the occupiers is not part of the web of accountability, in the way that council tenants could call their local councillor to account. Like local authorities ,RSLs have duties to engage occupiers in consultation and many go beyond this to include occupiers in decision-making. Local authorities are required by guidance to have in place 'Tenant Participation Compacts' and the Housing Corporation requires RSLs to have similar policies in place.

The popularity of LSVT has continued unabated – indeed, one might say that, of all innovations in housing, it has proved to be the most popular, durable, and most significant in terms of transformation of the 'social housing' sector.

By the end of 2004, about 780,000 properties had been transferred to an RSL under an LSVT, costing around £5.5 billion.

Certainly, LSVT was embraced by a privatising Conservative government. Nevertheless, what has been most surprising has been the way the New Labour government has developed and extended the programme beyond its original 'drip-fed' base. Such has been its impact that, under the decent homes strategy (under which councils are required to consider their 'housing options' – that is, how to finance the required scale of repairs and improvements to their housing stock to bring that stock up to the required standard), councils are effectively given a push towards LSVT. In order to obtain investment to meet the 2010 target, authorities have only three options from which they may choose: stock transfer, usually under the LSVT programme; the private finance initiative; and, for 'high performing authorities' only, Arms Length Management Organisations (ALMOs) (ODPM, 2004a: 16). There is no 'fourth option' of allowing local authorities to tackle the problems themselves, as Deputy Prime Minister John Prescott made clear in a letter to all local authorities on 29th October 2004.

Significant implications of LSVT

The principal reason for promoting the programme of LSVT has been financial. In the mid-1980s the RSL sector had succeeded in persuading the Treasury that RSLs could be regarded as private, risk-bearing bodies, not organisations that were part of the public sector. This changed status meant that any *private* loans that associations were able to negotiate to fund the development of social housing would not be counted as public spending. In other words, *extra* funding had been 'levered in' to social housing in a mix of public grants and private loans. When a local authority transferred its housing stock to an RSL, the local authority usually received a capital receipt for the stock (depending on value, stock condition and other factors). In addition, this change in status from public to private, which could be seen as simply an accounting sleight of hand, enabled the RSL to implement a programme of repairs and improvements without affecting the public sector borrowing requirement. Both the purchase and the repair programme would be funded by loan, to be repaid out of rents received.

The second significant impact of LSVT has been in the governing arrangements. The effect of the LSVT was to place the housing stock outside the direct control of both central and local government. The RSL created for the purpose, in theory, was an organisation which was self-governing within the regulatory confines of the Housing Corporation and its regulatory embrace. Within this new structure, it was the board of the RSL that was ultimately responsible and accountable for the actions of the organisation. From a governance point of view, the change from public to private has been highly significant since now, from the outset, the new RSL carries a large loan debt. The board must meet the regulatory requirements whilst at the same time ensuring that the organisation is able to repay its loans. Indeed, the requirement to meet loan conditions is enshrined into the Housing

Corporation's Regulatory Code (see Chapter 8). The RSL business plan becomes the key document for the board, as well as for its funders.

The third significant impact of transfer is in the contractual arrangements between the occupiers of the social housing and the new RSL. Local authority occupiers take under agreements which give them 'secure tenancies'. This means, in practice, that they have certain rights against the local authority (including, for example, tenant participation, right to repair, the right to consultation); and they have security of tenure so that the local authority may only evict them if they have proved a particular ground (for example, rent arrears of a certain duration) and it is reasonable to do so. RSLs, on the other hand, generally give 'assured tenancies', similar to private landlords. RSL occupiers take with no similar rights under the contract, although the Housing Corporation expects occupiers to be given those rights (thus, potentially creating a legitimate expectation); and RSL occupiers can be evicted also on certain mandatory grounds including rent arrears (that is, there is no need to prove that eviction is reasonable, it generally follows automatically if there are rent arrears outstanding at the date of the hearing).

Benefits of Transfer

The innovation of LSVT was that, in theory, it offered benefits to staff managing the housing, occupiers of the housing, the local authority and central government.

For housing officers, it offered the opportunity to escape a depressed sector and engage in the same job, but in a more optimistic climate. They were generally guaranteed the same job with the new organisation. As one author has suggested:

Transfer brings the prospect of working for a growing, rather than a declining, organisation; of greater autonomy in being able to plan over the medium term, rather than on a strictly annual cycle; of less interference by elected politicians; and of improved working conditions, with higher status and enhanced career progression, as well as better salaries and fringe benefits. In general officers may see greater opportunities in the more entrepreneurial and innovative atmosphere of a new organisation than in the bureaucratic, scrutinised approach of the local authority. (Kleinman, 1993: 169)

A further benefit of an LSVT was that it enabled the officers to escape the financial strictures imposed by central government. The LSVT, as a self-governing organisation could put in place its own programme of development and repairs/improvements.

For the occupiers, the principal benefits were said to be, first, that a transfer to an RSL was, perhaps paradoxically, the least change option. With central government controls over local housing stock becoming more significant over time, and uncertain prospects for the sector as a whole, transfer offered the opportunity of stability albeit with a new landlord. Even though the landlord was new, generally all the housing officers would transfer to the new RSL.

Governance arrangements, although different, would not directly impact on most occupiers. Indeed, the direct impact of transfer on occupiers was the prospect that the backlog of repairs and improvements to the housing stock would be speeded up, with a programme put in place.

Occupiers also had the opportunity for direct democracy – part of the transfer process requires a positive vote in favour of a transfer by a majority of tenants. Only then will a transfer be approved by the ODPM. As part of the ‘offer’ made to occupiers, they are usually given a guarantee that their rent will not increase above a certain percentage point every year for five years. Such a guarantee generally does not apply to persons who take occupation of property after the transfer, and their rents are generally more expensive.

The benefit for the local authority was that it made a capital receipt which could be used to pay off historic debts and for other purposes (subject, after a while, to a financial levy imposed by the Treasury). LSVT, then, became an increasingly popular vehicle for local authorities (of whatever political hue) which can be seen both as benefiting the housing stock as well as the local authority.

For central government, the input of private finance meant that commitments to improve existing social housing and meet future housing needs could be met with a much reduced impact on public spending.

Problems of transfer

The downsides of LSVT appear somewhere in the future. Five particular issues present themselves – first, financial risk; second, instability amongst officers; third, the role of the Housing Corporation; fourth, there is political risk; and fifth, changes in the nature of the occupation agreement after the transfer.

First, it introduces financial risk. This is a different form of financial risk from that which previously pertained. If interest payments to lenders are not maintained then (in theory) the lender can take possession of the property and sell it ‘over the heads’ of the occupiers. Private finance has been a significant feature of the RSL sector since the mid-1980s and the sector now regulates itself largely for the benefits of the private lending constituency (Mullins, 1997). For example, the practice of producing accounts has altered to make RSL accounts similar to those produced by PLCs, which are more readily understandable to lenders. However, the sector operates against the backdrop of considerable comfort for lenders. The supervisory role of the Housing Corporation means that RSLs are not allowed to get into a position where they need to default on loans. If an RSL gets into difficulties, the Corporation will put their own nominees onto the board, and can even force a merger or takeover. Therefore, although lenders will conduct their own tests of the strength of the organisation, they see the sector as very low risk , which may result in a better deal between RSL and lender.

Although loan agreements have tended to be quite traditional – indeed similar to that taken out by the average owner-occupier – they have been the subject

of innovation. Such innovation is likely to have an effect on the willingness of the lender to loan money as well as the interest rate. Where only one lender is willing to lend money against the assets, that is likely to lead to ‘uncompetitive pricing of the loan. It should be noted that the RSL negotiates with the lender, but the negotiation takes place against the backdrop of the local authority’s capital demand for its stock. As the CML representative put it,

ultimately I mean the big deal breaker early on is the amount of money they want to raise vis a vis the value of the asset. And there's often a tension there between the local authority's ambition for a receipt and the putative RSL's debt servicing capacity. And I mean in previous epochs that's been if you like a tension in which the lender in a sense has played a role in sort of giving outline view about what they think they're prepared to fund. So you know an authority that was seeking a very substantial receipt would run up against the tension of the lender saying well it isn't worth that. (CML)

However, the lender also closely scrutinises the management and governance arrangements of the new board. In particular, the question is the extent to which it can meet its financial commitments from its income.

As we have said, the financial risk of repossession and sale by the lender is, however, slight. However, there are other options open to lenders in cases where associations may have difficulties meeting their borrowing commitments. For example, as the CML representative suggested, some lenders take the view that the agreement between the RSL and occupiers regarding rent increases is breakable, although practice is different on this point:

I mean crucially for example, and an LSVT is a very good example, one lender, maybe more than one lender, has taken the view that the 5 year contract with the tenants is breakable. In other words, if there is cashflow problems you simply break it. Now what they've done in a sense is they've narrowed their assumptions and therefore they've increased in their lending to reflect that. Now that's a sort of philosophical, it's a commercial decision as well. But obviously other lenders have taken the view 'no, that contract is sacrosanct', and therefore we have to build in the margins to allow that to happen.

A further, different, aspect of financial risk lies in the rent guarantee at the end of the 5 year period. The assumption is that, at this stage, the rents will have to rise, sometimes considerably, to meet the historic backlog of repairs and improvements as well as to service the debt to the lender. The assumption is that, as a significant proportion of the occupiers are in receipt of housing benefit, the welfare state will effectively fund most of the occupiers' rent increases. Such an assumption involves a clear political risk.

The second problem of transfer concerns the housing officers themselves. Although most officers tend to transfer over to the new RSL, it is anecdotally remarked that they tend to move on relatively quickly. The new organisation involves a radically different culture, one in which entrepreneurialism and risk are often regarded as key values, and which drive on development. Throughout the organisation, personnel changes are said to be significant. However, as the CML representative said, this particularly affects senior staff:

I mean on the executive side there's a major issue about the capacity of the staff, which often are transfer staff, to manage the new organisation. And if you look at the history of LSVTs, I mean I've not seen any empirics done on this, it's about time there were really. But the empirics on this would demonstrate that actually an awful lot of the designated chief executives have not lasted much more than a year or so into the new organisation. ... There's been an enormous fall off problem. And it's by and large because the whole context and circumstance is different within if you like the family of the authority, and outwith the family of the authority.

Third, and this will be discussed further below, the regulatory embrace of the Housing Corporation is significant. The Corporation's requirements, combined with that of the Audit Commission's inspection process and 'key lines of enquiry', are significant in terms of the production of performance indicators as well as the required regulatory oversight. In addition, the Corporation has powers of supervision and management of RSLs in certain circumstances. Under these powers, the Corporation can place persons on governing boards. These powers have been particularly used in the case of LSVT RSLs. Furthermore, the Corporation has other more subtle methods of oversight at its disposal – which might be subsumed within the heading of 'regulatory conversations', at different levels (for example, sometimes with the threat of exercising their formal powers). As the Housing Corporation representative put it:

certainly it's the case that there's a high probability that new stock transfer organisations will go into supervision. It's not always the case but there's a higher probability that they will than other organisations. But that seems to me to be consistent with the fact that they are new organisations with relatively high risk businesses, that involve borrowing a lot of money ... and starting from scratch. Um ... But ultimately those problems will have been dealt with in almost all cases by boards themselves. And we've often intervened in some way but never to the extent of winding up operations.

The fourth issue concerns the ongoing relationship between RSL and local authority. This is an important relationship which requires ongoing management and oversight. A break down in this relationship can affect the ongoing viability of the LSVT RSL as the local authority is primarily responsible for introducing new occupiers – from the housing register or homelessness system – and the local authority can also affect the development opportunities available to the RSL. Equally, a proportion of the capital from sales under the 'right to buy' is taken by the local authority. Where the local authority is in an ongoing relationship with the RSL, that money may well be fed back to the RSL in different ways. As the LGA representative made clear, the benefits to RSLs of a close relationship with their local authority are clear:

And that RSLs should be willing to actually sit down and say hang on a minute, let's talk to the council about what the plan is for the district, for unitary, or even subregionally. Because if they don't come along with that and they're going off doing something different they'll probably find that their business plan doesn't stack up anyway. But if they contribute to what the council is doing they'll probably find that they can cut costs as well. Because you can find I think a really strong business case for having ... you know how services interlink and the money you can save on those services.

The fifth point concerns the residents' occupation rights under the new organisation. These rights shift from being 'secure tenancies' to 'assured tenancies'. This shift is significant on the face of it, in terms of the formal legal position. Assured tenancies have market rents and occupiers can be more easily evicted for non-payment of rent – where there are two or more months rent arrears, then the RSL is entitled to mandatory possession. Local authorities are only entitled to possession where it would be reasonable, and this is, therefore, subject to judicial discretion. Formally, local authorities owe duties of consultation and the provision of information to occupiers under secure tenancies, whereas RSLs have no similar duties. However, the Housing Corporation has ameliorated most differences through the promulgation of regulations and guidance. As regards the mandatory possession ground for rent arrears, the Corporation does not forbid its use, but suggests that:

Before using Ground 8, associations should first pursue all other reasonable alternatives to recover the debt. Where the use of Ground 8 forms part of an arrears and eviction policy, tenants should have been consulted and governing board approval for the policy should have been given. (Housing Corporation, 2004: para. 3.1.4)

Rights to consultation and information have, however, tended to be equalised with secure tenants through performance standards criteria combined with Audit Commission inspections. Thus, the method of enforcement has changed from judicial to a more intrusive mode.

These doubts about LSVT, particularly as regards the potential for future discord, have meant that LSVT is not necessarily an assured deal. They involve considerable political negotiation with, and amongst, all the key stakeholders in the process. The results of tenants' ballots have been close, and there have been high profile votes against LSVT (for example, Birmingham and Camden), as well as 'NO' votes in a range of rural and mixed authorities across England..

Comparability

Although shrouded with the mystique and acronyms usually associated with housing, LSVT processes are, in one sense, pioneering forms of transformation within the welfare state more generally. The transfer from public to private (or quasi-public) organisation, the levering into the sector of private finance, the shift towards entrepreneurialism and risk-based practices will be familiar to any welfare state watcher. The contractualisation of public services such as education, health, and waste collection, is a feature of modern welfare states. These may be regarded as parallel, but by no means identical, developments, and lessons learnt in one arena are not necessarily transferable to another formerly publicly provided service. Thus, a representative from the ODPM pointed out that there are significant differences between school governing boards and LSVTs:

ODPM1: I mean there is a parallel there, um I think they're very different things ... because the issues on the ground are very different. I think you know, providing someone's education, and a quality education in a fairly rigorous framework, as lain down by, you know, central government. Um and about (pause) you're focusing on the role of that one school, whereas I think if you're an elected member, you know if you're a Board member of an RSL with 11,000 properties, and 11,000 ... tenants and all that goes with that, is a much broader responsibility, I would suggest. Um I'm not downplaying the role of school governors by any stretch of the imagination, but I think the scale is different.

I: So it's an issue of scale?

ODPM1: Scale, and I think the scope, that they have much broader scope and much more discretion in how they operate as an organisation, is my guess, knowing nothing about school governors...

ODPM2: Its also the range of activities isn't it? That RSLs do, its not only about housing, its so much else that goes with it.

In short, there are differences across the regulation and governance of each particular sector. Additionally, the types of activities in which each particular sector engages may well go beyond that sector in diverse ways.

New forms of governance

Above we highlighted that one of the significant changes brought about by LSVT was in the form of governance. Registered social landlords, as independent bodies, are ultimately controlled by a board of governors. Most RSLs, if they are set up as Industrial and Provident Societies, also have shareholders. Each shareholder will have a £1 share, which does not provide dividends. Shareholding is used by some associations as a way of widening out their community base. Shareholders, in theory, control the membership of the board of governors, and can vote off governors at the Annual General Meeting. However, in the RSL sector, shareholder power minimal, if it exists at all.

So why do RSLs have boards of governors? The National Housing Federation provides two answers to this question: first, it is a legal requirement - 'without a board, housing organisations do not have a legal existence' (Rochester & Hutchinson, 2001: 1). Secondly, the same authors claim that

boards add value to the organisation. Board members may bring a range of knowledge, thoughts and questions which are wider than the experience of staff. An effective board will perform a number of useful functions that contribute to the health of the organisation and its ability to achieve its aims (*ibid*).

The Federation's Code sets out what it describes as 'the essential functions of the Board' (NHF, 2004: 12), of which the following duties are to be considered a minimum standard:

1. define and ensure compliance with the values and objectives of the association;

2. establish a framework for approving policies and plans to achieve those objectives;
3. approve each year's accounts prior to publication and approve each year's budget and business plan;
4. establish and oversee a framework of delegation and systems of internal control;
5. establish and oversee a framework for the identification and management of risk, ensuring that the board receives regular reports on these;
6. agree or ratify policies and decisions on all matters that might create significant financial or other risk to the association, or which raise material issues of principle;
7. monitor the association's performance in relation to these plans, budgets, controls and decisions and also in the light of customer feedback and the performance of comparable organisations;
8. appoint (and, if necessary, dismiss) the Chief Executive and approve his or her salary, benefits and terms of employment;
9. satisfy itself that the association's affairs are conducted lawfully and in accordance with generally accepted standards of performance and probity;
10. assess how the association follows the recommendations of this Code of governance; and
11. follow the organisation's constitution in appointing (and, if necessary, removing) the chair of the board.

Conclusion

From the preceding chapter it can be seen that our research project is set within a many layered framework. The LSVT is a new organisation that from the outset is constrained by a number of factors: the guarantee given to tenants in the ballot for transfer; the requirements of the ODPM, and the regulatory requirements of the Housing Corporation, the Audit Commission and other public and private regulators; and the financial risk of a very large loan and the concomitant expectations of its financiers.

3 METHODOLOGY

At the outset, our work focused on the role of tenants as members of the board of governors. We were interested in exploring the power relationships operating in the governing board as they affected tenant occupiers. This was based on the assumption that tenant board members were collected from an already marginalized body – tenant occupiers more generally of social housing. However, at an early stage, we expanded this question as it became apparent that we needed to look at the board of governors as a whole. Only then could we identify what each constituent grouping on the board could offer, what they perceived to be barriers as well as possibilities, and consider the range of interactions within the board. Indeed, it became apparent at an early stage in our research that similar barriers and tensions existed for the councillor board members, and that the range of questions concerning expertise were also apt when considering the role/s of independent board members.

Our research questions identified in the introduction called for the use of a qualitative, as opposed to a quantitative, approach. Indeed, given the range of our enquiry, it was clear that the methods we used needed also to be flexible and diverse. We chose to carry out an intensive study of board members which could then be analysed and compared with the assumed version of truth by national bodies.

Our approach involved three phases.

- A literature review
- Semi-structured interviews with key persons in national organisations
- A study of one LSVT RSL which was in the process of being created ('Wandland')

At the outset, we needed to establish the terrain of the debate. Whilst the principal investigators have been involved in housing research and practice for some time, we were fortunate to be able to choose a research assistant (RA) who came with a background in more generic social science training. That appointment meant that the principal investigators' understandings could be challenged, disrupted, and reconstructed by the RA from the point of view of her own expertise, at times challenging the 'common sense' views built up by years of exposure to the housing system. The literature review was conducted by the RA under the supervision of the principal investigators. This inter-disciplinary approach yielded considerable rewards as we came to refine our research questions, and indeed question the prevailing corporate governance wisdom.

The review focused on both academic discussions as well as policy documents. It focused on the role of boards of governors generally, with a more specific consideration given over to the role of tenants. The more specific consideration can be justified because this is where most academic and policy blood has been spilt. In particular, the review considered the relationship between broad tenant participation strategies and the more specific role of tenants as board members. We believed that broad tenant participation strategies were likely to be related in some way to the more specific role. However, it became apparent that they were not related (although, as we discuss below, they may subsequently impact on each other) and they had grown up quite independently of each other. The theoretical relationship between the two is slight. Indeed, in practice, the blending of the two can be problematic, as was expressed by one of our key actors in phase 2:

There is a discontinuity between tenant engagement and tenants on boards. It is assumed that having tenants on the board means that the LSVT is getting the tenant perspective. Tenants on boards is not the same thing as tenant participation. (TPAS)

The literature review enabled us to sharpen our thoughts about the role of board members. In brief, we devised three models of this role: as consumers; as representatives; or as strategists. Each of these models has some basis in the literature, but each is contested.

In the second phase, we conducted semi-structured interviews with a number of key actors from a variety of different agencies. Most of the interviews were conducted face-to-face, with two conducted by phone. Appendix B contains our outline interview questionnaire. These interviews were designed to elicit the organisation's perspective and views on the two research questions (organisational allegiance and expertise). What became apparent from these interviews was the diversity of opinions expressed by these actors. This might have been expected given their organisational basis, but it suggested that, first, our research questions are of importance to the housing practice community, and, second, that this is a contested and congested area, with numerous voices seeking to be heard. The following is the list of organisations interviewed:

- Office of the Deputy Prime Minister (ODPM)
- Chartered Institute of Housing (CIH)¹
- Local Government Association (LGA)
- Council for Mortgage Lenders (CML)
- Housing Corporation
- National Housing Federation (NHF)
- Tenant Participation Advisory Service (TPAS)

In addition, we sought to familiarise ourselves with the issues through discussion with a Chief Executive and Chair of an LSVT RSL which has been in existence for some time. Again, this helped to immerse ourselves further

¹ This interview was conducted by telephone.

into the contestation as well as making us aware of some of the on-the-ground issues which we might come across in the third phase of our work. We also met with a journalist who had served as a board member of an RSL, but had resigned as a result of a set of governance issues. Finally, we met with a large-scale lender to discuss what kinds of issues they consider before lending money to an LSVT RSL.

In the third phase, we focused on one LSVT RSL which was in the process of being created in an area which, for the purposes of anonymity and confidentiality, we call 'Wandland'. Wandland Housing Association was in the process of becoming an RSL, and, subject to the final decision of Wandland Council, to acquire all the housing stock of Wandland District Council. Wandland Council is a district council with a mixture of urban (medium-sized town) and rural housing. It is located in close proximity to a major city that is the principal regional centre. The council has been down the LSVT route before (in the early 1990s), although it failed at that point apparently as a result of political disagreements and tenants voting against transfer. The Council began to investigate voluntary transfer again in the early 2000s when Wandland was a hung Council. The Council subsequently approved the stock options appraisal, which called for an LSVT as the most appropriate option. The Council then began preparations for another tenant ballot. A Shadow Board for the new RSL was formed. During the period of our research, the shadow board became a full board, the association received the pre-registration visit from the Housing Corporation, and the LSVT executed.

This choice of focusing on just one LSVT RSL was made both for practical and academic reasons. Our research questions required that the research team gain an in-depth understanding of this organisation. Equally, the questions demanded a combination of qualitative methods in relation to this organisation. We needed to find out what board members thought about their role, how they constructed expertise, as well as their day-to-day interactions with each other. We were, in some respects, particularly fortunate that Wandland HA was a newly formed RSL as it was effectively a blank canvas. There are two points: it is at an early stage that board members' interaction may become ingrained and early capture of this data can highlight points which are subsequently obscured; secondly, the early stage of development meant that the board were effectively learning together and there were structured training sessions put in place for the members to appreciate the governance, finance and development, as well as practice issues, involved in being a member of an RSL board of governors.

There were essentially five stages to this part of the research which was conducted between July and December 2005:

- Analysis of literature associated with the transfer of Wandland Council's housing stock, including the options review, local media stories, general documentation provided to potential board members, a video promoting the transfer to tenants, other internal documents.
- Semi-structured interviews with board members (n=15). These interviews lasted between about 20 minutes and two hours. We

explored with the interviewees their reasons for joining the board, as this might be likely to impact on how they managed the complexity of their roles as board members. Indeed, their motivation may highlight issues concerning their allegiance to the organisation. We discussed how they were appointed to the board, as this is also relevant to that organisational allegiance. We asked how they managed the complexity of their roles as board members. Finally, we asked what skills and expertise they felt that they brought to the board.

- Observation of board meetings and a sample of sub-committee meetings (n=3/3). Here, we were looking at the interactions between the board members as well as how those interactions reflected on the construction of expertise. We were provided with the agenda and documents of these meetings in an electronic format.
- Observation of training sessions (n=3) and an interview with the training manager (n=1). The training sessions were observed to obtain firsthand appreciation of the 'skilling up' process of becoming a board member as well as their usefulness in developing knowledge and expertise, and as a site at which interactions around expertise between the board members might become apparent.
- A final stage involved interviews with a sample of senior housing officers and the recently appointed Chief Executive, Finance Director, and Development manager (n=7). These interviews were used to test our preliminary findings and develop an appreciation of two further issues: first, the process of appointing the original board; and second, how understandings about the conflicts involved in board membership were being resolved.

Appendix C contains our outline interview questionnaires.

We transcribed our notes of the observations and interviews, and scanned hard copy documents provided by Wandland HA into an electronic format. All the data, including electronic data, was anonymised at the point at which it was placed into our database. Our research methods were designed with data protection issues at the forefront. The identity of our human participants will be anonymised; all codings and data will be retained confidentially. The stories told by our research participants will be anonymised at transcription. This included anonymisation of the organisations, as well as of all interviewees and other personnel. Interviewees are referred to by number (Councillor 1 or Officer 1, for example).

All participants were made aware of the ambit of the project in advance of their involvement. We prepared a note about the project, which contained details about the project together with the contact details of the Principal Investigator. The note was distributed to both the board and all potential participants at an early stage. The Board agreed to assisting us with our research both collectively at a board meeting and individually at the interview. No board member refused to be interviewed. We advised members that they were entitled to withdraw their involvement with the project at any time.

At an early stage of the project, we decided to use a qualitative data analysis package to assist us. Bristol University had recently bought a site licence to use the NVivo package. Once we had collected all the data electronically, we loaded it onto NVivo for the purposes of analysis. We developed certain broad codings from our literature review and developed these, in a grounded way, as we read through our transcripts and observations. This was the first time any of us had used NVivo and we determined to use it partly because, although our project collected a significant amount of data, it was relatively small-scale. The benefits of using NVivo have been significant –

- it gave us the opportunity to develop codes as we went through our data, and thus our theory was similarly able to be grounded in our data;
- its manipulability as a research tool has meant that the process of writing up has been made easier;
- it facilitated the process of joint working in a number of ways, most significantly through the production of a log which not only detailed what each of us had done at any particular time, but also enabled us to highlight emerging themes, and develop key learning points and our theory;
- although there is the prospect of data being lost, as with any electronic method, NVivo also facilitates the process of data saving more effectively than paper-based systems.
- the process of reporting on our codes, sorting and matching them, has significantly facilitated data analysis.

However, there is a downside. At times, electronic reading and coding can become a merely technical, mechanical process, as a result of which data analysis can become shallow. We recognised this and sought to guard against it by limiting the time spent per day on data analysis, and by ensuring that at least two members of the team coded each document.

As with all qualitative research, we caution against our data being exaggerated, made representative of the sector as a whole, and over-generalised. This is but one LSVT RSL at its early stage of development. It is neither meant to be nor discussed as a representative study. However, some of the themes that emerged are likely to strike a chord at least amongst LSVT RSLs, as well as in some 'traditional' housing associations and other similar organisations.

4 CASE STUDY: BACKGROUND ISSUES

Before we discuss our case study data in detail, there are a number of preliminary issues which, whilst not directly relevant to our research questions, are, in fact, of background importance. In other words, they are not determinative, but indicators of approach and background understandings about the sector. The two principal issues are: getting involved; and the nature of the organisation. A person might get involved in an LSVT RSL for a variety of reasons, which may well affect their approach to the key questions. For example, a person who becomes involved for political reasons is unlikely to sign up to the ‘neutral allegiance model’. Similarly, if one understands the nature of the organisation to be essentially private/commercial, this is likely to impact on one’s approach to the organisation and its development.

Getting Involved

Why did our interviewee board members seek their position? in all cases, they actively self-nominated or were nominated by others, such as the tenants’ forum. Although, in one sense, the answer to this question is simple – to ‘give something back’ – we explicitly asked about our interviewee board members’ backgrounds and why they decided to become involved at this level (as opposed to some other level, such as through tenant participation or council structures). One might anticipate that it takes something more, in terms of commitment and understanding, to seek membership of the board.

Interest in housing

For some interviewees, their motivation for becoming involved stemmed from a deep-seated interest – expressed by one as a passion – in housing, specifically low-cost, social or council housing. Councillor 2 had been brought up in a council house in the post-war period:

And I thought what a good service it was for whatever council it is providing it. A great help. Lots of people would never have ... never managed to get any housing at all.

Indeed, he had become involved in tenant participation structures as an interested party and, when the time came for the councillors to be nominated to the board, the Chair of the housing committee asked him to accept the nomination:

I'd shown an interest voluntarily the executive member for housing suggested I put my name forward anyway. And she's of a different party to me. So it was quite nice to think that I was offered by all concerned a place on the board.

Independent 1 had been involved with RSLs for some time, from the days when they were driven and managed by the wealthy in smoke-filled rooms:

It was occupied by sort of middle class people that were theoretically doing some good, you know, and that was their motive. To me you know they shouldn't be like that at all, you know. They weren't driven by the sort of passion, they were just driven by do good, doing good. And that isn't sufficient, you know. But that was what it was 35 years ago. I mean I was the only working class person in the housing association and I ... you know the years I belonged to.

He had become involved at the request of his local vicar, whom he described as a 'christian socialist'. He had been invited to join an RSL 'because he knew somebody'. For Independent 1, there were three key issues with social housing: security, care and quality. He recognised that he may be a maverick, he had 'spent my entire career being out of step with everybody else'.

Interest in housing could also arise, for tenants, from involvement in the structures of tenant participation. This could lead in to opportunities for training and further education in housing which impacted on their developing expertise. Two tenants were involved in tenant participation structures at least locally and regionally. Tenant 1's imbrication within tenant participation structures stretched to the local, regional and national. Indeed, Tenant 1 had been involved in the development of tenant participation in Wandland in the early 1990s and had subsequently developed experience through membership of the Audit Commission's Tenant Inspection Teams. Through these structures, Tenant 1 had built up an array of expertise:

[we] consciously then decided that we would try and attend every training we could that was useful to us as a resident's group and everything else, and we did, and now I very rarely have to attend any training (laughs). Depending on what it is of course. And then of course I became a Tenant Inspection Advisor with the Audit Commission what, four and half years ago?

However, a number of interviewees disclaimed any prior interest in housing at all. For these people, motivations had to be found elsewhere. As Councillor 3 put it:

I think it was a lack of interest based on a complete lack of knowledge ... which is strange cos I was born and bred on a council estate ...

'Reaction'

Two tenant members specifically decided to become involved as a board member as a reaction to concerns about the representativeness of the tenants nominated for the board. Tenant 3 and Tenant 6 had decided to become involved for this reason, albeit with slightly different motivations. Tenant 3 had become concerned that the tenant participation structures reflected the urban parts of Wandland, whereas the outlying villages were unrepresented on the board:

I was involved with a few other residents at the formation of a residents association here in Nister. We don't call it a tenants association because there's more private than rented properties here. So I very quickly realised that becoming involved in transfer was probably quite key to making sure that Nister as a village got its share of what was going around, rather than it all going to Bochester and the other big areas. So I really got involved on quite a selfish level really for the village.

Tenant 6, who had joined the board after the others, and by a different route (see below), had explicitly not been involved with tenant participation structures after an initial experience:

I: I just wondered have you been involved in tenants' groups or I mean ...

TEN6: No. No no I've never bothered. I've seen them and I've looked at them and I'm afraid I didn't consider myself ... the blue hairwash brigade, you know. They're usually sort of older people who see what young people get today and then get an axe to grind because of it. 'We never had it when we was their age.' And some don't want them to have it, and some think it's wrong. You know. Life moves on, things should be better for everybody

General Interest

This category was drawn on most particularly by the Independent members of the board. For the majority, they had little interest in housing but a general interest in business organisations or topics related to the LSVT RSL. For example, Independent 2 applied to join the board – 'I bumped into it by accident' - because this was a

I suppose what attracted me was that it was a new company starting off, it was in housing and I'm a property lawyer, and there seemed to be a bit of a glut there. And it was sort of local and easy to get to. And I felt because I'd been on the executive committee and effectively the managing board for my previous law firm for about 10 years I felt I had some ... in some way I can contribute.

Independent 3 was seeking to 'give a bit back to society' and board membership was related to his current employment through which he had become aware of the problems of access to housing advice. Independent 4 knew nothing about housing but had experience of asset management which he thought would be useful.

General interest would also apply to some of the councillor members. For example, Councillor 3 expressed no knowledge of his party's position on housing, but he felt that he could offer business advice and experience. Councillor 5 had become involved as it was related to his main business as a property landlord. The only tenant who fell into this category was Tenant 5, who had acted as an OFSTED inspector and had been involved in education programmes. She felt that those skills were transferable.

'That stage in life'

For tenant and independent board members, a common reason for becoming involved was because they had reached a particular stage in their lives where they had more time on their hands. Independent 2 had recently moved from a very busy job, where he been on the executive committee and managing board, to a small firm. He felt that he needed 'an interest in life'. Similarly, Tenant 1 said that she

spent the first 6 months of retirement in here, watching that [nods at the TV] , doing nothing. And I didn't like it. I didn't like it at all.

Tenant 2 said

Well, my husband died seven years ago, and it was a case of 'what do you do with your life?' I was fifty-four and you think well 'what do you do with your life?', you know?. I was looking after the boys even then three days a week, so whatever I did had to sort of coincide with looking after grandchildren.

These interviewees also told us that the stage in life of most tenant board members was a concern, specifically about the dearth of interest amongst younger tenants.

Personal experience (general)

Beyond the personal experience of housing discussed above, a number of board members, particularly tenants discussed their personal experience as reasons for becoming involved. In particular, past experience in relation to family members with disabilities and past experience as an activist (Tenant 1) were cited as reasons. Tenant 1 described her past experience, where she had campaigned to stop the small hospital where she worked being closed down:

I'm sorry but I am a bit of an activist, I have been all my life, but I don't look ... I don't actually get active like going on marches or things like that, because I don't think people listen to that sort of thing. Specially the people at the top of the ladder. I don't think they listen, they're 'Oh God, they're off again', you know.

Councillor 1 had become involved because, although new to politics, her son had worked for an RSL and so she had some knowledge by that association.

Type of Organisation

This is a multi-million pound business, involving lots of people's homes and jobs with substantial income borrowing and expenditure. (Board Member Application Pack)

There has been some discussion in the literature about the nature of an RSL. Specifically, does it 'fit' within the public or the private sector, or is it some hybrid of the two. We did not ask this question directly of any of our interviewees except the officers interviewed at the final stage of our fieldwork. Yet this question arose naturally during the interviews, underlying the importance of this background set of understandings. Furthermore, our

interviewees expressed different views on this question which also suggested that there may well be productive conflicts regarding the future development of the organisation.

What was particularly powerful about our interview data is the lack of available linguistic tools to describe the new organisation. The organisation had to be described by reference (or, more usually, by way of contrast) to some other more generic set of ideas – business (often ‘big business), private sector, local authority, public sector – which have some more accomplished understandings attached to them. There is no doubt, as the CML interviewee expressed, the LSVT RSL is a big local employer and has a large turnover particularly of rents. Wandland is no different in this regard. The FD expressed their understanding of the new organisation in this counterposed way:

I think we're somewhere in between [public and private]. I think there's a big danger in us thinking we are a purely a private sector organisation in that ...we've got a fixed revenue stream. ... You know, we're not making and selling things and persuading customers to buy what we sell. ... but equally we're no longer in the pure public sector because we do have real responsibilities to people like funders who lend us money on commercial terms and expect us to meet certain criteria that you have to live up to otherwise you suffer real commercial uh penalties, you know of ultimately them selling your stock. I mean it never will happen but you know I think we're somewhere in between.

Counterposing Wandland

The two most apparent counterpositions were between the new LSVT RSL, on the one hand, and the public sector or ‘big business’, on the other hand. It was noticeable that few tenant board members sought to counterpose Wandland against big business (although that should not be taken to suggest that they did not regard it as a business – see below). Their usual point of reference was against the public sector and local authority control. As Tenant 5 put it, the shift to an RSL represented an opportunity to move away from the ‘embedded culture’ of the public sector. Here, for example, the location of the offices of Wandland became a ‘political’ issue. As Tenant 1 put it,

I'm a great believer that the housing association should get well away from the council as an idea. Cos I've stuck my neck on the block and said I want the head office out of Bochester. So that it becomes ... the apron strings are cut. ... my main object was to get them to move the building away from the council physically as well as mentally.

Similarly other interviewees generally sought to distance the RSL from the local authority. That being said, though, there was clearly a relationship and, not surprisingly, this relationship was most clearly expressed by councillor board member interviewees. After all, as Councillor 5 put it (perhaps naively), the RSL still has to house those on the waiting list and they will be working together. Councillor 4 argued that the relationship was close:

[W]e [ie Wandland council] have a strategic role in delivering housing for our residents. And because of that I think we need to be able to, we can't just treat it as a, and there is, there is an absolute relationship between them, and they were our houses. And I think that as a result, it's not just another housing association. *There is a link that flows through from the local authority through the houses to the new Board.* (emphasis added)

The hesitation, however, in expressing that relationship by Councillor 4 is palpable. It seems that for this person, the retention of the obligation to offer housing without any housing stock means that link is crucial. However, this councillor also recognised that such a link may be cut. Councillor 5, on the other hand, was more clear cut about the importance of this link:

Well I think working for the council is a lot different for working for a private organisation. The ethos behind it is different isn't it? Although it's not quite a private organisation, but obviously [officer] roles will be different and it'll be a different ethos. I think probably when you work for the council you're maybe dragged down and held back, be very cautious so to speak. Where obviously in the private sector it's be dynamic and go and get it. But as I said obviously your housing association isn't the private.

Councillor 3, however, sought to justify councillor board membership through the retention of this link and the need for some public or social understanding at the heart of the new board:

Um, because you know I think in the transfer process and the setting out and the establishment of housing authority I believe that there needs to be some agency or other that is actually maintaining the values that social housing had when they were a local authority issue ... um, maintains or enhances the standard. And ensures that the housing body is run according to the social values which it espouses, rather than run on a commercial landlord base. And there are those particular tensions in individuals within the group

There were similar discussions during our interviews over whether Wandland was a 'big business' and a private sector going concern. Our Housing Corporation interviewee, although not totally consistent on this point, argued that the skills set required of board members was private sector (in the context of discussion about tenant participation) because running an LSVT RSL was running a business:

the Board side is about running a business, and I may be in a minority here but I feel when you're sitting on a Board of an organisation which is you know, has a turnover of millions of pounds, and as well as having a community focus, you have to think like a business person, its not about, I don't think that's tenant participation but running a business, but having, the fact that you are a tenant within in an organisation is the skill that you're bringing to that, to that Board

Councillor 2 also saw the new RSL as a big business:

it's bound to be that it's a big business, and all big businesses have a board of directors to oversee them, to set policies and strategies.

Independent 1 counterposed the new RSL from local authority control by regarding it as a business. For this person,

And I think they were looking really for somebody that had some experience of a housing association as distinct from a local authority housing set-up. You know it's a very different creature, very different animal to ... you know running a housing association today is a business. Whereas I think local authority housing is ... you know they try to make it a business but it's still got all this protection that housing associations don't have.

This was also Independent 3's position, although this was a 'business that should be delivering what the, all the clients need'. Thus, for this person, the name of the new organisation became something of a symbol. The name needed to signify a paradigm change, although he became convinced otherwise:

I must admit, (laughs) I wasn't that bothered but I did feel that we should be seen to be something very significant, different from the council, and Wandland Housing to me didn't signal enough of a difference. But I was persuaded, particularly by the tenant members that it was important for tenants to see the connectivity.

Similarly Officer 3 regarded the new organisation as business but one which

I think it sits between the two. ... I think it leaves public sector behind, but it doesn't go as far as BP, IBM, it doesn't sit there. So you have this sort of quasi sort of business that sits somewhere in the middle.

However, there were also those who expressed concerns about the equation of LSVT RSLs with big business or just private sector ethic. David Walker, whose personal experience as a recently ousted member of a large LSVT, was brought to bear on this issue during his interview:

the Housing Corporation has a model which says that these are hot shit organisations which should be more like PLCs, therefore we've got have people with financial skills, therefore we've got have people with all these, this alleged skill set, which moves you further and further away from the idea that they are organisations, and pardon me for using this old fashioned word, ministering, helping people who are poor. I mean I think there is a fundamental issue there. I know conventional wisdom these days says you know, business, you can be a business and social enterprise, but I still there are you know, unanswered questions.

Councillor 3, whose background was as a business person, made clear that there was a slip that was easy to make:

it's easy for me to see this as a business and you know bland and financial thing, but I need to be continually reminded there are people in there who are living in conditions that I wouldn't be my dog to be (inaudible). And that we have that as a priority we need to be doing that, rather than pleasing the bulk of the people.

Perhaps the best example of this counterposition concerned the question we asked about how board members perceived officers' roles to change after the transfer process had been completed. This question demonstrated the uncertainties and contradictions over the type of organisation being created (private/public/social). These contradictions were expressed, for example by Councillor 5 who, initially, described the process as a transfer from public to private but subsequently became more hesitant in the description:

Well I think working for the council is a lot different for working for a private organisation. The ethos behind it is different isn't it? Although it's not quite a private organisation, but obviously their roles will be different and it'll be a different ethos. I think probably when you work for the council you're maybe dragged down and held back, be very cautious so to speak. Where obviously in the private sector it's be dynamic and go and get it. But as I said obviously your housing association isn't the private. But you've still got to be quite cautious.

Independent 1 and 2 described the big 'cultural shift' required of officers. Independent 2 described the way one can 'instinctively know' that officers work for a local authority: 'it's like when you go into school and you come out smelling of school meals'. Independent 1 described local authority employment (in which he had been employed) as 'make believe':

I wonder if they will really always appreciate just how big the change will be, you know, the cultural change, the ethos and the vision that they need to have rather than you know the stagnation approach, whereas - we've always done it like this and it worked previously.

What is Wandland?

Most board members and officers described Wandland using some notion of 'in-betweenness'. Thus, it was described as a 'charitable not-for-profit organisation' (CE); 'social business' (Officer 4); 'non-profit-making community business' (Tenant 5); 'a private company with a social conscience' (Tenant 6). There were two reasons generally given for this in-betweenness. First, Wandland was not a profit-making organisation. It should make a surplus for re-investing (not so that the officers could have bigger lunches: Tenant 6). The organisation should be well-run and 'make the money work for us as best way they can'. Second, Wandland was there to serve its customers (a descriptor used by a number of interviewees). Officer 4 described this by reference to a discussion amongst officers about the mission statement:

we were talking the other day... we were looking through our things, like our mission statement, and we were saying how nice it was to have an organisation that had some kind of social role, because we were saying you know, if we were sat... if we were working for Unilever, we were sat down trying to write our mission statement we'd be saying things like 'Make more money', ... you know, because that is there ultimate aim, and that's clearly not our ultimate aim.

However, underlying these statements of value/s, there seemed to be a degree of conflict, or just lack of consensus. For example, whilst the new RSL was not regarded as a profit-making organisation, that did not mean to say that it should not maximise its income. A useful example of the issues raised here is what the new organisation's approach should be to the question of rent arrears amongst tenants. This was discussed at a board meeting – to put it another way, just how hard should the new organisation be on non-payment. Councillor 2, in our interview, argued that the council had 'leaned over backwards' to help tenants and in the process 'hadn't done them any favours'. However, the question was particularly at the core of disagreements amongst tenants. A flavour of the lack of consensus can be gained from the way Tenant 6 expressed this during our interview:

I was a little bit annoyed on Wednesday night ... was some of them seemed to think they were directors of the company and they were the ones who were putting their own money into it. And they were getting a little bit ... um, you know let's not care about the tenants ... on the social side of it, as being that it's a social housing association ... we're going to be hard as nails and if they don't do this and don't do that you know let's get the heavies in and throw them out 10 minutes later, like you know. I felt that from particularly one person. I don't think I need to say who, I think you know. Mm? Yes? ... Yeah yeah. Going on about rent arrears heavily. Um ... yes you've got to keep up on top of rent arrears. After the meeting I was talking to her ... to the person ... you can leave that out there ... and she did apologise to some extent and say she didn't mean it like that. She did mean you know to try and help them before they got into arrears.

A further example concerns the nature of the customer base. On this issue, the Chief Executive was clear that the RSL existed for the Wandland community, 'meeting social housing needs in this area'. This wider community base to the organisation was also reflected in the view that Wandland needs to satisfy not only current customers but also the future ones. There was clearly going to be some discord as the organisation began fulfilling its business plan:

And it's just this fascinating realisation that we're going to have upset the majority of tenants because there are people, there are small groups of tenants with major needs that must be addressed first. It's just to get it to minimum standards.

Equally, the future customers were in the minds of some board members as much as the current.

5 APPPOINTING THE BOARD

The method of appointing the board is the point at which the questions raised in our research – concerning the ‘neutral allegiance model’ and ‘expertise’ – are raised perhaps at their sharpest. It is at this point that decisions have to be made about the most appropriate appointment process both to obtain the right people and the right mix. The most common method used to appoint tenant board members is through an election process. That raises the question of ‘neutral allegiance’ as any successful elected member is faced with a difficult dichotomy – are they representatives of those who were able to vote or neutral actors/board members? And how is it possible to obtain the right mix of skills and expertise both for the successful functioning of the board as well as to satisfy the Housing Corporation’s regulatory processes to enable the new organization to be registered?

Although similar problems occur with Councillor board members, the issue is most stark for tenant board members who, as has been said, are generally involved in some form of election process to join the board. Neither the ODPM nor the Housing Corporation offer clear guidance in regard to selection processes for tenant board members (Audit Commission/Housing Corporation, 2004). Despite the fact that both are clear that tenants should not play a representative role once on the board, both are also reluctant, it seems, to suggest that elections may not be the most appropriate route to board membership. Our interviewee from the Housing Corporation’s Registration Unit, for example, acknowledged that the Corporation was ‘alert’ to this problem, but nonetheless said that the Housing Corporation would not advise against elections (Para 79). Moreover, our ODPM interviewee implied that some form of ‘democratic validation’ (para 119) was important in the selection of tenant members. However, a personal view was that an ‘election isn’t necessarily the best way because you don’t necessarily elect the most appropriate people in elections’.

There is an interesting distinction here between the ODPM’s policy on LSVTs and that on Arms Length Management Organisations (ALMOs). As regards the latter, the ODPM advocates a specific policy of election for tenants on ALMO board in order to *‘to ensure that they are genuinely representative’* (emphasis added) (ODPM, 2004: 12), despite those organisations’ identical requirement to defend the ‘corporate interest’ over the tenants’ interest. Our ODPM interviewees acknowledged that this was illogical and that issues of representativeness and legitimacy figure strongly:

ODPM1: Well it’s...the odd thing is...as you know [ALMO] board members are actually all elected, [that is] tenant Board members are elected. So there’s this sort of perceived, from the tenant perspective, slight sort of schizophrenia about the fact that the election process is not automatic with LSVT Board members, is that right?

ODPM2: No, it's not [automatic].

[...]

ODPM1: And I must admit I think it's quite difficult slightly to reconcile that, because the board membership issues of what a board member is, apply equally to an [ALMO] board member as it does to a housing association board member. So that can't be the obstacle or the issue um in itself, so therefore there must be another reason why it's perceived as different, or operates as a different way as the housing associations. [...] Because I had a long chat with the ALMO people and I said 'Was it about representativeness i.e. that people have that democratic legitimacy to sit on that board?'. And they felt it was integral and important that that happened, but nobody was under an illusion that once on the board, this is the theory, they then became part of the board. Which of course changes the whole way you do things. (ODPM, Para 165-77)

Even if one accepts that some form of ballot is required, there then becomes an issue of how best to arrange the process. The question here is whether the vote should be on an area basis or for all the tenants irrespective of area. Contrast, for example, the views of the LGA (who in any case consider that tenant board members should play a representative role) and those of an existing RSL struggling to overcome residual issues left by a geographically constructed process of tenant election in its early years of existence:

LGA: And you know equally [...] you've got your third tenant reps, you know, they must come from a range of different areas (Para 178). [...]. Geographically within the stock...yeah. Because if you've got all tenant reps from one estate they will not know the issues of the other estates (Para 186).

LSVT Chief Executive: Um the legacy from tenant involvement is slightly different, because the way the transfer was set up, people were effectively voted from an area base onto it, and certainly the mindset from day one, and it continues to kind of permeate a lot of debate and discussion here, is that we are representing that area at the board, and we're representing tenants from that area at the board. Now a number of people who have been elected through that route have made the transition in their mindsets through these debates, and actually now see and recognise that their role is actually, and responsibility is to the whole organisation. Um but one maybe two still think in those terms, and er I think certainly as an important issue for [us] as an organisation is out there amongst a big body of tenants, there's still a prevailing view that they send a representative to the board to protect their interests (Para 178).

Possible alternative models of appointing tenant board members might be, for example, to invite applications from certain people and combine that with an interview process (a suggestion from the ODPM interviewee); alternatively, persons could be nominated to the Board from tenants' groups. Both such methods, however, are problematic, albeit for different reasons from the ballot method. They are problematic because they offer scope either for patronage or for choice from a small range of persons who are often not representative of the other tenants.

The Wandland Approach

Wandland's approach to the appointment of board members was different depending on the constituency. Councillors were nominated by each political party represented on the council in strict accordance with the usual rules ie a proportionate number of seats on the board. The Conservative and Liberal democrat parties were allocated two seats on the board each, and the Labour party were allocated one seat. As regards independents, the officers conducted a skills audit and advertised in local newspapers and websites, as well as tailored certain advertising. There was then an interview process. All tenants were initially invited to become board members through an advertisement in the tenant newspaper. There was then a group meeting after which five persons remained who all became board members. Had there been more, there would have been a ballot. One board member subsequently unfortunately passed away. At this stage, a further advertisement was placed, followed by an interview process, which left two candidates. There was then an election, which was won by Tenant 6.

As the process for each constituency was different, we consider each separately below.

Councillors

The usual process at Wandland Council was for each party to make nominations for such positions. Each party calls internally for anybody interested in the post and suitable applicants are then nominated, perhaps after a vote if more than the allowed number wish to be nominated. Unusually, in this particular transfer, Councillor 2, a Conservative, was asked by the Liberal Democrat housing committee chair to be nominated. Generally, though, it is usually difficult to find volunteers: 'we're not awash with volunteers' (Councillor 3, Liberal Democrat); 'I wouldn't say I would have been knocked down in the rush, to be honest' (Councillor 4, Labour);

'I think in general to get volunteers to do anything for anything they're few and far between and usually there's arm twisting to do things ... Yeah there was only two people really put their name forward. So obviously once you put your name forward and they're filled nobody else ... other people would have done it no doubt.' (Councillor 5, Conservative).

Amongst the Liberal Democrat group, according to Councillor 1, the Housing Committee chair decided that certain people who volunteered for the board were not suitable. The chair asked Councillor 3 to become involved:

And therefore [the Chair] wondered whether or not I would be willing to go and seek to apply some form of business acumen business viewpoint to counterbalance the wonderful caring 'I'm a charity and I love the human race, therefore we'll do everything for everyone' ... before we go bankrupt.

The general point, however, is that councillors were chosen by *political appointment* as a result of their election success. Councillor 4 accepted the appropriateness of this process precisely for that reason:

its not for me to tell the Tories who they pick, they can pick who they want. They might pick someone who just wants to keep (unclear) and keep the price down and just keep it out of the way of the tax payer. Er but that's for them to decide, and I don't see any problem in letting them decide how they want, and I can't see any way other than that, anyway.

Even then, though, as Councillor 3 recognised, there was an accountability deficit which reflected on this person's status as a representative for their ward:

the people who elected me as councillor have absolutely no knowledge regarding my membership for the housing board. So it's a disconnect between that election and [my board membership]

There are three downsides to this political appointment process, however. First, there is the recognition that, if the councillor board member is to lose their seat at the next relevant local election, most would also expect to leave the board:

CLLR1: I presume that as a councillor I would lose my position on the board. I should think that it is only there because I am a councillor, and that if I lost my place then someone else would be put in that position. (para 236)

CLLR2: If I lost my seat I would go back to the council before they came to me and say 'I want to stay on that board'. (para 418)

Second, this process raised the question for some Councillor interviewees about whether they could unproblematically be both. As councillor 4 put it:

[At] the end of the day I'm there, not because I'm on the Board, I'm there because I'm elected by the representatives of Carrick West. That's why I'm a councillor. I'm not even as a Labour councillor or a Coop councillor, I am a, I have a, I am a direct representational er link with my electors, in the constitutional side of things that's, and I'm not a Labour councillor. I mean I could stop being a Labour councillor, I could stop being a member of the Labour Party tomorrow, I would still be a councillor. Until the people in Carrick West determine otherwise. And there is the interesting problem, because, okay that's the first instance. That's my first role, my first duty. My second duty is to my group, my Labour group, the party. Because I am there, again not because I'm a representative of Carrick West, but because I'm a member of the Labour Party, and the Labour group has chosen me as their representative on that Board So I have a, an accountability to them as well (paras 224-6)

We deal with this question further below.

The third point is that, where there is no genuine interest amongst the volunteers in the new organisation, or they are interested in one particular aspect of it (such as starting it up), the political appointment process can lead to apathy and non-attendance. As Independent 1 put it, 'politicians are imposed, rather than being there. I mean they are there because they've been told to be members if you will.' This concern was also a 'known issue' amongst our key actor interviewees.

Independents

The concern with independent board members lies in seeking to fill skills gaps sufficient to satisfy the Housing Corporation as well as in assisting the capacity of the board to ask the right questions when dealing with their specific expertise. That being said, it is recognised that

It is quite hard finding good quality independent board members and ... transfer organisations have to put a huge amount of effort into getting good quality independent board members who will actually bring the sort of skills and experience that they need. Particularly given that they are voluntary posts.

Wandland, it appears, did have problems recruiting independent board members to fill their skills gaps. By the time they came to advertising for the posts, they already knew what their skills gaps were and thus were able to tailor their process accordingly. However, they still had difficulty filling the places:

business people ... we had a really good response to those. Um we didn't have a legal person, we didn't have a financial person, which is a shame, but I think those are always the most difficult to engage because they do work long hours I suppose, and they do have a big pay packet and they might not want to do it for free. That's the myth anyway, whether that's true, if you ask an accountant or lawyer, I don't know. Um but at that first stage we had three independents that we took on from that interview process. And then we kept advertising, went to different areas, talked to different people, um we went to... we wrote to building societies, banks and things like that, to try and get our last two remaining sort of, you know, financial and legal people. (Officer 5)

I think probably why they selected me, despite my great age, was because of (laughs) ... t I suppose the trouble is the younger people don't have the experience. Which is probably the only reason. Cos I personally think that you know you really desperately need young people, they don't need geriatrics. ... I mean I wouldn't have been selected if they'd have had anybody better. But I don't think, if the truth be known, they had many applicants.

During our fieldwork, they had yet to find a suitable person with accountancy skills. Independent 2 and 3 actually 'bumped into' the role by accident but decided to apply.

The interview process involved two tenants and two councillors who interviewed twelve or thirteen candidates. Independent 1, whose memory of the housing association sector stretched back 35 years to the days of the 'gentleman's club', described the interview process as similar to that experience 35 years previously:

I had a little bit of an interview. But I mean it wasn't really, I mean it was again a bit like it was 35 years ago, you know.

Independent 2 similarly noted that the interview process was not formal:

I was interviewed ... And they chatted for about half an hour. I mean it wasn't a particularly formal interview.

Tenants

The issue for tenants is, of course, similar to councillors, but raised at its most stark due to the processes used to select tenant board members. As already stated, Wandland used an open advertisement followed by a group meeting which would then have been followed by an election process (which was not needed). The reason for using an open advertisement was an attempt to remove the apparent self-selection of a small group who were prominent within the local tenant participation movement. As Officer 4 noted, though, that open process did not necessarily produce the desired opening up of board membership:

there was an advert that went out, well there was an advert, I don't remember when, that went into Open Door, um newsletter to say 'Are you interested in this position?' So that it wasn't just um the Tenants' Forum kind of selecting themselves, and saying well we'll put these five people forward, I don't think they would... they wouldn't do that anyway, because they... they want more tenants to get involved, and they want to make that an open process. But I think its important to say that that didn't happen
...

Approximately twelve people put their names forward. At that point, the council officers made certain checks against those applicants – whether they were in rent arrears or there were anti-social behaviour issues or other disputes. There were 'one or two who did, who we had a quiet word to and said look if you want to progress this needs to be sorted, and they dropped out'. Of the remaining applicants, there was a group meeting, which was designed to explain the role of board members. After that meeting, five tenants remained interested. Thus, all five filled the places on the board. We did not observe the group meeting. Therefore, we cannot make any comments on how and why the others 'deselected' themselves. Each person who expressed an interest was sent a pack of information which also contained an application form. That form required them to detail their skills and obtain a nomination. According to Officer 5, perhaps the mix of those deeply involved in the tenant participation process and those not involved at all was responsible for the withdrawals:

I think it might have worried them a bit that they hadn't been involved perhaps before, because obviously the tenant representatives have been on different groups, and they have known about a lot of this from the start. So perhaps that might have put a few people off, I don't know. But um, yeah we have got one chap on the Board, who hasn't been involved in tenant participation, or the panel, or the forum before so

The process was changed when one of the tenant board members passed away. There was, as before, an open advertisement. Respondents were then interviewed by a panel made up of the chair of the tenants' forum, the chair of the tenants' panel, the tenant participation manager, and a councillor board member. Four candidates were interviewed and two subsequently went forward to a ballot of all the tenants. We did not interview the unsuccessful applicants and it was unclear why the other two were not selected for the ballot. However, it is of interest that the make-up of the interview panel

included strong representation from the current tenant organisations. According to Officer 5, the interview panel was looking for persons who had broader experience outside of their tenancy, who 'would be confident to be on the board and speak up'. As Tenant 6 put it

you know obviously I gather they haven't picked on them because of the way you look, because they picked me. Um (laughs) you know. I mean I've got long hair. I mean if I'd have gone in with a bald head like a skinhead and tattoos on me, would they have picked me or not? You know. But seeing as I've got tattoos and I've got long hair and a beard, I would assume they would do. I don't think that was in their criteria

Tenant 6, who was the successful applicant, described the interview process as 'strange' as he had never before been interviewed for a job:

... it was strange. I walked in, there were four or five people sat there and ... or sat at this table, sort of looking at them and thinking 'God what are they going to ask?' you know. And they asked a few questions. One guy got on a bit about the disabled, because I'm disabled. And saying 'Oh you know what if we do something ... there's a disabled sort of project going, but it gets voted down and another project gets voted in its place' I said 'Well providing that project doesn't disadvantage disabled people' I said 'it's probably going to be a good project.' ... So I really couldn't follow his thing, I think he just wanted to make sure I wasn't going to be there shouting the odds for disabled people all the time. I mean I understand quite well, otherwise we wouldn't be disabled if we could do everything, you know ...

After the interview process, both candidates wrote 150 words about themselves and why they wanted to become a board member. Tenant 6 was helped by his wife's daughter who had experience of working for an RSL. Officer 5 may also have adjusted what was written 'cos it didn't ... wasn't all quite what we wrote'. What was written did, in fact, become quite controversial amongst the then members of the board as it potentially put Tenant 6 in conflict with the neutral allegiance model. During our interviews with the board members, a number commented that those summaries suggested that the applicants would work for tenants, or be the tenants' representative on the board. The conflict was regarded as natural in the sense that, unless one offers some sort of representation of tenants' collective interest, a candidate would be unlikely to be successful:

when they had the election they had to put a little bit of blurb about themselves. I think a couple of them said 'Oh I'm going to work for the tenants on the board' and such like, which you would. So most tenants say 'Oh I'll vote for that, he's going to work for me.' But that isn't the intention of the board. So that's working against itself. So obviously with the tenants it is difficult. You've really got to say 'I'm going to work for the tenants' otherwise they won't vote for you. But that isn't why you're there. (Councillor 5)

The reality of the situation is that a tenant board member is not representing tenants on the board, they're sitting there as an individual. And therefore the electioneering, the sending out of statements declaring why somebody wants to stand on the board have to be geared to how it's going to benefit tenants. 'Vote for me because ...' 'I'm going to ignore you' won't get you on the board. (Tenant 3)

The election process itself produced about 2000 votes of which Tenant 6 obtained approximately 62 per cent.

6 THE CONSTITUENCY MODEL

In this chapter, we discuss the constituency model. This model requires that LSVT RSL boards should have equal membership from three constituencies: tenants, councillors, and independents. It is not ‘law’ as such in that it is not a formal requirement of the LSVT process. However, the model has come to be regarded as a ‘rule’. Our first question, therefore, concerns its derivation and purpose – from where did this model appear and why? In answering this question, we draw particularly on our key actor interviews, supplemented by our study of Wandland HA. We also consider the critiques of the constituency model. Our second question is more specific to Wandland. We ask why they particularly adopted this model in addition to outlining their views about whether it ‘works’ now and will continue to be applicable in the future.

Derivation

It isn't in itself a regulatory requirement. The regulatory requirement is that there is independent board members, or that the board is independent, so no single constituency group has overall control. Which is one of the reasons why you have this model of a third, a third, a third. But there's no specific reason why it should be in that proportion, other than that it has come to be if you like a logical conclusion of how you maintain our regulatory requirement which is there's an independence of the board. (Housing Corporation Interview)

Most LSVT RSLs operate some version of the constituency model but this is not a formal requirement. Why? The formal requirement is that LSVT RSLs must be ‘independent and free standing’ (ODPM, 2004: para 12.16) so that they do not fall within the category ‘public sector’ for Treasury purposes. Formally, the 1989 Local Government Act stipulated that any organization, including RSLs, with more than twenty *per cent* local authority persons represented in its governing body was deemed to be under council control and therefore subject to treasury-imposed borrowing constraints. The 1996 Housing Act however allowed up to 49 percent of a housing association board to comprise council nominees, and likewise up to 49 percent to comprise tenants so long as one third comprised ‘independents’ (Malpass and Mullins, 2002: 679). Nevin (1999: 4) argues that this change was specifically motivated by the need to counter criticism about the loss of the local authority influence which had been aimed at early transfer associations.

The origins of this constituency model are relatively vague. What seems clear is that the model reflects a pragmatic compromise at some stage between different interests – the council, who are selling their stock and, perhaps, need to be persuaded that they will retain some degree of control; the occupiers,

who must vote for the transfer and need to be persuaded to vote in favour; the prospective lenders, who need to be assured the appropriate governance and management structures are in place.

Our ODPM interviewee described it in terms of a policy drift, rather than in instrumental terms. The model was something ‘came to pass rather than any sort of deep and meaningful thoughts that the third/third/third sort of came into place’. It ‘evolved I think as a response to a number of issues and there was no one driver for it, but there was a belief that um that it was a good thing’. Once it passed into practice, however, it became practice and ‘if it’s not broken don’t try and fix it’.

In the early days of stock transfer the model tended to reflect more closely that used in the rest of the RSL sector, comprising mainly independents with one or two council and tenant representatives. In predominantly rural or suburban largely Conservative-controlled authorities where relatively good quality stock resulted in the generation of positive capital receipts, there was no need for additional economic or political incentives. Mullins and Malpass (2002: 678) argue, however, that by the mid 1990s extra incentives were required to maintain the momentum of the transfer programme and to overcome political and economic obstacles. Mullins and Malpass (2002) argue that the mid-1990s saw ‘a good deal of effort’ expended in the search for new models to overcome those obstacles (for example, where there was a negative valuation of the stock or the council was unwilling/concerned about LSVT).

The Hancock inquiry (NFHA, 1995a, 1995b) into RSL governance considered five possible governance models but did not recommend any one model in particular despite ‘considerable support for a constituency-based system’ (Kearns, 1996: 62). At the time, the NFHA (now the NHF) argued strongly in favour of a constituency model because LSVT RSLs have defined (groups of) important stakeholders to be represented in the constitutional balance of the board and to whom the organisation is accountable (NFHA, 1995b). However, unlike TPAS, which supported a mandatory constituency model to the Hancock inquiry (Kearns, 1996: 62), the NFHA stopped short of such a recommendation. They expressed a concern that this mechanism ‘should not be a substitute for wider accountability and responsive mechanisms’ and also that ‘it should not be structured to institutionalize a fragmented board of interest group representatives’ (NFHA, 1995b: 59). Zitron (1995) also argued for the constituency model by reference to the discussion at that time concerning ‘local housing companies’. That model sought to maintain local accountability by establishing constitutional arrangements which allowed councillors to retain an element of control in the organisation receiving the stock.

In order to make the transfer to non-public sector organisations palatable and acceptable to the more well-organised and active tenants, there was an element of pragmatism and compromise. As it became clear that there could be significant and organised opposition to transfer it became crucial for the process to encompass ‘incentives’ and ‘guarantees’ for tenants (just as it had

local authorities) in order to obtain the critical majority support which had been made a requirement of the process (Malpass, 2005: 191). Our key actor and Wandland interviewees recognised this element of pragmatic compromise:

the third third model is politically sensible to deal with oppositional councils, oppositional tenants and if you like some idea of independence. (CML)

in terms of selling the proposition of transfer, a third-third-third, is probably the only thing that satisfies the political interest and those of tenants. (Chief Executive, LSVT)

Tenant participation, both generally and on governing boards, became a means of legitimating the transfer alternative to state provision in housing. Our TPAS interviewee was clear that the constituency model was a 'selling' and 'negotiating' point for transfer. Indeed, the case would have been weaker if tenant places were not offered. Furthermore, the offer was combined with the ability to elect representatives to the board of governors, which formed 'part of the sales pitch to local residents'. As such, once strong tenant activists had successfully 'demanded' seats on boards in early transfers, others followed (TPAS Interview, 2005).

This reason was understood by a number of our Wandland board member and officer interviewees. For example Tenant 3 recognised that the constituency model was designed to secure a successful vote in favour of transfer:

are tenant board members there just to get transfer? ... which is an interesting concept. As I say ... one could say that the whole process is a bit set up to ensure the balance is positive. And I think if there wasn't tenant board members you'd have a much harder job in the transfer process in actually getting the Yes vote. So from that point of view if the councillors weren't there the council would never vote it through either. So the model as it is is a model to enable transfer.

Malpass (1997) has suggested that there is a 'public acceptability' of having tenant board members, noting the importance of *appearing* legitimate. However, Pawson and Fancy (2003, 30) have argued that although the view exists

'... that Government's post-1996 enthusiasm for the...[constituency] model [was] a "concession" to encourage acceptance of the transfer option among both Councillors and tenants', the model is nonetheless important "in symbolic terms" even if any clear policy direction associated with these particular constituencies is difficult to identify'.

The Audit Commission makes clear that it does not 'require' RSLs to include residents on boards but notes that some RSLs found that their inclusion had 'a positive effect' - in terms of their 'relationship with the wider tenant body: credibility is added' (Audit Commission/Housing Corporation, 2004: 23). However, they also argued (at p 43) that the 'business case' for involving residents in governance structures was far from clear. Therefore, the need to enhance credibility may go some way to explain why the inclusion of tenants on boards of LSVT associations, which require tenant consent, is virtually mandatory whilst not otherwise being a formal requirement nor even *de rigueur* in other non-transfer RSLs.

Less cynically, it might also be argued that the model, or at least its promotion after 1997, did indeed contain elements of a chosen policy direction. The government was concerned to be acting in the interests of tenants rather than just concerned to be giving that impression. The widespread adoption of the constituency model appears to have coincided with the New Labour public services reform agenda. This continued the previous Conservative government's policy of removing direct local representative control, which it characterised as unresponsive and paternalistic. The traditional representative model of council control was deemed less legitimate than more participatory forms of democracy coupled with a regulatory and centrally-dictated framework. Thus, the formal promulgation of tenant participation compacts by the New Labour government (DETR, 1999), almost as one of their first policy acts in housing, continued and formalised the previous government's agenda, whilst maintaining a more open-ended policy of 'steering, nor rowing'.

Purpose

Even though the model may have arisen as a pragmatic compromise, it nevertheless has further purposes beyond the purely instrumental purpose of securing the vote. Here, we draw on our literature review, interviews with key actors and case study data to flesh out these other purposes. We take each constituency in turn and consider the benefits of each. Underlying those benefits are broader and diverse issues of accountability. In each, expressions of accountability are used differently but, ultimately, that is the concern.

Tenants: Consumers and Stakeholders

Whilst one might be cynical about the rationale for tenant board membership, there is an inherent value in their involvement at board level, as well as reflecting the values of the organisation itself. Broadly, such a justification falls within an understanding of tenant board members as consumers of, or stakeholders in, the delivery of the housing service.

The adoption of the constituency model coincided with New Labour's advocacy of ideas associated with stakeholder capitalism and the model's continued promotion is likely to owe something to stakeholding principles. It was presented as an appealing alternative to counter the damaging effects of unfettered markets, especially in terms of social cohesion. Levitas (2005: 50) describes stakeholding as 'an attempt to address obvious economic and social problems'. She argues that it sought to offer an alternative form of capitalism which 'condemns some of the effects of the free market, but seeks to accommodate or resolve differences of interest between shareholders, directors, workers, customers and the wider community, without recourse to public ownership and with varying amounts of regulation' (*id*). In the context of LSVT RSLs, stakeholder input may help to ensure that the organisation

considers the needs and desires of its key stakeholders and to retain direct lines of accountability where previous democratic mechanisms have been replaced.

This notion of stakeholder is expressed through, for example, employee directors and, indeed, tenant board members of LSVT RSLs. The primary benefit, then, is to provide a form of democratic accountability, albeit imperfect but which is more complete than the ‘usual’ tenant participation structures. As our Housing Corporation interviewee put it,

And allowing tenants to have a stake that arguably they've never actually had, even though they've had the democratic accountability before. ... Arguably they may well be better placed to make those judgements than perhaps some others who don't have to live on the estates, that get transferred

Councillor 4 similarly expressed this view as well:

It was because as a principle, ‘cause I’m a cooperative councillor, I like the idea of tenants actually having a voice, a controlling, not a controlling voice but a major voice, in their own houses, as opposed to just being (unclear) you know, things are done to them by the council. Admittedly they have their tenants Boards but they can be very hit and miss affairs. But one of the reasons why I like about this thing is that the actual tenants are involved in the decision-making. There is accountability from them, through them, back to the tenants. And for the first time ever you’ve actually got tenants really having a vote on the Board Which they don’t get, it’s all done by others for them.

Tenant 3, for example, specifically became involved in the organisation in order to ensure that the board had a balance between different tenant stakeholders. Tenant 3 noted that most tenant participation had centred around the urban areas in Wandland and, perhaps as a result, those areas had been most successful in obtaining resources of one kind or another. The more rural parts of Wandland were, thus, viewed as being the poor relation:

I am determined that those areas will not see the level of preferential treatment they've had in the past because of that. You know to my mind it has to go across the tenant base, not to isolated pockets of interest. So yes I'm there to ensure there's fair play but I'm also there sometimes to give a counterargument. For example the secure front door programme has been going a few years and the tenants, the involved tenants at that time, said that they wanted the high crime areas fitted with them first ... which rather suited their location. However, there's evidence showing ... and we're feeling it here from Bochester ... that if you screw down the lid in the high crime areas the crime just moves out a bit.

From the individualist consumerist perspective the role of the tenant board member could be simply to provide *user insight* at board level. Indeed the Audit Commission report suggests that ‘many associations value a user perspective at board level’ (Audit Commission/Housing Corporation, 2004: 23). Our Housing Corporation interviewee added that ‘part of the benefit of having tenants [on boards] is that it brings a consumer perspective...which is incredibly important to boards’. User presence on the board of governors is designed to ensure these service requirements are fed through to management (Ashby, 2004: 55).

Our key actor and case study data supports this understanding of the purpose of having tenant board members, a purpose which was valued particularly by the other constituencies. Thus, for example, Councillor 3 talked of the 'continual reminders' offered by tenant board members. Independent 2 made the point that tenant board members

remind the board reasonably often that you know what the company's here for. And the company's here to provide housing. And sometimes you take your eye off the ball and think well it's here just for some other ...

It was precisely because of that everyday experience that tenants obtained their expertise (see below, Chapter 8). Tenant 6 argued this point particularly, suggesting that added to the credibility of their voice on the board:

And in a way I think perhaps they ought to listen as much if not a little bit more to the tenant board members, because we actually live in the properties. So we know what is going on at the ground level as well as being in the board. Independents, they might live in their own private houses, but they won't feel the effects if there's a fault in the company, something wrong along the line, like the tenants will feel that effect. You know I mean if the maintenance on the properties falls behind ... you know private house tenants aren't going to notice it. You know they're not going to notice it, cos their houses, they pay for it themselves and they do it, but they're on the board. But as a tenant board member if the property starts falling into decay and it's not being done, what's got to be done by them, you know what is the company's side of it, like exterior decorating and maintenance of communal areas, and that falls behind ... well as a tenant board member I'm going to feel that. I mean if you work for a car company and you drive a different car company's car you're not going to feel the faults that the car company you work for's car's got. Because you don't drive their car.

If tenant board members are conceived merely in such terms, however, it undermines the equality of their role vis-à-vis the other board members. Indeed, our TPAS interviewee suggested that some tenants are perceiving that they are seen as second class directors by their colleagues who do not consider an awareness of the tenant perspective to warrant sufficient expertise to claim a place on the board. Instead, our interviewee argued tenants must have expertise beyond the user perspective. Likewise our ODPM interviewees indicated that there was a need to be careful not to 'pigeon-hole' or 'patronise' tenant members as having no broader role than in consumerist terms.

Our observations of board meetings and policy groups suggested that, when on-the-ground service delivery issues were discussed, tenant board members were particularly prominent in discussions. Further, there was an evident frustration on the part of the independent members about the degree to which operational matters were over-discussed at board meetings where there was a crowded agenda. This was not projected strongly (very rarely did independent members make the point that things should not be discussed at the meetings); rather, this was evidenced in their mannerisms and asides at meetings, in eye contact or whispers etc (including actively seeking out the observer with raised eyebrows or smirks).

From the consumer accountability perspective it is hard to see how tenant board members will somehow be able to personify the average tenant perspective. In reality all any one tenant will be able to do is portray their own individual user insight. This is hardly empowering (even in consumerist terms) for the very many who are not given this privileged route to management. As ODPM guidance (2004) notes,

'It should not be assumed that tenant board members will necessarily represent the wider range of tenants views or that tenant board members are solely responsible for tenant issues.'

Those tenants most likely to be involved in such high level 'participation' are likely to be richer in human capital than many of their fellow tenants (Riseborough, 1998; Goodlad, 2001; Cheung & Yip, 2003; Cairncross *et al*, 1994). In short, the degree to which the consumers chosen to provide the consumer perspective will be representative of consumers more generally is open to some considerable question. As such, the value they can bring from a service improvement perspective in terms of output accountability may be accordingly limited.

Councillors: Accountability, Strategy, Ethos

Temple (2000: 321) argued that local government control of public sector housing, however flawed and weak did provide some degree of democratic legitimacy and could potentially ensure that the driving force of public services was in the public interest. Zitron (2004), on the other hand, questioned whether the local authority model actually enabled any meaningful accountability to tenants. Indeed, Zitron suggested that LSVT would restore 'a degree of democratic accountability that no longer applies to local authorities'. Tenure shifts meant that the political relationship between local authorities and their tenants no longer existed since only in a small minority of cases can they influence voting results in individual wards. Thus, tenants are now unable to 'control their homes through controlling their council' (with only 12 *per cent* of wards in 2001 having more than 25 *per cent* of households in council housing). Thus, the primary motivation for transfer should be a democratic rather than a service management or funding one: '[C]oncentrated resident power and influence in well-designed housing association governance structures is now potentially a far stronger instrument than diluted electoral influence [over councils]'.

Our data suggested three particular purposes for Councillor involvement at the level of board membership: initial oversight of the transaction; the continuing relationship between the new RSL and the council; the retention of the ethical sense of the 'social'.

As regards the first purpose – initial oversight of the transaction – our key actor and Wandland data both suggested that this was a relevant purpose. It was regarded as appropriate the councillors retained some 'inside track' to

ensure that their properties were not being sold to an organisation ‘made of straw’:

during this stage, the handover stage I feel it is important for the council to feel that councillors, they’re not handing over their business to something which doesn’t have any view or understanding of council business. (Independent 3)

I think it’s important because … it’s the deal that’s on the table. And it’s … you know the council has to make it financially stack up. So it’s quite important that councillors are involved. (LGA Interviewee)

I think it is for the council, they want to have, this is about a lot, you know their properties um moving over to Housing Association and they want to have some kind of control, still in some interests there. so I think its very important for the council. And also to have a view as to see how things are, you know how the process is moving, I think they want to have those people in right at the heart of the decision making process. Um and its, you know it can also be something that effects an awful lot of their constituents. I mean you get really big stock transfers of 20,000 people, that’s a lot of constituents for a councillor. They have a vested interest in making sure that things work properly, that they are there at the heart of decision making I think, the more important aspect. (NHF Interviewee)

I think they act as a line of communication definitely, I mean I think there is that, um that they have a knowledge of what’s going on within the council, they have a knowledge of what’s, should be what’s going on in the community. And I think at the initial stage of transition between it being local authority stock to housing association stock its useful to have, um its useful to have that. (NHF Interviewee)

For some, like Independent 3 and the NHF interviewee, this initial purpose of Councillor board members would, after a short period, be redundant and there would be no further purpose for Councillors on the board. However, for others, it was recognised that there was a continuing relationship between an LSVT RSL and the council which produce a continuing purpose for councillors as board members:

we have a strategic, still retain a strategic, we have a strategic role. In delivering housing for our residents. And because of that I think we need to be able to, we can't just treat it as a, and there is, there is an absolute relationship between them, and there were our houses. And I think that as a result, it's not just another housing association. There is a link that flows through from the local authority through the houses to the new Board

The LGA interviewee similarly expressed this continuing role for councillors using the language of accountability and giving the specific example of nomination rights:

[Boards] have to be accountable. And so they have to be accountable to the council, because it's a deal they've done with the council. So the councillors on the board will help that accountability and actually look through what's happening and say okay you know what's happening with nomination rights here, what's happening with you know refurbishment there. And actually help maintain that deal and that sort of like contract that the RSL has done with the council. So that I believe is [] the most fundamentally important thing that the councillors on that board will do at that moment in time. (LGA Interviewee)

The CML representative suggested that there were potential ongoing financial benefits of a continuing relationship:

I mean the relationship between a local authority and a housing association can be productive. I mean not least in terms of some of the issues around for example when you sell ... many of these are under what are called sharing agreements between the LA and the HA. When you sell a property under the right to buy half the receipt rebates back to a local authority. ... Now in your relationship with a local authority your hope might be that if you have a positive relationship, if that does rebate back to the local authority, they will create a pool of funds that they ultimately finance the HA to do things with. Now that's down to a positive relationship with the local authority. So that relationship between the local authority and the housing association can be creative and the councillors are part of that.

Finally, there was a suggestion in our data that Councillor board members could offer an assurance that the new organisation would take on 'social values'. Councillor 3 expressed this:

I think in the transfer process and the setting out and the establishment of housing authority I believe that there needs to be some agency or other that is actually maintaining the values that social housing had when they were a local authority issue ... um, maintains or enhances the standard. And ensures that the housing body is run according to the social values which it espouses, rather than run on a commercial landlord base.

Independents: Reassurance, Skills and Expertise

The inclusion of independent members by contrast is designed to offer reassurance to lenders and regulators that their investment is safe and will be appropriately managed. The modern reliance of RSLs on mixed funding structures requires effective accountability mechanisms to the guardians and distributors of those funds, in this case the state through the Housing Corporation, and lenders themselves. As Collier (2004: 930) notes

'The initial funds, and much continuing funding is public funding, either in the form of grants for new social housing, or in the large proportion of social rents that are funded by social security benefits. Consequently (direct and indirect) public funding results in a high level of regulatory and inspection activity'.

Our key actor interviewees were skeptical about the involvement of either tenants or councillors or both, but all recognised that the independent constituency was the *sine qua non* of transfer. They were said to be the 'sacrosanct bit of the third/third/third' (ODPM Interviewee). They have a distinct role in providing neutrality (Housing Corporation Interview). Others referred to the importance of independent board members in terms of the balance they offer to the interests of the other constituencies:

Well I think their role [...] is to have a kind of overview, to act independently and to have an overview of ... you know without coming from one particular viewpoint. Now tenants are obviously going to come from a tenant viewpoint. [...]. Councillors are obviously going to come from a council's viewpoint ... no matter what the Corporation says. You know but the independent members are there to be independent, to you know not have a vested interest (LGA, Para 166-170).

So you have the tenants that have their own agenda, and councillors that have their own agendas as well, and really in order to serve best an organisation such as [ours], I think the only sensible thing is to draw as many people with experience of commerce, if you like, onto the board to make sure that the company is run well. (LSVT RSL Key Actor, Para 173).

Going beyond this general endorsement for the comfort they offered, in particular, independents also offer specific skills and expertise which, otherwise, the board may be lacking. Particular skills include legal and financial. The CML interviewee made this point strongly:

when you think what are you getting from the local authority, you really are getting housing management ... broadly. So that's what's coming across to you. You know they've not ... they've relied internally on HR, finance, planning. All of those things are being left behind. So to some extent you've got to replicate that in the board, going forward.

Our lender interviewee made clear that governance structures and skills gaps were particularly important to them (although did not make the point made by the CML representative). For this organisation, one interviewee said 'It will not stop us lending, but it would be a comfort to know there is a balance [of skills on the board].' They noted that most LSVT RSLs went into some form of supervision or administration because of poor governance and not poor performance. More generally, as Independent 2 put it:

. I mean um ... and the independents I think because they'd been recruited for their skills and for their job roles um ... well to a certain extent I mean it cements the thing together a little bit. Otherwise I think there would be ... I don't think there would be enough professional input into it. And we would be relying too much on advisors and consultants really.

Wigglesworth and Kendall (2000) argue that 'the changing nature of the RSL financial environment has increased the perceived importance of business acumen, leading to the recruitment of more volunteer board members positioned to advise of funding and accounting'. They consider this change to be a mixed blessing for, although the recruitment of independent members with financial and accounting expertise may enhance accountability to both funders and the regulatory body, their presence (particularly if they come to dominate) may threaten the social credibility and social orientation of RSLs (at pp 10-11). In Wandland, board members, by contrast, particularly valued these business and other skills which independents brought with them:

They bring a set of competencies so that ... they bring with them one magical thing of 'I want to contribute', so you know this great sort of well of goodness. In addition to that they individually bring different competencies. We had (inaudible) 'Well we should be looking for the right person' and I'll say 'No no no no, we need to balance the competencies, there are a whole set that we need and there are some we haven't got. I think we're short on legal.' But Independent 2, bless him, not only does he bring a lovely lovely person[ality], but he also brings a massive accountancy. And that's fine cos I can deal with the business but this is the guy who can actually dot the Is and cross the Ts and work out where I've left bloody great big holes. ... Independent 3 brings (pause) a wonderful array of organisation, logic ... almost project management talent into the picture. Independent 4 ... predominantly brings the ability to manage the board ... yeah, pretty effectively. (Councillor 3)

Independent members, according to our lender organisation, offer comfort through their externality – they are not subject to the pressures of tenant and councillor board members. They also have expertise which is important in complex commercial organisations:

The independent members play a very important role as the expertise and private sector experience they bring to boards usually reinforce the view that the RSL has the ability to perform well and make hard decisions.

Independent board members can provide funders with comfort because they will be viewing the RSL from the outside and therefore with a level of impartiality. Depending on what their professional background is, this may provide further comfort to a funder.

Critiques of the Constituency Model

In addition to the discussion below about the conflicts faced by board members as a result of the neutral allegiance model of governance, our key actor interviews disclosed a number of concerns about the constituency model. As befits a working model born out of compromise and pragmatism, no particular interest group is entirely happy with it. The following is a summary of the critiques.

Tenant board members and tenant participation

The principal concern of TPAS was that tenant involvement at board level can lead to a leveling off of more general tenant participation activity. As our interviewee suggested:

There is a discontinuity between tenant engagement and tenants on boards. It is assumed that having tenants on the board means that the LSVT is getting the tenant perspective. Tenants on boards is not the same thing as tenant participation.

This concern was (interestingly) mirrored by our lender organization because of what it symbolizes to the lender:

Tenant involvement and consultation is important at board level but even more critical on the ground. An RSL that has active tenant involvement is usually performing well.

For the CIH representative, having tenants as board members can be tokenistic. Further, it can lead to the RSL assuming that ‘tenants on board means [that they] know what tenants think and want’.

Recruitment and Retention

Concerns exist about the recruitment and retention of certain board members, particularly councillors and independents. The CML representative said

I mean many authorities find it difficult to recruit councillors to serve and certainly the attendance record of those councillors that have been appointed often diminishes very rapidly. And so what you often end up with is one or two councillors who stick with it and large numbers fall by the wayside. So if nothing else you're faced with a constant turnover of the councillors, which actually again undermines the capacity of that board to operate effectively. And then you have independents. And I mean depending where the independents ... where the LSVT is, the quality of the independents varies enormously.

Recruitment and retention issues are particularly prominent after the LSVT RSL has been in place for some time. Attendance particularly by Councillors falls off, partly because they simply cannot meet the commitments required of the organization (LSVT RSL interviewee) or cannot find the time, for example, even to read the board papers (ODPM interviewee). For one LSVT RSL interviewees, an amicable arrangement grew up over time as the council forewent its 'seats' on the board:

in terms of selling the proposition of transfer, a third/third/third or the kind of variation on that, is probably the only thing that satisfies the political interest and those of tenants of transfer, ... and finding that down the line, particularly after the five year transfer kind of promise period had passed, um that there were some fundamental flaws in the constituency model of governance, which weren't serving the future of the business very well. So that here precipitated a conversation as part as our wider review of corporate governance, that said well maybe the district would take a different view about that now, they work with lots of other different associations, they don't have members on their Boards, [our organisation] honours its promises, lets have the debate with them about changing the nature of our relationship, because the relationship was getting better, er they were amenable to that, and fairly recently agreed as I've already implied to kind of reduce the number from three to one, and we just voted on that with our share holders um two weeks ago, to actually approval to make a rule change. And the council have put a marker down that in another year or two they may be willing to forgo their final place.

Although councillor attendance might be anticipated to fall off over time, our observations of Wandland meetings noted that, in fact, councillor attendance was already at a low ebb. Low attendance levels were causing other board members to question the role of councillors on the board. Indeed, councillors only seemed to attend at the 'defining moments'. As was noted during one observation of a board meeting:

The cynical might notice that this is the only time that any Councillors volunteer to propose/second throughout the whole three hour meeting and might think that they just want their names associated with the crucial moment. Usually it is tenants and, less regularly, independents who propose and second things.

Quality Issues

A concern mentioned by a number of interviewees concerned ensuring that board members exhibited the right qualities and experience. The ODPM representative noted this concern particularly in relation to councillors who are not chosen as such, but nominated, as opposed to other groups:

either they believe that its they're there as councillors, which is a bloody nuisance, or they're not there at all because they can't be bothered to turn up, or you'll get ones

who are really good. But in a way, they are the, perhaps the most unpredictable bit. Because you will go through a selection process for your independents, and you can vet them, in a way. And in a way, there is an assumption that the tenant Board members, however they have been selected will be effective because in a way, to have got to that point they've demonstrated their effectiveness as members of a community where they have risen to the point at which they will be naturally selected, be it through interview or whatever.

Our Wandland data certainly discloses some degree of opposition to continuing councillor involvement at board member level. Partly, this was against particular individuals who were negatively regarded (because they were unable to leave their politics at the door, were non-attenders, or simply lacked the essential competence or commitment):

The local authority, um I mean they are a major stakeholder, and ... specially in the early days when we're trying to um ... I can understand why they should be on. But um ... in many ways they probably contribute ... probably a bit less than I'd hoped really. (Independent 2)

Ten2:I think councillors who serve on a Board have to remember that what they're doing is non political, and some councillors are very political, and I'm not just talking here but some councillors are very political. And that can sometimes make things difficult, because of their political views, you know their...

I: Has that happened here?

Ten2: Um, (pause) no comment.

I: (laughs)

Ten2: Lets just say that we did have one councillor who wasn't too sure about whether he could marry the two together. (Tenant 2)

But councillors can do that as well mind you, they can be not up to speed and they can get looks from the independents saying 'You don't understand what ...' Now to be honest, councillors don't understand transfer. They haven't really had the time or the inclination to understand what it's all about. Specially the financial part of it. So even at board meetings now we're getting councillors asking very fundamental questions about the capital receipt and about the valuation and everything else. And about you know right to buy sales post transfer and things like that, which really they should know. (Tenant 3)

Others expressed concerns about the quality of tenant board members. It was regularly said to us that the point was not just to have tenant board members, but to have good ones. After all, as was said to us more than once, the most likely reason for going into supervision lay in poor governance. Ongoing debates within TPAS suggest both ambivalence towards the constituency model, but also concern that the most appropriate tenants become board members as this reflected on the organization, other tenants and financial viability:

TPAS basically believes that having 1/3 tenants on the board is a good thing, but its support is not such an unqualified 'yes' as 3 or 4 yrs ago. Recognise now that what is needed is to have capable trained tenants, but not tokenism. It is in tenants interest that that boards operate effectively, tenants suffer if governance not operating well because RSL will be put into supervision, poor services etc. Not any tenant on the board will do. TPAS believes that tenants can and do operate well this role, but good

tenants on board = better landlord, but bad tenant on board not good for tenants. This is subject to ongoing debate in TPAS.

Our lender organization similarly made the point that tenants on the board need to be able to contribute and raised questions about their appropriateness when complex issues were being considered by the board.

The issue is how are they going to contribute commercially to decision-making? Do they need 5 reps? Would it be better to have tenants forum with one or two reporting back?

Tenants can be good to have on the Board as it hopefully will lead the Board to consider the most 'grass roots' of issues. Tenant board members can therefore effectively be the 'vocal chords' of their community. However, when they are being relied upon to decide/vote/give opinion on complex issues eg treasury management/products, their potential lack of knowledge/expertise, can lead to a wasted vote/opinion due to lack of understanding.

Balance

At the level of policy, it was said, by both the Housing Corporation and ODPM interviewees, that it was the independent constituency which was perhaps the most important. They provided balance on the board, and mediated between the interests of board members – indeed, the Housing Corporation interviewee suggested that was a particular reason why independents might relish the role, as they had real power in the new organization. However, equally, whilst tenant and councillor board members might be dispensable, independent board members were a *sine qua non*. As the ODPM interviewee put it:

there is a sacrosanct bit, and its never expressed in that way, it is, it is the independent's role. And the corporation puts great weight on their involvement, as do we in the department. ... they are the ones who could be bringing the wind of change, you could argue, that a transfer is meant to be delivering, along with tenant involvement.

Working Relationships

One of the important uncertainties with an LSVT RSL is its lack of history. This impacts on what it must show to lenders in order to obtain funding. However, its lack of history also creates uncertainty at the level of governance. Put simply

And do the Board actually you know, knit together? Because a personality is a personality, and you can find you will get dysfunctional Boards, and I talked to the corporation about this about you know, when they're looking at Boards, shadow Boards that have been established that they're unhappy about them, and what you can do to try and change that, because then, because they don't come together naturally. Um and just because everyone has been through a selection process, it doesn't naturally mean that they are all right together, um initially. (ODPM)

The interactive nature of boards, and the importance of personality, therefore impacts on the governance structures of the organization; more so, when there is some antipathy between board members to the extent that the real business of the board becomes shrouded by animosity.

Embedding the constituency model: The case of Wandland

Given that the constituency model is not a formal requirement and there are criticisms of its appropriateness (which are well-known amongst the housing ‘community’), why then did Wandland adopt it? Officers remembered that board member composition had been discussed. Our interviews with officers together with other data from our key actors suggested that the constituency model is usually adopted because it has become the norm. indeed, deviation from the norm in a highly charged environment can be negative:

And I think the third model has become enshrined in the process, which means that now if I went to the transfer and opted to do for the sake of argument half/half as it were, with half independence, Defend Council Housing and all the rest would be down there like a rat exposing that, and individual tenants would be made nervous by it. (CML Interviewee)

Officers discussed whether the board should be comprised of 12 or 15 members with the Housing Corporation (as board membership has tended to become slimmer over time amongst RSLs generally), and were advised that the Corporation preferred odd numbers for voting purposes (Officer 1).

However, what appears to have been significant was the involvement of the consultants who clearly favoured the constituency model:

there was discussions about whether we should do something different than a 5-5-5, I mean ? was put to us by the consultants as very much what normally happens, and there was some discussions about whether we should have larger tenant involvement, um... smaller council involvement (laughs). Um but in the end... (Officer 1)

And it's the kind of thing that you kind of think it, but because there are so many consultants involved, and they... they say oh no, no this is the way that its done, it kind if... you know its already happened and you haven't really had much time to influence it or you know, I wouldn't say that the cons- the consultants involved in transfer are very TP minded,

...

And I think it was decided in the... in the working group, but it was very much influenced by the consultants who said this is the model ... (Officer 4)

Conclusions

Malpass (1997: 50; 2005), argues that board membership by tenants (as well as councillors and independents) portrays a strong message that RSLs are types of organisations in which accountability to tenants, the public at large, and financiers are each valued. Further, by reserving places on boards for tenants and councillors, LSVT RSLs have adopted an approach which is

(ostensibly) more democratic and accountable than that in the traditional housing association sector. The Audit commission itself claims that the model has brought successes in accountability terms (Audit Commission/Housing Corporation, 2004: 3).

Nevertheless, the constituency model has developed more as a result of serendipity than science as a pragmatic response to the needs of different 'players' in the transfer process. Despite this, our data suggests that there are continuing benefits of each constituency, although there are trenchant critiques of the model. Indeed, the constituency about which most complaint was made was the councillor board members.

7 THE ‘NEUTRAL ALLEGIANCE MODEL’

Introduction

In the two previous chapters, we have considered the way board members are appointed and the constituency model usually adopted by LSVT RSLs (under which board membership is taken equally from tenants, councillors and independents). Although these are conceptually separate issues in their own right, both have a bearing on the issue discussed in this chapter – what we have termed the neutral allegiance model. Under this model, board members must act in the interests of the organisation – the ‘corporate interest’ – and not on behalf of other interests. The neutral allegiance model poses issues for two particular constituencies – tenants and councillors – who may be regarded (and self-regard) as representing other tenants or the council or the local council tax payers more broadly.

As a theoretical model, the neutral allegiance model owes much to private sector idea(l)s. In this chapter, we draw on our key actor and Wandland data to illustrate how difficult it is for these two constituencies to balance their external interests with the required neutral allegiance to the LSVT RSL.

Derivation

The neutral allegiance model appears to be a ‘crossover’ concept, adopted from models of corporate governance. As we noted in the introduction, the neutral allegiance model was explicitly adopted by the Hancock inquiry into RSL governance at a crucial time during the 1990s when the number of LSVT RSLs were expanding.

The private sector model requires directors of companies to act solely in the interests of the company itself, and not take account of personal or other external interest in the name of the *fiduciary duty* to the company. Be that as it may, there is in fact some doubt as to whether the initial statement represented the true empirical and legal position even in the mid-1980s (see Parkinson, 1993). Nevertheless, one may speculate that its adoption in purest form in LSVT RSLs may have been designed to ensure and reflect the non-public nature of those bodies. The adoption of private sector governance models – perhaps more rigorously than the private sector itself operated – added to the apparent private sector nature of the organization being created.

The inclusion of local authority and tenant constituencies, whose ability to defend their stake is tempered by this model, suggests the overriding importance of accountability to regulators and funders rather than their respective constituencies.

The Housing Corporation and National Housing Federation have made the neutral allegiance mode clear in their literature. For example, the National Housing Federation states that

'All board members share responsibility for its decisions. Each should act only in the interests of the organisation and not on behalf of any constituency or interest group'(2004, 8).

Furthermore, board members 'should recognise that their responsibility is to the organisation alone and not to the body that might have nominated them to the board' (Rochester and Hutchinson, 2002: 38; cited in Audit Commision, 2004). They further elaborate that RSLs

... need to ensure that members are treated first and last as members of the RSL's board and not as residents' representatives, local authority nominees or independents. The legal and moral responsibilities of board members to the RSL should transcend – and be seen to transcend – any other commitments they have' (30).

The Housing Corporation states that 'individual governing bodies members act in a personal capacity and not as nominees/representatives of any other body, unless the constitution so provides' (2005: 5) and that they 'expect the board members...to be there to ensure the sound running and effective governance of the organisation, and that's not the same as representing collective interests of different groups' (Interview, 2005).

Despite this official line, there exists an acknowledged tension for tenants and council members:

'Many tenants of [LSVT] housing associations feel they are on the board to 'represent' a constituency of tenants. Often this misapprehension is a direct result of mis-selling (sic) the role at the time of the ballot. At the time of the transfer, tenants are often led to believe that they will have an explicit role in representing the interest of their fellow tenants on the board. This is not compatible with the accepted principle that dictates that as a board member they have to work for the interests of the organisation – that is, that the directors' responsibility takes supremacy. [...] resident board members are not there in a representational capacity' (Audit Commission/Housing Corporation, 2004: 45).

The Audit Commission also acknowledge that this 'confusion is reinforced [...] by most residents coming onto the board via an elective route' (*id*). There is evidently a tension for both tenants and councillors that their position will have been democratically granted but cannot be so exercised. In this regard, Clapham and Kintrea (2000: 547), in a stuffy of community based housing associations, point out that board members are placed in an ambivalent position; 'they [are] representatives without the means to represent'..

The Audit Commission report highlights this issue as particularly problematic stating that ‘there remains a particular need to progress the debate [about resident involvement] with regards to resident board members’ (2004: 51); and more strongly that ‘confusion [...] abounds in the [housing association] sector about whether residents sit on the board in an individual capacity or whether they are there to represent other residents’ (2004: 39). Indeed its primary recommendation was that

‘The Housing Corporation and the Office of the Deputy prime Minister should consider whether current advice and support on the recruitment of resident board members in LSVT associations and arms length management organisations is adequate to address the common misperception that they are there in a representational capacity’ (2004: 8),

and more generally that the Housing Corporation ensures

‘that existing guidance and good practice on the role and purpose of resident board members is effectively communicated to housing associations; and monitor and evaluate the effect of this guidance and good practice to ensure that misperceptions of the role of the resident board members are corrected’ (Audit Commission/Housing Corporation, 2004: 8).

On the other hand, ODPM guidance on the setting up of Arms Length Management Organisations, which like LSVT RSLs are to include tenants, local authority nominees and independent members, explicitly specifies that ‘tenant board members should be elected by their fellow tenants *to ensure that they are genuinely representative*’ (emphasis added) (Office of the Deputy Prime Minister, 2004, 12). The ODPM themselves raised this contrast with us during our interview:

‘Well its, the odd thing is, ... ALMO Board members are actually all elected, tenant board members are elected. So there’s this sort of perceived, from the tenant perspective, slight sort of schizophrenia about the fact that the election process is not automatic with LSVT Board members...And I must admit I think it’s quite difficult to reconcile that, because the board membership issue, of what a Board member is, applies equally to an ALMO board member as it does to a housing association board member. So that can’t be the obstacle or the issue in itself, so therefore there must be another reason why its perceived as different, or operates as a different way as the housing associations...Because I had a long chat with the ALMO people and I said ‘Was it about representativeness i.e. that people have that democratic legitimacy to sit on that board?’. And they felt it was integral and important that that happened, but nobody was under an illusion that once on the Board, this is the theory, they then became part of the board.’

Tensions in the neutral allegiance model

The neutral allegiance model contains inherent tensions for councillors and tenants. They are expected to shed their identity in one arena – which is likely to be particularly important to them and their *raison d’être* for their board membership – in order to take on the guise of neutrality in another arena. Our key actors identified a number of tensions: the regulatory context; the difficulty of explaining the notion described by Clapham and Kintrea as ‘representatives without the means to represent’; the political and the personal.

The first tension concerned the broad regulatory environment. The requirement that RSLs are independent of councils and other interest groups. Means that members of the board should not, in theory, be representing other interests. That creates tensions at certain times:

The Local Authority should not be feeding through, it is an independent organisation. Whilst we expect the new landlord to consult, it must be independent and not require consent of the Local Authority. The transfer agreement establishes that relationship. It is custom and practice that the Local Authority is a member of the board (housing Corporation Registration Unit, paras 57-61).

Because your responsibility as a board member is not ... is to represent the board. I mean that's PLC territory if you like. Yeah it's within the ways companies work. And what you can't have and particularly in a housing association where in theory ... [...] ... you could have tenants for example preventing a rent increase, which the organisation needs for its financial viability but the tenants are opposed because they're representing the tenants (CML, para 787).

Secondly, most key actors recognised that there were difficulties in upholding and even explaining this regulatory requirement particularly against the common misconception that tenants and councillors sat on the board in some sort of democratic (be it participatory or representative) capacity to defend and uphold the interests of tenants or the council respectively. The Chartered Institute of Housing interviewee noted that, given the diversity of the tenant population, the democratic, representative model of tenant board membership appeared problematic. Conversely, councillors retain board membership on the basis that they (ie the council) can retain control of the new RSL which itself, proves problematic. Indeed, at the CML representative noted, the problem for councillors is that the new RSL operates unlike the old housing committee:

Councillors, equally, you know a number of councillors, who in a sense are hoping this will be a replication of the housing committee, suddenly find that of course it isn't the housing committee, it's got an agenda which is entirely different and focussed upon that service alone, and has none of the political nuances. (CML)

A representative of the Housing Corporation's Registration Unit commented that communicating to tenant members that they were not representatives or advocates but rather just part of a group of corporate board members was 'one of the most difficult things I have to get over to the board' (Para 49). A representative of the ODPM concurred with the emphasis on independence:

[...] we have to try and encourage them not to see themselves as tenant, as representing the tenants, because they're not. The local, we say to the local authority members 'You're not representing the local authority.' Er and we have this discussion with large metropolitans, who like to think that if they put their councillors on the Board they have um you know, a say. I say no you don't, leave that behind, they are there as an area where we have drawn some independents who come, independent of mind, and thought, and should be giving their skills to this new organisation. And the tenant members are no different.

There were also, however, significant problems which may be caused by the mis-selling of LSVT to tenants

think if you, well, I mean I think it's true to say that every transfer will be sold differently, um and I, the best ones don't have to be sold, they come out of a natural process, and it's, but if we're being real worldly about it, then there is always some element of selling on every initiative. But I think if you're selling it effectively you're not saying that you will have a voice, what you're saying is that this will be run by an independent organisation which will have representatives from these groups, but it ends up as the (unclear) you will have a voice in this. Doesn't it? It's bound to. And people say well I've got a voice in how I run this, and you know, you're quite right, that sounds quite attractive, doesn't it? (ODPM, Para 348).

The logical extension of the constituency model is that tenants and councillors sit on the board to provide democratic representation and accountability. As David Walker explained, there is more to having tenants on boards than user-insight; there is also a democratic flavour to both the model and prevailing policy (even if this emphasis was to provide popular appeal rather than genuine accountability):

David Walker: [T]here's been lots of talk about trying to infuse [...] new energy into the community representative structures, to reinvigorate society, most of which activity embodies some representative principle. And if public policy in social housing says no, the representative principle will not apply, you might observe a certain discontinuity (Para 78).

Why do RSLs need to think of having tenants on their board, when they are providing a service, and as good service providers, by their very nature will pay attention to the tenant's experience? Tenants [are] on the board because of a throw back to an older model of governance where you do have some measure of representative ness, where you move in some measure towards a more cooperative style of relationship between service provider and service receiver. And I think, you know, RSLs again are somewhere in the middle of a, of that quagmire [...] (Para 106).

Third, the personal and the political identity of the individual board member must feature at some point in their identity as board member. Although no doubt possible in theory, the practical reality is that multiple identities are problematic. In other words, the empirical reality of everyday life makes such multiple identities difficult. This version was most clearly articulated by our LGA interviewee. Whilst the other key actors interviewed for this study took the regulatory principle as their starting point and thus balanced or pushed aside the representative principle, the LGA interviewee's conceptual starting point was the democratic, representative principle. Our interviewee perceived there to be a direct and logical link between including councillors because of their stakeholder interest and their acting as representatives of that interest, not least because of their accountability duties to the nominating body.

Now ... yes, but they're put on the board because they're councillors ... which is, I would have said, a circular argument. And I don't see how ... I cannot see ... and maybe I'm being stupid here ... I cannot see how the Housing Corporation can differentiate their role as a councillor as being a board representative ... because they're a councillor (LGA, Para 332).

I can't understand personally the logic of why you would say right we'll have a third you know councillor representatives on there without them performing an LA function. Because they've been put on there as LA reps, as councillors. And that's the reason why they're on there, because they're ward members. Now I don't see any ward member ever who sits on a board of anything and doesn't refer to their function in the council. [...] And they will ... I mean I talk to councillors who are board reps and they

talk to me about how their LSVT is running and everything else, and they clearly see themselves as being tied in with the council and the council plan [...]. [...] So I can see where [...] the Corporation are coming from, but I think I can clearly say to you that my members don't feel that way (LGA Para 102).

The personal vulnerability of this multiple identity was noted by the CML interviewee:

And I think fundamentally, [...] you've got the tension about what are the councillors and tenants there to do. They're taking on a new corporate responsibility, but sitting on their shoulders if you like are old corporate responsibilities, and they're not reconciled. I think they're left quite vulnerable actually. Personally vulnerable and collectively vulnerable, with you know people being very uncertain about what they're doing (Para 123).

Our key actors recognised, however, that the problem was much more stark for tenant board members. Our ODPM interviewee expressed the problem:

The difficulty for them though, for the tenant ..., they go home to houses that are owned and managed by this organisation with neighbours who are going to be affected by the decisions the board make. And when they're thinking about what the rent rise is, you know it's a very difficult position to put someone in isn't it? (ODPM, Para 344).

... I think tenants are put in an invidious position, and I would hate to be a tenant board member, who has to go back to my estate, and be held responsible. I think we put them in a very difficult position, and I feel sorry for them actually, but that's my personal view not....

But we do, I believe, and as I say, put them in a very difficult position, because everybody else walks home at night elsewhere (ODPM, Para 80-84).

In our Wandland data, Councillor 3 observed that particular tensions and issues arose as a result of the election of a new tenant representative:

We've now got a couple of tenant representative board members and they're in an interesting position because they've been elected on by tenants. Are they shop stewards for the tenants? Are they representing the tenants with whom they live? Are they representing the whole of the tenant board? Now we sit and we talk about this mythical group they are representing tenants. Um ... yeah fine. Excuse me, you know, what mechanisms do we have for ensuring they know and understand the views of all tenants? How do they project the multiplicity of views of all tenants? They're not representing themselves. I think they're in a very very difficult position. However, the only way I can see is if we have sufficient of them - five or six - then the sheer diversity of themselves will in part reflect the diversity of tenants and tenants' views. But they are not shop stewards for the housing area from which they come. (para 268)

I don't live the life of a tenant, I don't live the life of councillor. Councillor is something I do every now and then. Whereas a tenant is a tenant is a tenant. And lives with tenants and is known as tenants and is bombarded ... was elected by tenants. I haven't got a clue who elected me. In fact it's very very few people in five villages.

Although most of the stakeholders perceive the tensions and ambiguity which arise from the conflict between the constituency model and the regulatory requirement of independence, they also by and large believed that there were more pragmatic ways of dealing with the tension. Further, the tension could

be dealt with through education and training – indeed, a particular feature of the key actor interviews was the reliance placed upon training.

I think a lot of [tenant board members] see themselves as representatives of tenants, and I think that there is a shift that has to happen between, well I think its striking a balance between being representatives of tenants and tenant's views, but also being representative for that org- a representative for that organisation (Para 83). [...]. So I its, I think in reality it's a dual role (NHF, Para 89).

I think some councillors...again, and it comes down to [...] how strong the governance mechanism is, as to whether you've got proper standing orders, terms of reference, codes of conduct, all of those things in place. I think some councillors can find that if those aren't all in place or they're a bit woolly, that they're, they don't quite know where their role as councillor ends, and where their role as a board member begins. And I think that is, you know its horses for courses, and I can't give any more information than that. But you I think you know there is a potential there always, for people to be talking with their councillor hat on. And not realising that actually you should be talking as a board member (NHF, Para 129).

We've been discussing how the fact that...precisely what we were saying is that once you're on the board you are a board member, and you haven't got constituents, and what we're looking at is training of tenants so they are as well versed in all the various technical aspects of running an organisation, as are the independents. The independents when they come onto the board, um land with their feet moving as it were. (Chair LSVT RSL, Para 181)

'Skilling up' tenants will, thus, enable them to become effective governors, essentially to make them more like the 'genuine independents'. The implication is that good governing skills are akin to the more 'business' or 'commerce' skills which independents tend to exhibit, a view perhaps reinforced by the ODPM and HC insistence on the board displaying particular skill-sets and by the regulatory neutral allegiance model requirement itself.

Alternatively, interviewees felt that a line could be drawn between the neutral allegiance model and a participatory democratic approach.

[Tenant board members] should be just taking a view in an equal way, as the independents and the local authority members [...] of tenant issues that are coming up. But they're there in a way to make sure that they come up, but they're not there as the advocate of them, are they? And I think you know, you've got to, that that's sometimes difficult for some tenant board members, but I think the tenant board members, but I think the tenant board members who move beyond that find it a much more satisfying role (ODPM, Para 227).

The analogy might be with school governing bodies where you have parents, and in theory you have parents are not meant to be there to represent little Johnny or Janey, they're there to be generic parents. Similarly the tenant is there to be a generic tenant, rather than someone who wants their problem done at number 36 you know (David walker, Para 114).

Wandland HA: Pragmatism, contradiction and conflict

In this section, we draw on our case study data to illustrate, first, that our board member interviewees generally accepted the neutral allegiance model; secondly, how they were able to accommodate that role specifically through

adopting an understanding of their strategic role as board members; but also how conflicts and contradictions between the roles emerged in seven specific examples.

General

What emerged from our data at Wandland HA on this issue reflects those tensions inherent in the model. What was perhaps most interesting was the way in which tenant and councillor board members, on which we focus in this section, mostly 'bought into' the neutral allegiance model. They recognised that their duties were to the organisation and not to other interests. There was, therefore, a distance between the personal/political and their board membership:

I've actually got my position on the board is because I'm a Liberal Democrat Councillor. But when we're actually there for a board meeting that doesn't come into it really. It's just everybody is a person. And whatever they happen to input to that particular meeting. You know the experiences life experiences or anything else that have evolved over time. (Councillor 1)

Yes I'm there as a tenant and I'm putting that side of it, but I don't represent the tenants. It's the board has got to work. The board has got to work. And if the board's going to work you're not a tenant, you're not putting tenants' views, this is me speaking. (Tenant 1).

Others were able to substantiate their claim to neutrality, as opposed to representation, by reference to their ignorance of the views of their party or other tenants:

You have to shed your blatant party political. I can't sort of divest myself of my values, cos those are what make me me. I can't divest myself of my life experiences. So I am that person who happens to be a Lib Dem guy. But fortunately ... largely because I'm pretty disinterested in many of these things ... I haven't got the slightest idea on what a Lib Dem policy on social housing is. So I don't take that into me, I don't believe that we should be taking political baggage into the room. (Councillor 2)

I can't say that I can possibly be representative of the leaseholders cos I don't know them. (Tenant 5)

Having said that most subscribed to the model, though, most also explicitly or implicitly, consciously or sub-consciously, at least hinted at contradictions in that role as well as conflicts. Indeed, of our board member interviewees, only Councillor 4 explicitly distanced themselves from the neutral allegiance model:

And there is the interesting problem, because, okay that's the first instance. That's my first role, my first duty [as a representative of my ward]. My second duty is to my group, my ... party. Because I am there, again not because I'm a representative of [], but because I'm a member of the [] Party, and the [] group has chosen me as their representative on that Board. So I have a, an accountability to them as well (paras 224-6)

An Accommodation: Board Members as Strategists

The most regularly used metaphor in this regard was about the different 'hats' which people could wear. Becoming a board member required the appointee to wear a different hat from their usual, everyday experience. As members of the board, they were *strategists* unconcerned with the operational side of the business. So, for example,

I think as a councillor and as a board member you're looking at the whole situation. And you get more of a balanced opinion over general things. So you're trying to put yourself on both sides of a situation and weigh up and get a balanced opinion which comes in the middle which doesn't affect you. So you don't take sides so to speak. So I think most board members actually do realise that and that's how they are working. (Councillor 5)

Well the board ... the board is sort of a governing body of the company. We don't get involved in that level of ... like you say the nuts and bolts level ... but we sit there ... the board should sit there, discuss policies, you know ideas - solar heating, you know thermal heating whatever. Maybe find out ... get people to ... you know get in touch with specialists to find out the practicalities of all these ideas. Then discuss them and come up with what we think we've got the money to play for if we've got some money spare. (Tenant 6)

We're the company's policeman. We're the company's think tank and you know hopefully we're ... like I said we give ideas, we do that and the board will be able to do it. And hopefully you know the CEO officers of the company will listen to what the board members say. (Tenant 6)

This accommodation was particularly apparent when there was discussion at a board meeting about whether or not to purchase the council-run hostel for homeless applicants. At a strategic level, Tenant 1 offered an answer which melded both a tenant perspective with a strategic understanding:

But I said to them ... well if you don't have the homeless accommodation you're missing out on a section of our tenants that are going to come over. ... I mean I don't know quite how it's going to work if you don't have the accommodation for the homeless included in the package that the council wants to hand over. And ... I said well if we're going to accept tenants from the homeless and they keep it, we aren't going to have any background. We're just going to get the tenant and we've got to house them. And they said 'Oh we never thought of that.' You know what I mean? They just saw it as bricks and mortar.

Contradiction and Conflict: Specific Issues

The conflicts tended to be *situational* rather than general. We noted six such particular areas of conflict: (i) Confidentiality; (ii) Financial negotiations with the council; (iii) Relationships with housing officers; (iv) Political agenda; (v) Tenant participation; (vi) Election of tenant; (vii) rent arrears. Conflicts (i)-(iv) were experienced by councillor board members, or at least some of them; conflicts (v)-(vii) were experienced by tenant board members, or at least some of them.

(i) Confidentiality

All board members were required to sign a confidentiality clause. This caused controversy amongst one or two councillors, who felt that the confidentiality clause conflicted with their obligations to the council and to their party colleagues. Councillor 4 particularly initiated this because this person felt that it threatened his ability to balance his role as board member and councillor/party representative. Councillor 4 interpreted the original draft of the clause as a 'blanket policy':

And everyone else had signed it. (laughs) And I sort of looked at it and said 'no way'. Because I knew what would happen if I signed it, given the politics of the thing.

...
I said this is impossible, no councillor could sign this. Um so there was a bit of a hoo hah about that, because, I mean I'm not wanting to, I'm not involved, I don't want to give the impression I'm sort of involved in some sort of brinkmanship in all of this, opportunity, but that was just, I could see that that would be a major issue of contention. So I said well, and that's why I took it to our solicitor and he looked at it and he said 'well it is, its absolutely draconian', because you have to have a public interest clause, you know, whereby this is not right, and I have to say this is not right, because I represent not only the Board, I also rep- I'm there as a councillor representing residents. Who may or may not be council tenants. And if you're that hamstrung, then there's, there would be no possible, I could see in the long term no, it would be extremely difficult for councillors to play any role within that body, and play a role, a general housing role

What was interesting about this clause was that not all councillors felt the same way. Indeed, Councillor 3 noted that he worked on the basis of 'iron trust' and, although one could spend considerable time drafting such a clause, 'it'll be forgotten within half an hour of being written'.

In fact, the confidentiality clause was re-negotiated and the final draft covered just items marked as 'confidential' on the agenda. Two points make this episode interesting – first, it was just that, an episode, which punctuated the norm of neutral allegiance, after which all (except Councillor 4) were able to revert to that norm. Second, it demonstrated that punctuations in the neutral allegiance model are often personal. They may be felt particularly acutely by certain persons and not at all by others, depending (perhaps) on external norms.

(ii) Financial negotiations with the council

Another example of the personal nature of conflicts were concerns over conflicts of interest caused by the negotiations between the council and the LSVT RSL over the cost of the properties to be transferred by the council. These were commercial negotiations in which the council had an interest in securing the highest possible offer and the LSVT RSL in securing the lowest price. Decisions over the valuation of the properties were therefore steeped in controversy. Councillors 1, 2 and 3 both recognised that there was a conflict

of interest and declared that during council meetings. Other Councillor board members, however, did not do so. During our interview, Councillor 3 noted this contradiction between neutral allegiance and his dual role in this specific instance:

CLLR3: ...I am therefore because I'm a Lib Dem councillor, but however having got there, my role is now as a board member.

I: Right.

CLLR3: And that creates conflicts, because there are sometimes ... and it amazes me how you know some of the others don't declare it, but if we are making decisions which impact upon ... financially impact upon ... the valuation decision ...

I: Yeah.

CLLR3: ... then 'Excuse me' (?) ... I have to withdraw from that. And I have to withdraw in both chambers. (laughs) Because I cannot ... I can't bring myself to argue forcibly for A in this forum and then move into another forum and argue forcibly for B. Sorry. If I could do that then I should be stuck in a chamber and isolated from humanity. Probably could do actually ... yeah I think I probably could.

Nevertheless, this person went on to explain:

, I think there are some who (pause) fail to appreciate the potential conflict. Um, and there are some ... and that some could be one by the way, but I'll keep it as 'some' ... who openly and clearly speak politically. So there is a political agenda being addressed rather than the board member agenda.

On the other hand, Councillor 2 felt that no such conflict necessarily existed:

CLLR2: The other thing of course which I did raise back a while ago on the board, um, I'm there as a board member, and so I don't have to declare an interest when we're talking about negotiations with the council, because we're talking about big sums of money ... but when I'm in the council chamber and we're talking about the transfer and the sums of money, I've got to declare an interest as a board member.

I: Do you leave the room at that point? Or do you just declare a personal interest and then stay there?

CLLR2: I haven't left the room because it hasn't got the stage where I feel I ought to. But I make sure they know that I do have an interest. If we start to talk about sums of money then I feel I will have to declare a prejudicial interest and leave the room.

(iii) Relationships with housing officers

Three councillor interviewees expressed the view that the change to an LSVT RSL weakened the link between themselves and the housing officers. This link was thought to be particularly valuable as it enabled them to deal with queries raised by their constituents. The shift to RSL meant that they no longer had that direct link. As councillor 2 noted:

And only this morning I had this discussion with the new chief executive. I said I would want that to continue. Because at one meeting we were told that as directors we would not be involved in the day to day running of the board. And that's right, that's fair and proper. But I want to continue that relationship wearing my other hat as

a councillor. What I don't want people to do is to think ... when they see me going into the offices to see the officers 'Here comes one of the board members' ... or directors. I want them to see me as a district councillor.

The use of this hat wearing metaphor at this point underlined the difficulty of wearing two hats – councillor/board member – simultaneously.

(iv) Political agenda

This point has already been discussed above. We did ask our Councillor and tenant interviewees whether they felt that they were councillor/tenant or individual when sitting on the board. For Councillor 4, this question was relatively easy – he clearly regarded himself as a councillor, something which the tenant board members both recognised and disparaged:

I think councillors who serve on a Board have to remember that what they're doing is non political, and some councillors are very political, and I'm not just talking here but some councillors are very political. And that can sometimes make things difficult, because of their political views, you know their...

...
It's the hat thing, it's exactly the same for a tenant isn't it? In the same sort of situation really. (Tenant 2)

(v) Tenant participation (general)

Whilst councillors may be expected to have some form of political agenda, the same was true (as Tenant 2 noted above) for tenants as regards tenant participation. Tenant 1 noted the importance and relevance of engaging in tenant participation as that would enable them to be representative of all tenants:

It's a strange one. But my view on it is if you're not out there working with the tenant panel doing whatever little bit of work they're doing, or with the forum going ... how can you get a varied view from other tenants. If I was isolated in this flat and I never spoke to anybody how can I say that I'm representative of all the tenants?

Indeed, this conflict particularly became apparent when there was a discussion initiated by officers as to the appropriateness of tenants being officers in the tenants' forum. It was felt that, were tenants to have such a role, there may well be a conflict of interest. For tenant 1 and 2, this raised a point of principle as they wanted to continue their involvement with the tenants forum and would have resigned from the board if this was constrained. In the end, a compromise was reached that tenant board members could be involved but just not as officers of the forum, although they could be officers of their local residents' association:

Well I, I got a little bit stroppy I suppose, er and I said um 'if it comes to that I have to give up representing my lo- my Tenant and Resident's Association on the forum, then I will give up being a Board member. Because to me it is more important, it is very, very important, and probably more important to have your input from your tenants.
(Tenant 2)

Tenant 2 sought to resolve any conflicts of interest between involvement with local residents' association and board membership by discussing what should happen if there was a vote against the tenants' interests:

I said look there is this dialogue going on about being members of a tenants and residents association and being a Board member, and I said it might mean that on occasion, I would have to vote against something that you might actually not like very much or, you know, for something that you might not like very much, because it's the best, its in the best interests of the company, and how would you feel about that? And they said 'well that's fine'. They didn't see any problem with that at all. They said 'but you represent our interests, you're taking forward what we're saying to the tenant's forum, the fact that you might have to vote against on the Board', they did not see as a problem. So that's all I could do was to go to my members and say 'this is the problem. Do you perceive there to be one?' and they didn't. (laughs)

Even so, Tenant 2 and others made clear that they sought to filter the views of the tenants' forum and residents through to the board:

I take their views forward to the Board. They're not necessarily my views because I chair their organisation. And as chair you take forward your organisation's views don't you? (Tenant 2)

Lots of tenants come and talk to me as a member of the residents association. Sometimes they come and talk to me knowing I'm a board member when they think they've got a good idea. And I think that openness (inaudible) I had one before the last board meeting. Somebody came up to me and said 'These tolerated trespassers, what happens to them?' And I thought 'Yeah you've got one living next door to you haven't you, and you're scared shitless that they're going to be turned into a secure tenant.' And I thought this hasn't been mentioned at any point through the process. So I'll save it till the end of the board meeting, which I did at the last board meeting. Which left everyone's jaw dropping because they'd go scurrying away and they ... they haven't answered me yet. (laughs) (Tenant 3)

In an interesting exchange between the interviewer and tenant 3, concerning the importance of the local rural interest as opposed to the predominance of the general urban in tenant participation, an appreciation of conflict was apparent, how that conflict might be resolved pragmatically, but also how conflict may nevertheless arise again:

I: There was something ... you mentioned about you wanted to make sure that [] got its fair share. So to what extent do you still see yourself as ... I use the word 'representation' in inverted commas as being there for the interests of this particular area.

TEN3: On the board I don't.

I: You don't, okay.

TEN3: Right, because it is actually quite easy to differentiate between the two. For something to individually affect [] and actually reach board level ... it's just not going to happen.

I: But is there ... you sort of ... well maybe I misread the way you were saying it ... there was a sort of implication that maybe the rural areas might be differently represented ...

TEN3: Oh yes, that's different yes.

I: Yeah okay so to what ...

TEN3: I still feel um ... tenant participation historically has centred around Carrick and Bochester, the people involved in leading tenant partic- ... the tenants involved are still centred around Bochester and Carrick. I am determined that those areas will not see the level of preferential treatment they've had in the past because of that. You know to my mind it has to go across the tenant base, not to isolated pockets of interest. So yes I'm there to ensure there's fair play but I'm also there sometimes to give a counterargument.

Tenant 3 sought to resolve the potential conflicts pragmatically by arguing that the board was responsible for strategy and local operational issues would not be the subject of explicit enquiry or decision. On the other hand, Tenant 3 also recognised that s/he saw their role as a corrective to the balance and was, thus, in representational mode. This was subsequently made explicit during the interview:

So yeah I mean when I'm sitting on the board I tend to try and think as a board member ... which is very different from the local domestic issues out here. But yes, at the back of my mind there's always the feeling to make sure that all tenants are going to benefit from the decisions made rather than just those that have high influence in tenant participation. Because the problem is if you empower tenant participation to the level that it's been empowered in Wandland over the last few years and you don't have enough tenants involved within that tenant participation group or forum then one could argue that their input is not actually robust enough to take things forward. And that's probably my major concern at the moment.

(vi) Election of tenant

Tenant 6 had recently been elected to the board by a general ballot of other tenants. Previous chapters have detailed the issues raised for the neutral allegiance model by this method of appointment as well as the empirical issues caused on the ground during the electoral process (ie the problem caused by having a short statement made by each candidate in which the candidate claimed that they would be the best person to represent the tenant body on the board).

(vii) Rent arrears

There was much discussion at a board meeting about what the LSVT RSL's policy on rent arrears should be. At what point, if at all, should the RSL take possession proceedings. The principal conflict here was between three poles – the knowledge of tenants as tenants as to why rent arrears arise in the first place; the nature of the tenant as board member; and the strategic role of the board. It was in seeking to balance these three positions that differences emerged amongst tenant board members. Put another way, the question which emerged from this conflict was the extent to which tenant board

members should advocate for other tenants. This discussion then concerned the representative nature of tenant board members at the sharp end.

Generally, we observed that, though some tenant members do tend to jump to the defence of tenants when an item is perceived to harm tenant interests, equally some tenant board members were fairly intolerant of non-ideal tenants. The discussion about rent arrears illustrated this dissonance. This board meeting was the first that Tenant 6 had attended, after being voted onto the board. Tenant 6 was concerned about the approach adopted by other board members:

I was a little bit annoyed on Wednesday night ... was some of them seemed to think they were directors of the company and they were the ones who were putting their own money into it. And they were getting a little bit ... um, you know let's not care about the tenants ... on the social side of it, as being that it's a social housing association ... we're going to be hard as nails and if they don't do this and don't do that you know let's get the heavies in and throw them out 10 minutes later, like you know. I felt that from particularly one person. I don't think I need to say who, I think you know. Mm? Yes? Going on about rent arrears heavily. Um ... yes you've got to keep up on top of rent arrears. After the meeting I was talking to her ... to the person ... you can leave that out there ... and she did apologise to some extent and say she didn't mean it like that.

Conclusion

The neutral allegiance model has been read across from private sector models of governance. It has been done so in its purest form and there are doubts whether the neutral allegiance model reflects either the theory or empirical reality of private sector corporate board membership. Although our key actors and board member interviewees mostly subscribed to the neutral allegiance model, they all at least recognised that there were difficulties in its implementation. We have drawn attention, for example, to six areas in which the neutral allegiance model caused internal conflicts. What is interesting about these six areas is their uneven impact on the board members. Some only affected tenants, others only councillors. Even then, only some members of each constituency particularly felt there were conflicts and contradictions. What then emerges is a subjective, value-based, and very personal understanding of the neutral allegiance model as opposed to the positivistic, clear, 'Chinese wall' boundary implied by the model itself.

8 THE CONSTRUCTION OF EXPERTISE

Introduction

In this chapter we explore the ways in which skills, knowledge, educational and professional background, and experience are used to construct board members as actors with expertise, and at times, actors who lack expertise. Some might think that our definition of ‘expertise’ is too wide and broad – ‘experts’, after all, are people brought into a particular situation because of they possess certain knowledges or understandings that are specialist, cannot be found in the everyday. Courts bring medical or fire-arms professionals to provide the court with knowledge they do not have; government’s will call on ‘experts’ to advise on agricultural or energy policy development. What, it may be asked, has ‘experience’, in particular the daily ‘lived’ experience of tenants as tenants, got to do with expertise? Experience is not the same as expertise.

However, as will become apparent from the data presented below, most of those who were involved in this research, whether they be board members, officers of the local authority or Wandland Housing, or the key actor interviewees, wanted to construct tenant experience as a *skill* or a form of *knowledge* that provided the board with understandings it would otherwise lack. Indeed, it could be argued that the way out of the dilemma of representation discussed in previous chapters is to present tenant and councilor board members as experts in their respective fields: of tenant ‘knowledge’, and council ‘knowledge’. We come back to this at the end of the chapter.

In this chapter we begin with a discussion of how our research subjects use this term expertise, and how it is used by the Housing Corporation in particular to construct particular subject positions for boards and board members. Then we look at how expertise is defined by, and for, each of the three constituency groups on the board. The next section focuses on financial expertise: if there is a hierarchy of expertise, then financial and business skills has been placed at the top by most research subjects. In this section we focus on how these expertises are constructed, and the way in which financial expertise in particular constructs particular positions for certain board members. This leads into a discussion of one of the principle difficulties with expertise, the ‘representation dilemma’. In the conclusion we return to the role of expertise in the ‘representation dilemma’.

Meanings and uses of 'expertise'

One of the issues that framed this research project from the start was what appeared as the 'official' or authoritative view on the required expertise for the board of an LSVT. The ODPM sets out its expectations, in guidance given to those local authorities contemplating the transfer of stock to a registered social landlord (ODPM, 2004b):

13.17 The composition of the governing body should be such that it has the full range of business skills and financial acumen to be capable of managing a large organisation, which is likely to have significant debt at the outset. This will be important not only for the new RSL but also for funders.

Many of our interviewees, including board members, would refer to financial and business skills when we asked about expertise, as if it were the critical area of expertise required by a board. As the CML interviewee pointed out, an LSVT can often become the largest business and employer in a locality. Frequently, interviewees would refer to the importance of the LSVT as a 'large business':

Chief Executive: those skills will be related to running a large business that covers quite a specialist area in terms of meeting housing and related needs so business skills and housing support related skills are quite important within the overall makeup of the board

For the CE, 'business and financial skills' meant trying to reflect a range of skills in the board:

I am concerned about people as a resource and seeing people used effectively and that an awareness of the HR [human resources] issues is important to the process and skills to be able to cope with and deal with those issues and think things through is important. Not necessarily someone who is personnel or management qualified but someone who is used to managing numbers of people, so that would come into play. Beyond that I consider that having finance and legal are probably the main elements.

In effect, there appears to be an expectation that the board should try to encompass a range of professional expertises within its members: human resources, financial, and legal, and 'asset management' (Officer 5). Of course, the skills that the board has are not the only source of expertise that is available. Aside from the association's staff, consultants are a critical source of expert knowledge, particularly in the set-up stages of an LSVT. We discuss the board's attitude to consultants below. However, here it is worth noting that whilst legal skills were considered to be essential, there is now becoming a view, reflected amongst our board members, that there was less need for the board to have a lawyer. The view appears to be that legal expertise could be 'bought in', and indeed it may be better to do so than to rely on the lawyer on the board who is unlikely to have specialised in the particular area of law that is called for.

Returning to the 'list' of professional expertises, Wandland's newly-appointed Financial Director recognised that this was a 'wish list', and something of an impossibility:

Finance director: I think it's probably a bit unreasonable to expect all those skills to be brought into a board, which is where I get...I mean I never quite understand where the housing corporation are coming from cos they seem to blow like the wind in terms of expecting boards to...board membership that covers a whole range of skills but also at a time when they're looking to reduce the size of boards,

There was then an expectation from some that the board should have specific expertise relevant to the business of an RSL, an understanding of the sector, knowledge of construction and the process of RSL development, housing management knowledge and of its various sub-specialisms, e.g. the Supporting People regime (for funding vulnerable tenants), sheltered housing and housing for people with disabilities. As will be shown when we discuss the specific skills and knowledge of the members of the board of Wandland Housing, many of these skills are present, and it is the tenant members who have particularly brought these specialists knowledges.

However, all our interviewees felt that professional knowledge and skills was not sufficient. The NHF talked about having the 'right spread of skills within the community':

as far as tenants go the main skill that they bring would be a knowledge of where they live, um in the very widest sense.

The Chief Executive warned that in ensuring that professional skills were present on the board should not exclude the need for 'community reps to bring in the view of the area it is working in'.

Why have 'experts' on the board?

The answer to, what sort of expertise does a board want might lie in the question, why have experts at all? Why does the board need experts in law, finance, housing development or housing management, when it has its officers - the Finance Director, Directors of Development and Housing Management, and Human Resources - to call on as experts in these areas? This question goes to the heart of what is the role of the board. In Chapter 2 we discussed how the role of the board is set out in the training material produced by the National Housing Federation, and in the Corporation's policy documents. How did our interviewees view the role of the board? Is it to be *strategic decision-maker* for the association (as suggested by much of the corporate governance literature: see in particular McNulty & Pettigrew, 1999), to act as a *monitoring body* for the operations of the organisation, or as a *sounding board* for officers' proposals? Or, as one board member suggested, as a sort of jury:

Councillor4: And that's why I come back to that jury idea of how I see it, as an arbitration really of, you know, different groups coming with different ideas to the area, we all discuss it, and come to a compromise.

In this view of a board's role, governing expertise becomes much more generic, not attached to any particular area of professional expertise. Indeed,

governors are not necessarily 'experts' at all, this is more like the 'citizens' jury' idea tried out by some local authorities (for example, Blackburn citizens' jury sponsored by the Joseph Rowntree Foundation, see Wakeford *et al*, 2004).

A view that is frequently expressed, particularly by officers, is that expertise in particular specialisms is critical so that the board can *challenge* the proposals put forward by officers, almost as if they are not sure of their own expertise:

Chief Executive: we employ a finance team and a finance director and I would like to see on the board somebody with the skills and knowledge of operating something on the same sort of scale who can ask the right questions or see the weaknesses within that.

Independent 3: from the HR point of view because I knew quite a bit about that, that allowed me to challenge the whole recruitment process for the Chief Executive and finance director.

This need to have the officers opinions and proposals challenged is about *reassurance*; experts on the board can provide a sort of second opinion:

Ind3: I think there's a sort of reassurance to know there's someone there with that knowledge, but I don't think we tended for instance um Ind2, who's the legal person we haven't sort of relied on him to give the only guidance from a legal point of view. Buts its reassuring to know that person, similarly if there was somebody how was an out and out accountant.

However, there is also a paradox in wanting to have board experts who can challenge alongside paid, officer experts, which was highlighted by David Walker:

[T]he more expert a Board, the closer that Board gets to executive management, raising all sorts of questions about its capacity to manage, to... its capacity to subject executive management to quizzical attention, unless the non executive directors, despite their expertise, are able to maintain distance, which I think raises all sorts of issues.

This ability to challenge is often referred to as applying proper scrutiny, and lack of expertise would mean that the board could not carry out this role. The Chief Executive of a long running LSVT considered that 'if you're serious about good corporate governance, you want to select everyone on the Board on the basis of their skills'. But where should the line be drawn between the experts on the board and those who are employed to be experts? David Walker again:

But it does to me, it kind of rests on a, a kind of unstated proposition about the nature of the Board that it somehow needs this knowledge, because otherwise what would happen? It wouldn't be able to subject the decisions of the executive to proper scrutiny. But that as I say, that would imply logically that the knowledge of the Board was equivalent to that of the executive members.

However, only one board member questioned the need for expertise on the board:

Tenant 6: You know if they've got particular skills what are needed well then you get somebody in with the skill needed. Like the chief executive officer, he's got skills in social housing. He's worked in it.

Expertise within the 'constituency' groups

We asked all of our interviewees what sorts of skills they thought the three constituency groupings, independents, councillors and tenants, brought to the board. About the independents there was a fairly uniform view - they were there specifically because of the skills and expertise they had. However, within all three groupings there was a recognition of expertise, knowledge and skills within the long list of requirements that seemed to be laid on the board; some councillors and tenants, as well as independents, recognised knowledge of business as part of what they could bring. The area of expertise that was least discussed was skills in *governing*, though it was recognised by some that this was a skill that councillors could bring. All on the board recognised that the tenant members came with considerable expertise; the value of this expertise seems to stem not simply from the fact that they are tenants, but because they of the experience they have gained through involvement in tenant participation processes and subsequent work such as Audit Commission Tenant Inspector and Investors in People inspector. In the following sections we look at expertise in each of the three constituencies.

Independents

One way of looking at the view taken by the ODPM and HC on expertise is that it legitimises bringing in 'outsiders', the independents who will have the skills. This was an understanding also perpetuated by the National Housing Federation interviewee:

I think the, I mean the expertise that the independents should be bringing are the specific skills that that organisation has decided that it has to have. So it could be I mean, I would suggest that you know, finance expertise, maybe development expertise, those kinds of specific skills... so that you can look at the papers and understand them because that is your profession. I think there always used to be law, I think was one of the things that people always wanted, I mean I'm fairly ambivalent about that because you can be a family lawyer, would that make you any, any more skilled? But I suppose you should at least be able to understand the make up of the legal documents, even if you don't necessarily know any more about the content than anyone else.

This understanding also appears to have been transmitted to the independent board members themselves who, when asked about their role on the board, considered that they were there to bring in the required skills, particularly business skills and knowledge:

Independent 1: I think my role, in inverted commas, really is to bring some particular knowledge and expertise rather than passion.

Independent 2: I felt because I'd been on the executive committee and effectively the managing board for my previous law firm for about 10 years I felt I had some ... in

some way I can contribute ... The rest ... two thirds of the board were comprised of people based on a sort of um ... well maybe democratic or semi democratic method. And then it was more down to skills. And one of the skills actually missing when I applied was the legal skill.

Independent 3: I thought I added a general business like approach and knowledge of budgeting and finance. Probably did quite a bit in the HR side so, the people side was something I felt I could contribute to ... I think the independents can look at it incredibly impartially, and keep coming back to the business side, and say here's this business like approach.

Independent 4: My role as an independent is to input the skills that I have in strategic planning and resource (asset) management. ... Generally the independent members are there to fill the skills gap - finance, legal, strategic planning.

This view, that it was really *only* the independents who could fill the skills gap, was a recurring theme. So, when asked about the skills of tenants, Independent 3 came back to the financial and business skills of the independent members, as compared to the skills brought by others:

I suppose, I would say the independents are mainly looking at whether this is an efficient business, whether its effective in the way its doing its financing, its budgeting and its business planning. So I think that probably comes in more from the independents than others.

And another independent board member:

Independent 2: the independents I think because they'd been recruited for their skills and for their job roles um ... well to a certain extent I mean it cements the thing together a little bit. Otherwise I think there would be ... I don't think there would be enough professional input into it.

So although this group are called 'independents', arguably it is not their 'independence' that is being called upon, but their professional and business skills. Certainly, for the funders, it was the presence of the skills the independents could bring that was a significant factor in providing them with the reassurance that the RSL would be a good risk:

Funder: No problem with tenant members provided they have receive adequate training and support. Independent experts are deemed necessary however should significant borrowing be required. It is important there is in depth appreciation and independent thought on areas where a high level of technical expertise is required.

However, as was said in Chapter 2, it is the presence of the regulatory role of the Housing Corporation that is the primary factor in enabling funders to see RSLs in general, and even newly-established LSVTs, as a low risk:

Funder: We consider the RSL sector to be safe because it is regulated by the Housing Corp, which can put associations under supervision. They will actually pursue a merger if necessary.

The experience of one independent board member leads him/her to adopt an 'expert leadership' role within one of the Working Groups. Independent1, who has been a surveyor, headed up the surveying department for a county council for many years, and started set up a small RSL 35 years ago, became

the chair of the Work Planning and Procurement Working Party. At Working Party meetings s/he adopted the role of leading others through the policies, often explaining issues rather than leaving it to the officer present. The impact of his/her experience as a professional and LA officer perhaps meant that s/he would take on the officer role. When the proposed Procurement Strategy for the association is only circulated to board members the morning of the meeting, meaning that members had little/no time to read it, it was suggested that the discussion should be deferred to a future meeting. It was the chair who insisting, in support of the officer, that decisions must be made at this meeting because of the imminent Housing Corporation Pre-Registration visit. Perhaps, however, the role adopted by Independent¹ here has different elements of expertise attached to it. This board member has for many years been in the position of a local government officer; s/he is well aware of and has lived with the bureaucratic pressures that arise from inspection and audit regimes. In this instance s/he is transferring this understanding into the role of chair and leader of the working group.

Councillors

For the councillor board members, sometimes there appeared a struggle to identify what skills they could bring.

Councillor 2: I find difficulty answering that because there are certain board members who have particular expertise, and it's quite clear what their main role is going to be. Um, I don't regard myself as having any particular expertise. I try to bring common sense into most debates. Fairness and openness. And um ... I don't believe I'm an expert in anything.

One view, expressed by the NHF interviewee, was that they were a source of knowledge, and line of communication with, the council:

I think they act as a line of communication definitely, I mean I think there is that, um that they have a knowledge of what's going on within the council, they have a knowledge of what's, should be what's going on in the community. And I think at the initial stage of transition between it being local authority stock to housing association stock its useful to have, um its useful to have that.

This view, however, is surely contradictory with the 'neutral allegiance' model, which says that councillors should not be on the board to represent the Council's views, yet another example of the inherent tensions and ambiguities within the model.

There was some attempt at constructing a skill of *governing*,

LGA: if they're sitting there on a board with councillors, you know councillors are used to sitting in meetings and boring people ... (in whisper) didn't say that ... but you know they're used to dealing with all this, and they're also used to getting their own way in many respects and being important.

Councillor 2: I am a school governor and I've been a school governor for 15 years. So although it's not the same thing, on the other hand the actual running of an organisation has similarities.

Governing skills were portrayed as more generic skills, that were considered by some as important. For example, Officer5 said in discussing the process of recruiting board members

they were looking for the skills that you need for a Board member, negotiating skills, and you know, the communication skills and how they would act at the Board meeting.

Interestingly, this comparison with being a school governor was discussed by the ODPM interviewee, who seemed to suggest that the comparability between school governor and HA board member was slight:

ODPM1: I mean there is a parallel there, um I think they're very different things ... because the issues on the ground are very different. I think you know, providing someone's education, and a quality education in a fairly rigorous framework, as laid down by, you know, central government. Um and about (pause) you're focusing on the role of that one school, whereas I think if you're an elected member, you know if you're a Board member of an RSL with 11,000 properties, and 11,000 ... tenants and all that goes with that, is a much broader responsibility, I would suggest. Um I'm not downplaying the role of school governors by any stretch of the imagination, but I think the scale is different.

I: So it's an issue of scale?

ODPM1: Scale, and I think the scope, that they have much broader scope and much more discretion in how they operate as an organisation, is my guess, knowing nothing about school governors...

ODPM2: Its also the range of activities isn't it? That RSLs do, its not only about housing, its so much else that goes with it.

In the following example, a councillor compares his/her skills with those that independents bring:

CLLR5: Cos obviously as a board member for the independents, they need a qualified accountant and also a lawyer, solicitor. So they're very specialist skills. It gives me a general skill, as being a councillor gives me a general skill hopefully.

Or another councillor considered that councillors' expertise lay not in understanding the detail of the decisions that the board had to make, but to relate them back to the impact they had on the community they represented:

Councillor 4: as a councillor I suppose, all you can do is try and skim it, see what you think that your community wants or, what your people who put you there want and make a value judgement. And I don't think the detail and the training are er, are that important. its more, we're more an executive I think, that would look upon the broad issues, and hopefully the minutiae is going to be done for us.

However, this view of the councillor role is in tension with the 'neutral allegiance model', as we discussed in Chapter 7. Indeed, it could be said to be this model that (in part) raises real problems for councillors and expertise. For, if they are serious about being a councillor, then representing the views

of their constituents is a significant part of their role, and therefore their expertise as a councillor; and yet the model does not appear to be able to recognise such experience as relevant. Nevertheless, leaving that issue to one side, the councillors' role on the board is seen by most councillor board members as to outside party politics:

Councillor 3: You have to shed your blatant party political. I can't sort of divest myself of my values, cos those are what make me me. I can't divest myself of my life experiences. So I am that person who happens to be a Lib Dem guy. But fortunately ... largely because I'm pretty disinterested in many of these things ... I haven't got the slightest idea on what a Lib Dem policy on social housing is. So I don't take that into me, I don't believe that we should be taking political baggage into the room.

And another councillor thought that its was important

Councillor 2: that I try to keep politics out as much as I possibly can. Because I think people matter far too much. But I think it's right that there should be people from different parties because we all have different ideas.

This view that housing associations should be a-political, outside of party politics, is one that has long been held by many in the housing association sector (see McDermont, 2005a: chapter 4).

Given the difficulty that councillors have in making much of their councillor experience as valid in the LSVT board, it is unsurprising to find that, even when constructing expertise amongst councillors, there was a move to prioritise experience in business as a means of validating their position on the board:

Councillor 3: ... mine is a business background. ... And therefore [the councilor with Cabinet responsibility for housing] wondered whether or not I would be willing to go and seek to apply some form of business acumen, business viewpoint to counterbalance the wonderful caring 'I'm a charity and I love the human race, therefore we'll do everything for everyone'

NHF: I think that there, theoretically there's no reason why they should have any different skills than any of the independents, um or any of the tenants, as far as knowledge of the community, or they could be lawyers and accountants like anyone else and therefore bring those skills on. I think that as far as the fact that they are councillors it would just simply be as we were talking earlier about making sure that that interest is kept form the transition from the council to the housing association. And I think probably their influence on that Board over time will diminish.

Tenants

It was with the tenants that we began this research project. Referring to work by Larner and Butler (2005) concerning the developing of partnering in community, McDermont suggested in an earlier paper that a new field of expertise, *governance expertise*, might be developing.

It is into this new field of expertise that tenant governors may be able to insert themselves, coming as they do with a certain 'authorisation', a claim to 'speak

authoritatively' on the subject of tenants (2005b; also see McDermont, 2007 forthcoming).

However, this paper also suggested that expertise or professionalisation might be a 'diving practice' (Foucault 1983): dividing tenants from other professionals because their expertise was seen as less valid (the concern that tenants may be seen as second class board members, discussed at the end of this chapter); or dividing tenant board members from other tenants because as governor they must hold the interests of the association as paramount, not those of tenants.

The evidence from this research project suggests that the construction of tenant board members' expertise is not quite as one might expect. The tenant board members were well respected by other board members because of the expertise they were able to bring. This expertise was not solely based on their experience as occupiers of social housing, but also through experience in a range of tenant participation structures at local and regional level. In addition, one tenant was also a Tenant Inspector for the Audit Commission, and another was an Investors in People inspector, which was seen as highly relevant to the board's development. One board member observed that there were only two 'real' or 'true' tenants on the board.

The tenant board members constructed their own expertise in a number of ways. Firstly, a number of them had been very involved for a number of years in the tenant participation structures set up by Wandland Council. This meant that they had a longer experience of the process of transfer than the other board members, as the Tenant's Forum had been involved in the consultation process from near the beginning.

Tenant 1: the tenants have been so involved in this transfer it's unbelievable. And I was amazed that we had the ... the ability to do it ...

Several have been involved in setting up tenants' groups, for example in sheltered accommodation schemes. One tenant is also a member of a county-wide tenants' and residents forum. Two of the tenant board members have attended a course in tenant participation run by a local university, funded by the Council. So they can validate their expertise on the basis of taught knowledge as well as knowledge and skills acquired through experience.

The second mechanism through which they construct their own expertise is by drawing upon aspects of their lives prior to becoming board members. For example, two of the tenant board members claim expertise in disability issues through caring for family members with disabilities. For one of these board members, this appears to have led into a general interest in policies of housing management: this board member becomes chair of the Policies and Procedures Working Party, devoting considerable time to examining the proposed policies prepared by the consultants and officers.

The third level of expertise was perhaps the most visible: expertise gained from being 'inspectors of expertise'. One tenant board member had become a Tenant Inspection Adviser to the Audit Commission, meaning that s/he was

part of teams of inspectors carrying out inspections of RSLs and local authority housing services. S/he used the knowledge and experience gained in this forum to impress upon the board that s/he knew what would be required by the regulator, the Housing Corporation. Another tenant board member was an Investors in People inspector. Whilst this experience did not relate quite so directly as that gained from Audit Commission work, s/he was able to bring an understanding of what was considered to be 'best practice' in public service delivery. The other board members show a general level of respect for the tenants because of their range of expertises:

Independent 3: I wouldn't say entirely, because some of the tenant members actually come with a hell of a lot of expertise, they are doing things other than actually just being a tenant you know. Whether they're, one of them is an IIP auditor for instance, one of them is going round doing inspections of other um housing Boards and other people have quite business interests, so they are bringing other things into the party.

It was at the board and working group meetings that the expertise of the tenant board members was more in evidence. Indeed, in the interview with Officer 2, s/he confirms our observations: that, quite contrary to what might have been anticipated, it is the tenants that are the most vocal at board, working group meetings and training sessions. Indeed, our observer comments at one point that board meetings are dominated by two tenant members. They demonstrate their expertise not just by being heard, but also by taking the lead. So, for example, the expertise of Tenant3 in housing management issues leads the observer to comment about one Working Group meeting that a particular item was run as a sort of conversation between Officer 5 and Tenant 3. In another discussion about the role of Tenancy Support Officers, the observer commented that Tenant 3 'acts like a teacher/explainer and emphasises that this is all about people not mechanisms.' Tenant 3 is able to use his/her expertise in a way that is similar to Independent 1 (above). For example, the observer at one training session noted:

[Tenant 2's] experience is unique, and relates directly to the board's ability to address the concerns of the regulator, for Tenant 2 was able to point to those issues that are of concern in inspections, as in her comment above about 'going into coloured traffic lights that are not green' (referring to the Housing Corp's system of regulatory warning signals).

Financial in-/expertise

To nearly all of those we interviewed for this research, financial expertise played a critical role, for a number of reasons. First, it was clearly specified by the Housing Corporation and the ODPM (see quote above) as being one of the areas of expertise that the board should incorporate in its membership. The Corporation's justification for this, also evident in the ODPM, is that the association would be engaging in borrowing a large sum of private finance from the outset, and therefore the board must be able to understand the

implications for the association and be able to work with this. However, it also appears as part of the broader aim of changing the culture, inculcating a business ethic into the organisation, the 'wind of change' that our ODPM interviewee talked about. Indeed, 'financial and business' expertise were often almost treated as being synonymous.

The second reason why financial expertise played an important part in our research was the board's perceived *lack of expertise* in this field. The officers and board had tried, but so far failed to recruit an accountant to the board. Like many of the board members, the chair was particularly aware that there was a gap in the board's skills, and had been making efforts to fill the vacant independent board member's place with an accountant through contacts from his/her previous employment. S/he expressed surprise that no-one was interested, because after all, it

looks good on the CV. I wish I had done something like this much earlier in my career, but there were always time problems, too busy with work commitments.

Lack of financial expertise was also expressed as an individual concern by board members. Some board members openly expressed not just an (alleged) ignorance of financial issues, but a fear of addressing the issues of finance within the context of the association, perhaps mostly because the sums involved seem huge:

Tenant 1: It really scared the pants off me when I seen it. The first ever financial statement they gave me, with all those damned 'O's. I'd had nothing to do with finance at all ... my own obviously.

Tenant 5: It's a lot of money. Or it seems like a lot of money to the average person sitting there. ... And you suddenly realise gosh we're responsible for that. And then the actual large sum becomes of no importance at all, because it's still somebody else's money that they will want back.

Indeed, the Chief Executive identifies that this gap in knowledge of finance is not unique to Wandland:

Chief Exec: One of the areas where there's most often a gap is in understanding the financing and funding of housing associations, particularly a stock transfer association like this one that spends its first fourteen years in deficit.

However, observation of the training session demonstrated an understanding of financial issues despite these various denials of expertise. For example, Tenant 2 first of all attempts to deny expertise: 'I can understand it, and if I can understand then anyone can', and later she thanked the trainer for his explanations, repeating that she thought she would not understand. However, in an earlier discussion on refinancing by HAs she commented, 'a lot of people do refinance'. At another point, in response to the trainer's anecdote about advice he gave to his niece concerning her business, where he comments that the fact that she had spent a lot of money on buying and doing up her house might not be considered a problem because it would add value to the house, Tenant 2 responds 'almost collateral'. Clearly she is able to use the jargon of financial expertise.

The training session on finance also demonstrated the way in which different board members responded to lack of expertise. So whilst the tenant board members openly express their in-expertise, the independent members adopt a different approach: they are not openly willing to express a lack of knowledge. So Independent 1 appeared to have had discussions with the trainer prior to the session, and so enabled him/her to establish a certain expertise within the training sessions:

Trainer 1: [introductory remarks] had a previous discussion with Ind1 about what we mean by financial accruals.

Independent 2 also demonstrated some understanding of financial language:

Trainer1: [discussing the definition of operating surplus] its what's left from turnover after deducted operating costs but not interest payments

Independent 2: is it like gross margin?

Discussion of finance at this training session also prompted Councillor 2 to raise questions about the identity of Wandland HA. When discussing the meaning of 'operating surplus' the trainer referred to 'trading income', which provoked the following Councillor 2 to comment: 'You worried me slightly. We are not allowed to use the word profit, but another word you talked about was trading.'

Private finance and funders

Indeed, it was in this area of the role of the association as a business, and the implications of having to raise large amounts of private finance, that the lack of a particular sort of understanding of financial matters was perhaps most apparent. At the last board meeting we observed, the board was being asked to decide who should attend the interviews that had been set up with a range of private funders to decide who the association should seek funding from. There was a need for the board to be able to demonstrate to potential financiers that the board did have financial expertise, and the concern that their lack of expertise might negatively impact on the association in the financial market-place. The CML interviewee said that finance was a 'key' skill they would look for in boards. The private funders we interviewed said that they looked at the CVs of board members when considering what sort of financial risk the association might expose them to, which was also the point made to the board by the consultant it employed as a funding adviser:

In the business/corporate plan they will be looking at the key headings, including CVs of BMs...hence why you are addressing the particular issue on the finance side.

As one board member put it, in the discussion about who should attend the interviews with funders, it was as much the funders interviewing them as it was them interviewing funders. As the following passages from the observation of this board meeting demonstrate, a consensus appears to emerge that it is the independent board members who are the most

appropriate to face the financiers, despite the fact that they appear not to possess any more formal financial expertise than the other members:

Discussion moves on to who is going to interview and meet the funders. Tenant 1 and Tenant 2 both say they'll do it and Independent 2 is obviously uncomfortable with this.

Independent 2: It's really important that we get the right combination on the interview panel...there's no point them turning up and not having the right panel...we are being interviewed as much as them...I'm not saying I'm the right person but...

Tenant 2: Independent 2 - can you do it then?

Independent 2: It's really important we get the right people.

Tenant 2: Independent 2, Independent 3? Can you do that day?

Independent 2: I'm happy to throw my lot in.

Tenant 3: [quietly but sincerely] thanks very much, that's really appreciated.

Tenant 2: I can do it if you want...I think I should as I'm vice chair.

Independent 2 stresses the need for pre-interview meetings of BMs and funding

advisors "we need more time, we want to impress the funders not do the opposite"

Tenant 3: It's seems like we're choosing the funders on the back of a fag-packet...this should have been an agenda item.

However, even for the independent member chosen by the board to attend the interviews with funders, there was a moment of embarrassment when it his/her lack of knowledge was exposed:

Independent 2: I haven't quite understood the process...does the board have any more input in the short-listing? I'd like Legal Advisor to have input re: which solicitors work with which banks etc. and I would prefer to go with one of the banks we've heard of - not Dexia - never heard of them.

Funding Advisor: Dexia are one of the biggest banks in the world...they are the main player in the HA sector.

Independent 2: Well that shows what I know.

Chief Exec: I've borrowed £43 million from them in the past so they're probably okay.

So, despite having shown some understanding of the financial world, Independent 2's 'expertise' is down-graded, s/he is made to appear lacking in appropriate knowledge. The question s/he asks is effectively silenced by the consultant chief executive's ability to delineate the field within the bounds of their own knowledge and experience.

However, despite this focus on financial expertise, the CML interviewee noted that 'there'd be very few associations that have come under difficulties through financial problems. By and large the difficulties arise through governance.'

The role of consultants

There is another point about expertise in the world of private funding that does not appear at all in any of the interviews or observations, and that is the role of law. For it is in the legal contract between the funder and the association that the board will find its decisions bounded, as much as in the financial terms - loan rates, repayment period etc., and yet, it is the legal consultants whose role is rarely (if ever) called into question.

Officer 3: they have been totally reliant in some cases, on (inaudible) advice, and you'll see the faces around the table all look to [legal consultant] at the same point to say 'What should we be doing here?', and he'll respond to say 'Here are your options, I recommend this one'. And I've never heard them dispute anything that has come from (inaudible) as far as advice, to date. Whether they will develop into that probing questioning group, yet to be seen. You're probably up against one of the considered best sort of brains in the country though, aren't you? When you're talking the business...

Indeed, the consultants are yet another layer of expertise present in the dynamics of the board. These are the consultants employed in all voluntary transfers, to advise the council and then, when the shadow board assumes a level of responsibility, to advise the board and officers employed by the association. These are consultants who are generally drawn from a limited number of consultancy firms that have made the large scale voluntary transfer of social housing their business. They develop, or lay claim to having developed, expertise in the process of transfer. They can claim to know what the Housing Corporation wants, and their experience provides both the board and the regulator with reassurance. It is a requirement of the transfer process that councils employ consultants. However, this claim to expertise through experience (as well as professionally acquired expertise - however, what is appropriate expertise must be a contested issue, and itself worth investigating) can be seen as a weakness as well as a strength, as in this comment from a board member at a board meeting:

Independent 1 makes an aside about the consultant 'bragging' about his 67 transfers:
"It makes me wonder whether they just rubbed out the names."

And although board members generally deferred to the expertise of the consultants, there were signs that trust was not without question:

Independent 4: To be honest I've not read them verbatim, I've skimmed them, we have had to rely on consultants.

Tenant 3: I'd like to make the point that we have got this information from officers and consultants and that we have no way of knowing whether they're right or not. They don't mean that much to us.

Deferring to expertise

This issue about deference to, or over-reliance on, expertise is one that has been raised in previous research by Collier (2005). His action research on a housing association board suggests that, in the absence of accounting

expertise, board members place high levels of trust in, and defer to, those with financial expertise. Similar concerns were raised by the Finance Director, who was appointed during the period of our research from another association (here called Brookford).

I mean one of the issues that Brookford had, which is something that is being addressed here, is there was only really one person with any real financial skills. He became the Chair of the Society actually and he was a Chartered Accountant who was in practice so at least he was, he had financial skills to understand the issues and a lot of the board tended to rely on him in terms of looking at the relationship between me and him, and well as long as we were happy with, as long as he was happy with the advice that I was giving the board tended to go along with it, which is always a danger with these things. ... the board did tend to look to that one individual and that is quite a danger.

However, the FD thought that the board of Wandland were aware of these dangers to some degree, so although they were looking to fill the vacant board member position with an accountant, this would be balanced by other board members with business experience (note the equating of 'financial' with 'business' expertise):

[T]he Chair up here seems to be quite switched on and I think there are a couple of other people that are certainly...have been involved in business in some shape or form so they are financially aware.'

Second class board members?

Whilst we have argued in this paper for a broad view of expertise that recognizes the experience that tenants bring as valid and equivalent expertise to professional knowledge skills, this is not an argument that is yet won, or even perhaps accepted as valid. Certainly, one of our board members called into question the contribution of the tenant board members.

Independent 2: I don't want to be condescending about this ... I don't know whether ... I mean the tenants from their point of view they want their new doors and um ... fitted this or whatever, and they want to see their house improved. So and ... it's not a particularly easy process to understand. I mean I suppose I take it for granted, I've been educated and I'm a lawyer and whatever, but it's taken me more than a day to understand what's involved and how it's worked out. So I think the tenants probably don't entirely understand the process, other than they can see that they get more money if they transfer. And that's probably why they voted that way.

Others have argued that to understand the contribution that of tenant board members could make as simply arising from their experience as tenants was equally problematic:

NHF: And I think we have to careful not to think that the tenant Board members are the ones, it comes back to the point I made earlier, the ones who are bri- who are the only ones who both bring and listen to, and speak about the tenant voice on there, because that is then I think, pigeon holing the tenant Board member, because its almost patronising to them, actually you're just there as the voice of the tenant, because they're not ah, clearly because that is the group they have come from they will be more aware of it.

TPAS, the Tenant Participation and Advisory Service, provides training and works with tenant governors. Their Chief Executive, Phil Morgan, perceived that, on a national level, there was a problem for tenant board members in getting their contribution recognized:

Tenants are now perceiving that they are seen as second class directors by other governors. Other governors think that an awareness of the tenant perspective is only one part of being a good governor, that they need more expertise in other areas. Some independents feel that the expertise tenants bring might not be enough.

The response of TPAS to this is two-pronged: tenants' perspective should not be written off, it should be seen as part of the 'grounding' of board decision-making; however, this should not be the only perspective that tenants bring. They argue that more should be done to bring tenants into the sphere of governing before there is a need for new tenant governors - tenants should have exposure to the issues of governing before having to make the decision as to whether they should stand for board membership, and before others have to judge whether they would support them as board members.

Conclusion

The role of expertise within the RSL board, we would suggest, is highly problematic. It can be used as a 'dividing practice': tenant governors without professional or business expertise become perceived as second class governors; and divides the executive from the board members because the latter do not possess the highly specialised knowledges, particularly in the area of private finance. Expertise de-politicises the role of the board, with board members assuming the role of providing a 'second opinion' to officers' proposals from the perspective of also being professionals - the overall world view of the association does not get challenged. The valorisation of expertise can produce over-reliance on individuals, whether they are board members with expertise, or consultants. And finally, as David Walker suggests, expertise can divide the board from the communities they are meant to work within:

Meanwhile, if you possess expertise, ipso facto you will be more distant from those who are non expert, and in the case of social housing that doesn't mean, not just the tenants, but the area, the people, the community, who clearly will be made up of people who don't know. Um so I think there is a fundamental, an un-thought-through stage in the argument once hearing from er from public bodies that on the one hand they do want communities to be represented in some way, but on the other they want community organs to be expert, and you can't have both.

Given the central position that expertise appears to hold in the new forms of governance that are emerging for public services, our research suggests the need for a greater understanding about the interplay between lay knowledges and expert knowledges, and the ways in which both can be understood as playing equally valid contributions to the governing processes.

APPENDIX A:

Case Study report provided to the Board, Wandland HA

The Role of Board Members in the Governance of an LSVT RSL

Research Team: Professor David Cowan, Dr Morag McDermont, Jessica Prendergast

Introduction

The aim of this research project was to consider the role(s) of tenants as board members of Registered Social Landlords, which take over the management of part or all of a local authority's stock through a large scale voluntary transfer (LSVT). At an early stage, however, our object of enquiry expanded to include the role of *all* members of the board, not just tenants.

During the research we used a variety of methods, including a literature review, interviews with key policy informants, board members, officers and others connected with the transfer, and observations of board meetings, board training sessions and working group meetings. Fieldwork began in July 2005, when contact was made with Wandland, and was completed in December 2005.

In this report we highlight three issues that became apparent during the course of our research:

- **External constraints on decision-making**
- **'Expertise'**
- **Representativeness**

In addition, a number of other issues are discussed briefly:

- **The workings of the board**
- **Barriers to effective board membership**
- **The role of tenant participation**

This document is a summary of our findings. For ease of reference, each section begins by highlighting the key points made in that section.

External constraints on decision-making

In this part, we discuss the problems and frustrations caused by external constraints on board decision-making. We draw attention to the constraints created (a) by regulators, especially the Housing Corporation and the Audit Commission; (b) the local council and the original 'offer document' circulated to tenants.

(a) Regulators

The most frequently voiced constraint on the board's role as decision-maker were the requirements of the Housing Corporation, as regulator, and the Audit Commission, in its inspection role. This was raised during interviews by all board members. Some members however viewed it (more or less) as a necessary constraint, whilst others saw the presence of the Corporation as potentially making the board little more than a puppet of the state regulator.

Perhaps more noticeable, however, was the role played by the Corporation in decision-making at board and working group meetings. It was not necessarily the presence of the Corporation officer that produced a sense of limited room for manoeuvre. More striking, however, was the frequency with which board members, and officers, would indicate that a particular course of action, or policy document, had to be agreed because it was a Corporation requirement, or to 'please' the Housing Corporation. One effect of this feeling that the Corporation was always 'sitting on the shoulder' of the board was to curtail discussion on policy-making.

(b) The Council and offer document

Less frequently raised was the constraining role of the Council in the form of prior decisions taken by the Council which the board must continue to follow. This is in part a result of the promises made to tenants in the 'Offer Document'. For example, in deciding on the policy as to the timing of repairs to empty properties, it was noted by a board member 'It's not what the Housing Corporation wants but it's part of what we promised tenants in the offer document.' Indeed this issue was played out as a conflict between the existence of promises to tenants and the difficulties that associations get into with the Corporation/Audit Commission if they do not follow the Corporation's policy, with little room for strategic decision-making by the board. There were also points at which the board felt constrained to adopt existing Council policy, apparently for fear of upsetting councillors prior to transfer. However, in these cases it was acknowledged that the policy might be revised post-transfer, so the board appears to be less concerned that 'the shadow of' the Council will be a long-term constraint.

Expertise

Our research considers the meaning of expertise. Wandland's Board demonstrates the value of a wide range of expertise, not just formal professional skills and training. However, there are also dangers in having pockets of expertise in specific areas such as finance. In such arenas, this can lead to non-participation in decision-making and a greater willingness to accept the word of a single board member. We outline areas in which there may be difficulties for the board in the future.

(a) Meaning of expertise

When we talk about ‘expertise’ in the context of the RSL board we are using the term in a wide sense, not simply to encompass the skills and knowledge acquired through professional training, but also the experience that board members have acquired in their personal and working lives. The Housing Corporation and ODPM ‘line’ on expertise is to stress the importance of recruiting independent board members to bring in ‘the necessary financial and business acumen’, and the importance of board member training programmes to provide the necessary skills and knowledge.

However, in our interviews and observations it became clear that board members saw expertise as wider than simply professional and business skills:

- **General expertise** in governing had been gained by those who had sat on boards of other voluntary organisations, as school governors, or had been a local councillor. However, the representative from the ODPM thought that one could not entirely transfer across experience as a school governor to an HA board because of the differing financial position of schools compared to HAs.
- The **experience** of tenants both as occupiers of social housing and gained through tenant involvement processes, and subsequent work, e.g. as Tenant Inspector, Investors in People inspector, or work on the Tenants’ Panel.

The board also relies heavily on the experience and expertise of others: the consultants, in their various guises, are largely deferred to and seldom challenged, and the policies brought forward by officers are discussed, but rarely significantly amended by the board (though this is also an element of the need to fulfil Housing Corporation regulatory requirements).

(b) Financial expertise

An understanding and experience of finance was seen as a key area of expertise by many interviewees. When asked about their training requirements, board members would frequently raise financial expertise as the first need. Equally, financial expertise was frequently raised by board members as an area of weakness, even in those who have some experience of running businesses. However, it was evident from the interventions made by board members at the training session on finance as well as at board meetings, that there was an understanding of financial matters (for example, understanding the terminology, and an ability to ask financial questions). Nevertheless, board members’ concern about their own financial in-expertise was most apparent in the discussion about funders. This was possibly made more acute by the knowledge that funders would be looking at the CVs of board members as one element in assessing whether to provide private finance (this was raised at the board meeting and confirmed in our interview with a major funder).

Evidence suggests that, in the absence of accounting expertise, board members place high levels of trust in those with financial expertise, or justify decisions in terms of needing to meet performance expectations. This can lead other board members into a feeling that they are unable to express their opinions on matters that, whilst having a financial dimension, are essentially decisions about the strategic direction the organisation should be following.

(c) Areas of future difficulty

Some of the difficulties that might face the board in the future in regard to expertise were raised in various interviews:

- Some board members, particularly councillors, were concerned that they were building up levels of expertise that would go to waste if they lost their seat, or if the Council (or their Group) decided to remove them from the board.
- Whilst tenants' expertise as occupiers of social housing is recognised as an important area of expertise, one of our key policy informants said that some tenant governors (in other associations) perceive that they are seen as second class board members by other governors, and that some independents feel that the expertise tenants bring (an awareness of the tenant perspective) might not be enough. Issues of individual perception of value should, therefore, be considered and discussed regularly.
- There is a danger of over-reliance on the perceived experts. It was noticeable that in board meetings it was only the tenant board members who voiced opinions on what were perceived as 'consumer' issues. Thus, the danger is that pockets of expertise open up on specific issues (although this may also be turned into an advantage as well).
- Expertise should be used flexibly and not as a straitjacket for previously used practices. Some of those interviewed saw that there was a danger that expertise and knowledge of the field might override other considerations of what is important.

Representativeness

Our research paid particular attention to the way in which the constituency model has given rise to an apparent contradiction between board members acting as representatives of their constituency, on the one hand, and, on the other hand, as independent of that constituency, as neutral members of a Board. This contradiction may be more apparent than real. Our interviewees felt that they could balance it. However, the contradiction is emphasised at different times as a result of the 'constituency model' and the process of election of tenants. It is particularly difficult for councillors, such as over the valuation of the stock and their political allegiance.

(a) The problem

One of the principle areas of tension within the model of corporate governance adopted for LSVT associations is that board members should not play a representative role and should instead act independently of their nominating constituency. This is a requirement imposed by the ODPM (and required by the Housing Corporation). It apparently emanates from the private sector corporate model which considers that the primary responsibility of board members is the pursuit of the ‘corporate interest’ of the organisation. The primary responsibility of all governors on an LSVT RSL board is therefore to the board and the organisation itself rather than to any particular constituency.

Our interviews made clear that this message had been effectively taken on board by all board members, though some did acknowledge that it took time to comprehend this role. Board members tended to feel that they could manage this contradiction. The Housing Corporation representative said that this was one of the most difficult things that they have to get over to LSVT boards.

(b) Examples of the contradictions

Example 1: **The constituency model**, under which one third of the board members come from each of three ‘constituencies’ (tenants, council and independents), is adopted by the Corporation partly because equality of representation is seen to demonstrate independence. It originates in compromise between a group of different interests. However, some key policy informants suggested that this model implies some form of democratic representation, participation and empowerment, and that these aims have been promoted either as policy or to make transfer appear more attractive to local authorities and tenants.

Example 2: **The election process** suggests that the democratic and representative role for both tenants and councillors is reinforced by the process by which they gain membership of the Board. The Audit Commission have pointed out the ambiguities inherent in the model in a recent report. Nevertheless the ODPM, Housing Corporation and the NHF all suggest that some form of election process is the most appropriate to produce tenant board members. Somewhat confusingly, they suggest that a democratic process is important for creating legitimacy for tenant board members and so that ‘they are representative of the wide constituency of tenants’.

The situation in Wandland equally has the potential for confusion. The Tenants’ Forum has a significant say in the criteria and selection of tenants who will stand for election. However, the resultant board members are then not allowed to represent the views of the Forum.

(c) Councillors and the non-representative model

The tension in this non-representation model is perhaps clearest when viewed from the perspective of councillor board members. Indeed, for the Local Government Association key stakeholder, the requirement of non-representation was ‘nonsense’.

Example 1: **Valuation of the Housing Stock** During the period of our research, one of the principle areas of tension between board and Council has been the value of the housing stock and therefore the capital receipt the Council would receive. From the point of view of the LGA, it is precisely for this sort of debate that councillors should be on the board – there are a number of interests at stake, and councillors have a duty to represent not just their members who are tenants, but the public interest in the district of Wandland.

Example 2: **Political Allegiance and Board Membership** The Council board members recognised that part of the reason they in particular had been nominated for the board was that the Council representation had to reflect the political make-up of the Council. Therefore it was their political allegiance, as well as their interest in housing, that led to nomination. This

issue has recently been highlighted when the two board members who were Conservative councillors resigned following the vote against the transfer in the Council meeting.

In this report we cannot offer any solutions to the ambiguities and tensions surrounding the non-representative role that is imposed on board members – we can merely highlight its practical ramifications. We would echo the Audit Commission's concern that this is an issue that the Housing Corporation needs to address as a matter of urgency. The processes which the board now has for elections and decision-making are standard within LSVT associations. However, some thought will need to be given to offering advice, particularly to new members of the board, about their role.

Other issues

The role of the board – strategists, monitors or jury?

One view of the role of the board is that it makes decisions about the strategic direction the organisation should take. However, research in the private sector suggests that the board of directors model has limited application for involving non-executives in strategic decision-making in private sector businesses. One board member interviewee had the interesting but unusual notion of governing bodies as juries, as a process of arbitrating between different groups coming forward with different ideas to the area, discussing them, and coming to a compromise. Others saw the role of the board as monitoring the progress of the association, ensuring its compliance with policies (most of which appear to the board as being prescribed by the Housing Corporation).

Barriers to effective board membership

When asked what factors made it difficult for board members to carry out their job effectively, most cited the problem of workload – the volume of papers that had to be read for meetings, and the number of meetings and training sessions. This was particularly an issue for councillors who, apart from Council committees, were frequently members of other committees. There was also some discussion amongst a large proportion of interviewees about the need for a differently devised training programme which reflected their more practical needs.

The role of tenant participation

A number of issues arose in our interviews with key policy informants concerning the relationship between tenant board members and tenant participation strategies. First, it was said that the former should not be a substitute for the latter: there needs to be “an overall strategy for understanding how you relate to tenants, what is important to tenants themselves, ... and making sure that structures are effective”. Second, in some cases when local tenant leaders have become part of board governance structures this has left a gap in local tenants’ representative groups. Third, tenants on the board is not the same as tenants making decisions – it is only a small number of tenants who become involved in decision-making and they are not representatives. Fourth, mechanisms should be in place to ensure that new tenants are able to take up places on the board when existing members retire/leave.

APPENDIX B:

Interview Questionnaire for use with Key Actors

1. Is the current basis of LSVT RSL governance important?
(by 'current basis' we mean the make-up of the board from one-third tenants, one-third LA representatives and one-third independents)
 - Is it important for tenants?
 - Is it important for councillors?
 - Is it important for independent members?

How does it fit in with other current initiatives – e.g. active communities?

Has your organisation's position on these points changed over time? If so, why? (e.g. the initial LSVTs did not have this board set up – any views on this?)
2. Why is this form of governance important generally, and for each of the groups?
3. How would you characterise the kinds of expertise each group brings with them
4. Does the current basis of LSVT RSL governance work satisfactorily?
Why should/does it apply just to LSVTs?

APPENDIX C:

Interview Questionnaire for use with Wandland HA

TOPIC GUIDE

FOR USE WITH COUNCILLORS, TENANTS, INDEPENDENTS

1. Tell me a bit about yourself and how did you get to this position?

Prompts:

age,

employment,

housing history – tenure (ie have you always been in social housing/tenant/owner),

local?,

how were you appointed? – were you happy with the way you were appointed? How should you have been appointed? How should the other groups be appointed?

Should you be here?

Tenants panel/forum

2. what is the role of a/the governing body

- a. What is your role individually?
- b. What is your role as independent, councillor, tenant?
- c. What are the roles of the others – prompt: separate/distinct?
- d. What do other groupings bring to the board?

3. what are the qualities required of a board member?

Prompt: decision-maker/strategist/consumer/representative/expert

4. how did the training facilitate your role? Did you find the training useful?

5. What are the difficulties you find in performing your role? What difficulties do you anticipate emerging in the future? Prompt: difficulties experienced by others

6. what is the role of the council officers? What is the role of the housing association officers? Do the officers assist you in performing your role? Will they?

BIBLIOGRAPHY

- Ashby, J (2004) *In Control: The Board Members' Manual*, National Housing Federation
- Audit Commission/Housing Corporation (2004) *Housing: Improving Services through Resident Involvement*, London, Audit Commission
- Cairncross, L, Clapham, D, and Goodlad, R (1994) *Housing Management, Consumers and Citizens*, London: Routledge
- Cheung, A and Yip, N (2003) 'Customerizing the tenants, empowering the managers: Impact of public housing governance reform in Hong Kong' *Housing, Theory and Society* **20**(1): 98-109
- Clapham, D and Kintrea, K (2000) 'Community-based housing organisations and the local governance debate' *Housing Studies*, **15**(4): 533-559
- Collier, P (2004) 'Governance and the quasi-public organization: a case study of social housing' *Critical Perspectives on Accounting* **16**: 929-949
- Department of the Environment, Transport and the Regions (DETR) (1999) *National Framework for Tenant Participation Compacts*, London: DETR
- Foucault, M (1983) 'Afterword: The subject and power', in H Dreyfus and P Rabinow (eds), *Michel Foucault: Beyond Structuralism and Hermeneutics*, Chicago: The University of Chicago Press
- Goodlad, R (2001) 'Developments in tenant participation: accounting for growth', in D Cowan and A Marsh (eds), *Two Steps Forward: Housing Policy into the New Millennium*, Bristol: The Policy Press, 179-197
- Housing Corporation (2004) *Involvement Policy for the Housing Association Sector*, London: The Housing Corporation
- Housing Corporation (2005) *The Regulatory Code and Guidance*, London: Housing Corporation.
- Kearns, K (1996) *Managing for Accountability: Preserving the Public Trust in Public and Nonprofit Organizations*, San Francisco, Jossey-Bass
- Kleinman, M (1993) 'Large-scale transfers of council housing to new landlords: Is British social housing becoming more European?' *Housing Studies*, **8**(1): 163-90

- Larner, W and Butler, M (2005) 'Governmentalities of local partnerships: The rise of a "partnering state" in New Zealand' *Studies in Political Economy*, **75**(1): 85-108
- Levitas, R (2005) *The Inclusive Society? Social Exclusion and New Labour*, Basingstoke: Palgrave Macmillan
- Malpass, P (ed) (1997) *Ownership, Control and Accountability: The New Governance of Social Housing*, Coventry: Chartered Institute of Housing
- Malpass, P (2005) *Housing and the Welfare State: The Development of Housing Policy in Britain*, Basingstoke: Palgrave Macmillan
- Malpass, P. and D. Mullins (2002) 'Local authority housing stock transfer in the UK: From local initiative to national policy' *Housing Studies*, **17**(4): 673-686.
- McDermont, M (2005a) *Managing the tensions in 'voluntary' housing: a study of the role of the National Housing Federation in the governance of social housing in England since 1935*, unpublished PhD thesis, Bristol: University of the West of England
- McDermont, M (2005b) 'Private finance, professionalisation and corporate governance in the housing association sector' in T Prosser et al, *Law, Economic Incentives and Public Service Culture*, CMPO Working Paper 05/129, Bristol: University of Bristol
- McDermont, M (2007, forthcoming) 'Mixed messages: Housing associations and corporate governance' *Social and Legal Studies*, **16**(1)
- McNulty, T and Pettigrew, A (1999) 'Strategists on the board', *Organization Studies*, **20**(1): 47-74
- Mullins, D (1997) 'From regulatory capture to regulated competition: an interest group analysis of the regulation of housing associations in England' *Housing Studies*, **12**(2): 301-319
- National Federation of Housing Associations (NFHA) (1995a), *Competence and Accountability: NFHA Code of Governance*, London: NFHA
- National Federation of Housing Associations (NFHA) (1995b), *Competence and Accountability: The Report of the Inquiry into Housing Association Governance*, London: NFHA
- National Housing Federation (2004) *Competence and Accountability: The 2004 Code of Governance for Members of the National Housing Federation*, London: National Housing Federation

- Nevin, B (1999) *Local Housing Companies: Progress and Problems*, York/Coventry: Joseph Rowntree Foundation/Chartered Institute of Housing
- Office of the Deputy Prime Minister (2004a) *Guidance on Arms Length Management of Local Authority Housing*, London, ODPM
- Office of the Deputy Prime Minister (2004b) *Housing Transfer Manual 2005 Programme*, London: Office of the Deputy Prime Minister
- Parkinson, J (1993) *Corporate Power and Responsibility: Issues in the Theory of Company Law*, Oxford: Clarendon Press
- Riseborough, M (1998) 'More control and choice for users? Involving tenants in social housing management' in A Marsh and D Mullins (eds), *Housing and Public Policy: Citizenship, Choice and Control*, Buckingham: Open University Press, 221-245.
- Rochester, C and Hutchinson, R (2001) *Action for Effective Boards: A Guide for Housing Organisations and their Board Members*, London: National Housing Federation
- Rochester, C and Hutchinson, R (2002) *Board Effectiveness in Transfer Organisations*, London: National Housing Federation.
- Temple, M (2000) 'New Labour's third way: Pragmatism and governance' *British Journal of Politics and International Relations*, 2(3): 302-325.
- Wakeford, T, Murtuja, B and Bryant, P (2004) *Using Democratic spaces to promote social justice in Northern towns* Newcastle: Institute of Policy and Practice, University of Newcastle
- Wigglesworth, R and Kendall, J (2000) *The Impact of the Third Sector in the UK: The Case of Social Housing*, London: LSE
- Zitron, J (2004) 'Transfer of affections: housing policy in Labour's third term' *Fabian Freethinking*
- Zitron, J (1995) *Local Housing Companies: A Good Practice Guide*, Coventry: CIH