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TITLE

Citizen participation and changing governance: cases of devolution in England

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ABSTRACT

The current process of devolving powers within England constitutes a significant change of governance arrangements. This process of devolution has been widely criticised for including insufficient consultation. This paper assesses whether that criticism is fair. Modifying Archon *Fung's framework for the analysis of public participation mechanisms*, we begin by considering whether the depth of public engagement has been limited. Then, by comparing these consultation practices with other examples (including one we have ourselves trialled in pilot experiments), we find that deeper forms of public engagement would have been both possible (though at some financial cost) and productive.

KEYWORDS: governance, devolution, consultation, public participation

TITLE

Citizen participation and changing governance: cases of devolution in England

MAIN TEXT

A major reform of local and regional governance in England is currently underway. Other nation states, such as the United States, Germany and New Zealand are also adapting their sub-national governance arrangements (Hambleton, 2016), and still others, such as Australia (Australian Government, 2017) and Holland (The Hague, 2017), have embraced a focus on ‘city deals’ adapted from the UK context. However, the international prominence of the English experience, and the fact that England has long been one of the most centralised countries in the western world, makes it worthy of careful examination.

Currently, the UK government is pursuing ‘devolution deals’ with local authorities in England. These deals are spurred on by the desire to promote regional economic development outside London and the South East – particularly, but not exclusively, in the so-called ‘Northern Powerhouse’. The deals give ‘combined authorities’ of councils new powers and funding. They are bespoke to each area, involving differing powers and, to some degree, differing institutional structures. Yet, despite the potential responsiveness this creates to local needs and aspirations, this programme of devolution deals has been widely criticised for lacking public consultation.

Our purposes in this article are twofold. First, we analyse whether the descriptions of consultation offered by critics of the devolution deal process are accurate. To do so, we describe recent devolution processes in England – starting with an overview before working through three indicative cases in greater depth, and then analysing our cases in terms of Archon Fung’s framework for the interpretation of consultation mechanisms (Fung, 2006). Second, we evaluate whether the criticisms of these processes made by their detractors are fair. In doing so, we compare them with other forms of consultation that offer the prospect of wider and/or deeper public engagement. Overall, our argument is that mechanisms for improved consultation are available and could significantly strengthen public confidence in new governance arrangements. However, improvement will become more likely only through a concerted push from those who wish to reinvigorate local democracy.

1. English devolution: background

The concept of devolving power to intermediate-level elected governments in the United Kingdom emerged on the political agenda in the mid-1990s. Legislation was passed between 1997 and 1998 to devolve power to new assemblies in Scotland, Wales and Northern Ireland. Progressive devolution of powers to these national bodies has continued ever since.

This process was followed by proposals to create elected regional assemblies in English regions, building upon a de-concentration of functions and development of stakeholder networks in the early years of Tony Blair’s premiership (Tomaney and Mawson, 2002; Tomaney and Pike, 2002). But proposals for an elected regional assembly in the North East were overwhelmingly rejected at a referendum in November 2004 (Rallings and Thrasher, 2006; Willett and Giovannini, 2014), after which the government’s approach to sub-national geography drifted slowly towards functional economic areas (HM Treasury, 2007; Pike and Tomaney, 2009; Bentley, Bailey and Shutt, 2010; Haughton et al, 2016). Nevertheless, shifting powers away from central government was still seen as an option.

This decentralisation agenda was underpinned by two waves of ‘city deals’, first in 2010 between the Conservative–Liberal Democrat coalition government and groups of local authority areas (Pike

and O'Brien, 2015; Waite, MacLennan and Sullivan, 2013). This was followed by a second wave in October 2012. Then, from November 2014, the Conservative government proposed a series of more ambitious 'devolution deals'. These would cover clearly defined geographies, have broader powers and take statutory form. As part of this move, new 'metro mayors' were introduced, with the first elections due in May 2017 (Sandford, 2016a; Centre for Cities, 2016a).

The emerging pattern of devolved governance in England is geographically asymmetrical, driven by bilateral negotiations between teams of local representatives and central government. Yet, though each deal is negotiated individually, a common agenda appears to be driven by central government, based on its economic policies and the concept of 'public service reform'. As Sandford (2016b) argues, the devolution deals resemble public sector contracting practices – the devolution of projects, specific responsibilities, and budget lines – rather than the wholesale devolution of policy responsibility enjoyed by Scotland, Wales and Northern Ireland. Deals have been agreed, and implemented, through informal negotiation procedures between local and central elites.

Similarly, there has been widespread criticism of the absence of public involvement and consultation in the negotiation of devolution deals (see Blunkett et al, 2016; PSA, 2016; Prosser and Flinders, 2016; Randall and Casebourne, 2016), as well as of the secrecy of the process (Hammond, 2016; Pike et al, 2016; PSA, 2016). Except Cornwall (Cornwall Council, 2015), even those areas that published a 'prospectus' or 'bid' for devolved powers apparently did not consult publicly in advance. While the legislation underpinning the deals requires statutory consultation when a new combined authority is formed or where new powers are devolved, it gives no status to the preferences expressed in such consultations. Further, as this paper will examine, while local authorities can conduct consultations beyond the statutory requirements, there is limited evidence of their doing so. In effect, there is little sign that consultation outcomes have been heeded (Martin et al, 2015; CLG Committee, 2016; Cox and Hunter, 2015; Richards and Smith, 2016; Cox and Round 2016). Evidence is emerging that the absence of consultation is stimulating public antipathy towards the proposals (CLG Committee, 2016; Hammond, 2016), even though recent polls suggest that opinion broadly welcomes devolution (Centre for Cities 2016b; Institution of Civil Engineers 2016; Ipsos MORI 2015; PwC 2014). The charge is, therefore, that a potential transformation of English governance is being forged without meaningful public consultation, and this could affect the functioning, sustainability and legitimacy of new devolved structures.

2. Mechanisms of public participation: the 'democracy cube'

In order to assess whether this charge is justified, we analyse public consultation processes in terms of comparative governance theory. Previous analyses of citizen participation within political science have tended to focus on the importance of more direct citizen power for greater democratic legitimacy (e.g., Arnstein 1969). Common amongst such conceptual frameworks is the notion of progression from simple information provision upwards, through various stages, to empowerment and direct citizen involvement. These frameworks offer a normative measure of better citizen participation and/or stronger democratic legitimacy, but they miss sensitivity to the challenges of networked governance (Rhodes 2012). For these reasons, this article adopts Fung's (2006) public participation assessment framework from within governance theory.

What is useful from Fung's approach is its affirmation that it is neither practical nor desirable to seek direct participation in all decision-making. Rather, participation is required primarily to correct deficiencies in decision-making processes and to complement political representation or bureaucratic expertise. This is not to suggest that weak public participation or poor public consultation is desirable, rather, that democratic legitimation requires the participation of the right public stakeholders, through the right public forums, in the right place at the right time. Further, if

this public participation requirement is a challenge for central government, then it will be equally so at other levels should any nation devolve powers to the sub-national level. To explore this perspective, Fung proposes a ‘democracy cube’ around three questions of democratic design: Who participates? How do they communicate? What is the connection between their participation and political action?

Participation in this framework focuses on who is eligible to participate, how they become participants and whether their participation can remedy deficiencies within existing governance arrangements. Fung describes a range of possibilities along a spectrum of inclusiveness starting with more exclusive, state-oriented, methods, moving through various forms of mini-publics to the most inclusive public sphere (see Figure 1). He emphasises that each stage can be valuable in different contexts because greater inclusion is not always better governance.

[Figure 1 around here]

Communication considers how participants interact within governance mechanisms. In particular, it focuses on how they receive information, learn and change their minds. Fung delineates this spectrum along levels of intensity, ranging from the role of citizen spectator, through growing expertise via deliberation, to the high-level technical advice of experts (see Figure 2). Again, this approach does not assume that all participants should engage equally in institutionalised public decisions.

[Figure 2 around here]

Finally, authority gauges the impact of public participation in governance. The options here are arranged according to levels of authority, starting with no political influence, working through advisory roles and culminating in formal political power (see Figure 3).

[Figure 3 around here]

We now turn to our two aims for this paper. First, in order to aid understanding of current citizen participation efforts, identify gaps, and stimulate ideas to correct deficiencies, we apply this ‘democracy cube’ to current devolution activity in England. However, it is important to note that the application of a conceptual frame from within governance to the emerging case of English devolution provides an opportunity to critique this frame – which speaks to the paper’s second aim.

3. English devolution: varieties of participation

To apply Fung’s framework to current consultation processes around English devolution, we begin with an overview of patterns across nine devolution deals for which sufficient information is available, before investigating three of these cases – Sheffield City Region, Greater Manchester and West Midlands Combined Authority – in greater depth. Our overview draws on publicly available materials from research conducted by the House of Commons Library. Our three case studies were reviewed by policy officers involved with each set of consultation activities to ensure that they are comprehensive and accurate.

Overview

Figure 4 locates each local authority’s consultation activity within Fung’s ‘democracy cube’. We do not show the third dimension of the cube – authority – as all cases involved only advice/consultation on this dimension.

[Figure 4 around here]

In terms of participation, all exercises involved an element of self-selection, which Fung (2006, 67) describes as the least restrictive method of selection. But this participation mechanism can be highly unrepresentative, as not all groups might choose to participate equally. This raises the important question of how participation is sought. Here there was widespread variation across the cases, which is not captured by Fung's framework. At one end, Durham County Council polled all its registered voters by post, with a turnout of 21.7 per cent (Tallentire, 2016). By contrast, local authorities in Sheffield, Liverpool and the West Midlands used only online consultation mechanisms. As we will see in the case studies, this yielded much lower participation, raising issues around access and representativeness. Other participation mechanisms were also adopted. Coventry, within the West Midlands Combined Authority, used selective recruitment to address issues of representation within its public consultation process. Authorities such as Greater Manchester, the Northeast and Cornwall included political, professional and lay spokespeople in their processes. Sheffield City Region authority consulted with both lay and professional spokespeople.

In relation to communicative mechanisms, all local authorities allowed participants to express their preferences publicly through forums (although the capacity to do this in Greater Manchester placed it closer to Fung's description of 'spectators'). Only in Coventry could participants 'develop preferences', which Fung (2006, 68) describes as allowing 'participants to explore, develop and perhaps transform their perspective'. This was achieved through a citizens' panel chosen to be broadly representative of local areas.

Based on this snapshot, we now dig deeper into three cases: Greater Manchester, Sheffield City Region, and the West Midlands Combined Authority. We chose these cases for two main reasons. First, they present a range of pathways to devolution deals. Greater Manchester already had a combined authority when its devolution deal was announced. This was the first devolution deal, to which other regions looked in their negotiations. Sheffield sought to negotiate a deal swiftly, before conditions or available resources changed, whereas the West Midlands formed a combined authority only as devolution negotiations developed. Second, Figure 4 shows that Greater Manchester used a minimalist approach to public consultation. Sheffield took a more conventional approach, while the West Midlands combined conventional consultation with (in Coventry) preference development through citizens' panels. Across the three, we see a spectrum that encompasses the range of approaches used by other authorities.

Case 1: Greater Manchester

Greater Manchester was the first area to gain the status of 'pilot statutory city-region' in 2009, and formed the first combined authority in 2011. The so-called 'Devo Manc' deal, between the Treasury and the ten local authorities of the Greater Manchester Combined Authority (GMCA), was signed in November 2014. Devo Manc resulted from a double coincidence of interests (Kenealy, 2016). First, unlike any other area in England, the local authorities had long cooperated successfully and could therefore work effectively together to build strong relationships and political leadership (Kenealy, 2016). Second, this interest complemented the economic and political agenda of central government at the time. Initial negotiations were led by political elites; public consultation was introduced only later.

The government launched a first round of consultation on the Devo Manc deal between January and February 2015. This involved the GMCA's constituent councils, the area's Local Enterprise Partnership and the Business and Leadership Council. Responses from these stakeholders were sought via email, to be submitted to the Department of Communities and Local Government (DCLG). Views from the public did receive brief reference in the DCLG's subsequent report (DCLG, 2015, 4), but the consultation design was poorly promoted, highly technical and targeted

experts rather than public participants (Kenealy, 2016). Participation thus matched what Fung (2006, 68) defines as ‘professional stakeholders’, ‘elected representatives’ and ‘expert administrators’. Citizens could ‘listen as spectators’ (Fung, 2007, 70) but with no direct avenue for public power.

A further statutory consultation followed when additional powers (in health, social care and justice) were added to the Devo Manc deal after March 2015. This involved a survey available via the GMCA website. A second phase of consultation occurred between July and August 2016 to address various aspects of the deals, including mayoral functions and funding. The scheme proposed by GMCA has been submitted to the Secretary of State for approval alongside the results of these consultations.

These surveys are based on ‘self-selection’ and the mechanism for participation is crucial. In contrast to the large-scale response seen in Durham, the first phase of the Greater Manchester online consultation received just 237 responses, of which 169 came from members of the public (GMCA, 2016a). Similarly, the second phase received 229 responses (out of 278) from members of the public (GMCA, 2016b). Considering that Greater Manchester includes 2.8 million people, this is clearly minimal.

Beyond this, we note scant evidence of attempts to ‘aggregate’ such views into collective decisions (Fung, 2006, 69). The online reports state that:

Responses to the GMCA consultation will continue to inform the development of GM strategy and the strategies of the constituent members of the CA. The views expressed will support our work to strengthen transparency and accountability for our work, ensuring we exercise our statutory duties in ways that support the diversity of GM communities (GMCA, 2016a, 43; GMCA, 2016b, 40).

In terms of direct influence, this suggests an (at most) ‘consultative’ or ‘communicative’ role where ‘officials preserve their authority and power’ (Fung, 2006, 69).

Moreover, the survey questions and supporting information overtly promoted the benefits of the new powers. The consultations assessed not the underlying decision to create a new layer of government, but only the merits and economic impact of Devo Manc. Despite the tone of advocacy, many respondents used the avenue of ‘open answers’ to voice concerns. This led the GMCA to report that:

Many respondents to the consultation used the opportunity to refer to broader issues relating to devolution, rather than the specifics of the published Scheme. These responses have been counted separately and will be inputted into work that falls outside the purpose of this report, for the purposes of this report these responses are now termed as being out of scope. (GMCA, 2016a, 8; GMCA, 2016b, 8, italics added).

Interestingly, ‘out of scope’ responses accounted for the majority of the answers offered to all but one of the eleven questions in the first phase of consultation – but it is unclear how or if these views will be considered. Overall, empowerment through the survey process was limited, and the consultations had ‘little or no expectation of influencing policy action’ (Fung 2006, 69). Moreover, Kenealy (2016, 578), drawing on interviews with members of the local political elite, finds that Greater Manchester politicians ‘embrace the secrecy of the process’ that led to the devolution agreement.

In sum, we see in GMCA a strategic and pragmatic approach to public participation. Viewed through Fung’s framework:

- it involves limited consultation;
- participants were few in number;
- negative expressions of preference were noted, but sidelined; and
- public officials were determined ‘to move ahead of public opinion’ (Kenealy, 2016, 578).

Case 2: Devolution to Sheffield City Region

The Sheffield City Region Combined Authority (SCR), established in April 2014, comprises nine local councils. Following an offer of additional powers in December 2014, its leaders announced a ‘proposed Agreement’ on devolution with government in October 2015, which was put to public consultation in December 2015. After approval from the nine councils in March 2016, a legislative process is underway to enable mayoral elections. This involves a formal governance review and public consultation.

The first stage (before the proposal’s announcement) included consultation with the SCR Local Enterprise Partnership and business leaders. Such activity aligns with Fung’s (2006, 68) ‘professional’ stakeholder involvement. The second stage (December 2015 to January 2016) focused around an online survey to allow people to ‘have their say’. Although some other participation activity was in place (SCR 2016a, 2), Sheffield City Council minutes said: ‘The online survey was the main, large-scale form of consultation on the proposed Devolution Agreement’ (SCR 2016, 14). This survey utilised ‘self-selection’. As in Greater Manchester, participation was minimal: 245 responded. The consultation report notes ‘that while the survey provides an important and useful perspective of people in SCR on the devolution proposals, it is a relatively small sample and is relatively unrepresentative of some key population groups’ (SCR 2016a, 1). The surveys asked the public to ‘express preferences’, but there was little ‘attempt to translate the views or preferences of participants into a collective view or decision’ (Fung, 2006, 68). Rather, the report explains that the ‘main purpose for the survey was to enable people and organisations across SCR to give their unrestricted views on the SCR devolution proposals’ through an ‘open-ended’ and ‘non-linear’ approach (SCR 2016a, 3). Meanwhile, ‘it was not possible to provide a statistically robust quantitative assessment of the results because of the qualitative design’ (SCR 2016a, 1). Nor could participants reject the decision to strike an agreement. Rather, a tone of advocacy for the proposal’s benefits emerges throughout the survey (SCR, 2016b). The report – unsurprisingly – concludes that views are ‘positive about the potential for more devolution’ (2016b, 14).

Nowhere does the information around the online surveys give any indication of commitment from SCR to act on the views collected. Further, the decision to collate views for ‘the SCR as a whole’ (SCR 2016a, 3), rather than break down into individual councils, rendered differences in view by area inaccessible, which depoliticised the results and reduced any potential pressure on individual councillors to oppose the proposal. That said, the minutes of a Sheffield City Council Extraordinary Meeting do note that:

The views and perspectives offered by residents and business have been critical in supporting the pursuit of a stronger devolution proposal for the SCR. This is particularly true in relation to strengthening accountability arrangements and securing the legislative changes necessary to allow voters in district councils in SCR to benefit from the new powers and resources and participate in the proposed mayoral elections (SCR 2016, 14).

Once the deal had been approved, the subsequent public meeting stage involved a further online survey (with publicity material disseminated through councils, libraries, and public service contact centres) supported by online material, public engagement events, and public meetings across the region. These meetings were ‘open to all residents and businesses’ and allowed them ‘to ask questions of the council’s leaders’ (SCR, 2016b). But such meetings, like online consultations, face challenges of under-representation. No attempt was made to build consensual views across the

dozen or more events held. Further, the events took place after the deal had been signed, so could not reverse the path already taken.

In summary, Sheffield took a conventional approach to swift, cost-efficient, pragmatic public participation that contains little political imperative for action. It reflected, rather, a determination by local leaders to secure devolved powers and funding so that ‘we can shape our own future and fulfil the city’s huge potential’ (SCC 2015, 4). The open-ended survey offered the potential to generate new ideas from the community, but made a ‘statistically robust’ rejection of the proposal unfeasible. Efforts pursued the pragmatic goals of generating support for devolution and identifying areas of public interest that could strengthen negotiations with central government before final approval. In terms of the Fung framework, this case of public participation activity was limited in its capacity to address issues of democratic representation and legitimacy.

Case 3: Consultation around the creation of the West Midlands Combined Authority, devolution and elected mayors

The West Midlands Combined Authority (WMCA) formed in June 2016 and comprises seven metropolitan borough councils. Its creation – agreed in principle with the government in November 2015 (WMCA, 2016a) – was preceded by public and partner engagement activity by six of the metropolitan councils and, independently, by Coventry City Council (CCC).

The WMCA (2016b) summary report on consultation is based on an online survey (January–February 2016) around attitudes on the new Combined Authority and proposals for its operation, fulfilling the statutory consultation requirements. In addition, Coventry City Council commissioned a Citizens’ Panel (held on 9 September 2015) that focused on understanding citizens’ views on the future of their city (Democratic Society, 2016). Once the deal was agreed, WMCA developed a Scheme outlining powers and functions required to deliver the devolution deal via a Mayoral Combined Authority. Another phase of (statutory) online consultation took place in mid-2016 (WMCA, 2016a).

In the online survey, self-selection was again employed; although a range of support activities were used to promote public participation (WMCA, 2016b; CCC, 2016). There were 1,907 respondents, of whom 832 contributed free-form comments (WMCA, 2016b). While demographics are not addressed specifically in the available materials, the online survey shared the issues of representation highlighted above. That said, online and ward forums were scheduled to maximise participation, and the CCC process included a dedicated focus group for older citizens (CCC, 2016).

The survey concerned the formation of a WMCA, so questions about any proposed devolution agreements were premature at that time. Regarding comments made on devolution itself, the consultation report said: ‘Though recognised as important views, such responses will be considered as part of on-going and future engagement on devolution’ (WMCA 2016b, 20). In short, the survey did not explicitly collect or report information on attitudes to devolution, nor did it commit to any political action based on this information.

However, the presence of a citizens’ panel within this case requires further examination. CCC commissioned the Democratic Society to run a one-day event with the aim of ‘understanding what people think are the most important parts of Coventry’s local, city-wide, national and global identities and exploring what people who live in Coventry want for the future of the city’ (Democratic Society, 2016, 3). This consultation was to inform the Council’s decision on whether to participate in the proposed West Midlands Combined Authority. In July 2015, CCC used an independent market research company to conduct a random telephone survey to identify 214 people interested in panel participation. The Democratic Society invited two people per ward with the aim of securing a ‘broadly representative panel by demographics and geography’ (Democratic Society,

2016, 7). In total, 35 people participated in the panel. This is what Fung (2006, 68) defines as ‘random selection’, which ‘is the best guarantee of descriptive representativeness’.

The panellists received information and heard from expert witnesses to foster discussion and deliberation (Democratic Society, 2016, 13–15). This approach allowed participants to do more than express their existing views. Rather, it encouraged them ‘to learn about issues and, if appropriate, transform their views and opinions by providing them with educational materials or briefings and then asking them to consider the trade-offs or merits of different alternatives’ (Democratic Society, 2016, 68). The panel’s focus was on Coventry’s identity within the WMCA and the future of the city. Hence, the conclusions related not to devolution per se, but to concerns around lack of information and the importance of city pride, identity and voice (Democratic Society, 2016, 35–37).

The second phase of consultation concerned the powers and functions required to deliver the devolution deal via a Mayoral Combined Authority. According to the supporting website:

This consultation asks for views on the different functions it is proposed that the Mayoral WMCA could have. Prior to any decisions being made, findings from the consultation will be sent as part of the Mayoral WMCA Functions Scheme to inform the decision making of the Secretary of State for Communities and Local Government... It will give the Secretary of State an understanding of what the public, partners, stakeholders, businesses and voluntary sector think of the functions and responsibilities of a Mayoral WMCA (WMCA, 2016a).

In summary, this case involved a conventional public consultation augmented by a citizens’ panel. While the combination of ‘propositions’ and ‘open questions’ in the two surveys enabled some common views to be identified, neither provided a specific avenue to assess support or opposition for the devolution deal or an elected mayor. The citizens’ panel offered scope for deeper engagement, but was limited to the future identity of Coventry within a devolved body. In terms of Fung’s framework, we see a case that is more representative and deliberative than conventional online collation of preferences alone; but still, this could only offer recommendations to inform the debate and decisions. It thus remained, for the most part, disconnected from political authority or influence on policy.

4. Assessment and Alternatives

Our analysis in the preceding section of consultation practices within the process of devolution in England shows them to have been unambiguously limited on two of Fung’s three dimensions. With regard to communication, with only one exception, they have allowed those involved to do no more than express preferences, and in some cases, they have in practice created little more than opportunities for members of the public to listen to those in power. The one exception where preference formation was also possible – the Coventry citizens’ panel – was limited to only narrow aspects of identity within the devolution agenda. In terms of authority, no case involved more than limited consultation.

On Fung’s third dimension – participation – processes appear at first glance to have been more inclusive, in that, in all cases, at least some point in the overall process, there were opportunities for self-selection. We suggest, however, that this shows a weakness in Fung’s framework, for it fails to distinguish between processes that generate only small-scale and unrepresentative participation and those leading to large-scale and/or representative involvement. That is, it fails to distinguish between, at one end, poorly advertised online consultations that attract only a few hundred submissions from populations in the millions and, towards the other end, processes such as those in Durham that generate responses comprising a large slice of the population. And it does not

adequately reflect the fact that (stratified) random selection can be more inclusive than self-selection because it yields a more representative set of responses. If we modify Fung's analysis to reflect who actually participates rather than just who can participate, we find that, on this dimension too, most of the consultations around English devolution have been highly restrictive.

Critics are correct, therefore, to say that these consultations have been limited. As we emphasised in introducing Fung's framework, however, that does not mean that consultations have necessarily been less than they could have been. As Fung stresses, greater inclusion is not in all circumstances superior to lesser inclusion. In cases where expert judgement is paramount, for example, extensive consultations may be cumbersome and even counterproductive. Our task is, therefore, to consider what is appropriate in this case.

To do so, it is useful to consider why extensive consultations might not be employed. Three reasons may be highlighted. The first is practicability: deep consultations are costly and time-consuming to run. In an era when local councils are cash-strapped and at a time when central government is pushing for rapid progress on a key policy initiative, such consultations may simply appear unfeasible. The second relates to expertise as just suggested: some decisions may be better left to those with relevant specialised knowledge. In the case of local governance reform, it might be argued that, while the public at large can have clear, grounded views on what they want from their local authorities, they are unlikely to have the perspective that would allow them to judge the institutional arrangements most likely to deliver such outcomes. Much better, so the argument goes, to leave such technical matters to local governance experts. The third reason is political will: local authority leaders may know what they want and be reluctant to engage processes that could disturb this. Where negotiations with central government are involved, they may feel that they need to present a united front in order to gain the best outcome for their area – consultations that expose a diversity of opinion could disrupt that.

To evaluate these arguments, we can compare the standard consultation procedures used in our three case studies with two alternatives. One is the kind of large-scale consultation conducted in Durham, where wide participation was achieved by mailing a survey to all eligible electors. The other is the use of 'deliberative mini-publics' – groups of randomly selected citizens who gather to learn about, deliberate upon, and reach conclusions regarding the issues in hand. The citizens' panel in Coventry falls into this category. But we will draw here also on two additional cases. In autumn 2015, the authors ran two pilot citizens' assemblies – in Sheffield and Southampton – that examined options for local and regional governance in their areas. In each case, these assemblies gathered around thirty local people: in Sheffield, all were selected randomly to be broadly representative of the local population; in Southampton, the majority were selected this way, while a minority of local politicians were also included. We have described these assemblies in detail elsewhere (Flinders et al., 2016) so will not do so again here. Rather, we consider the lessons each of these carry for processes of local consultation in changing governance contexts.

The first objection to deeper consultation processes such as those used in Durham, Coventry, and our pilot assemblies was practicability: such processes cost too much and take too long. We consider the time issue to be of minor importance. Even the limited consultations by authorities described above typically took several months, as tools were developed, time for responses was allowed, and those responses were then analysed. It does not appear that the exercises in Durham or Coventry took any longer. For instance, in Durham, letters were sent out in mid-January and results announced a little over a month later (Durham County Council, 2016). A full-scale citizens' assembly that achieves the deepest and most transformative deliberation can take substantially longer: such assemblies elsewhere have in some cases taken over a year (Fournier et al., 2011, 6). But a shorter exercise can still be valuable. The Coventry panel met for just one day while our pilot assemblies lasted for two weekends spread three weeks apart. Such events do take time to establish

– around two months in Coventry (Democratic Society, 2015, 7) – but if their usage became more standardised this time could be minimised. That said, cost could be a more significant constraint. Durham County Council (2016) expected the cost of its poll to be between £200,000 and £230,000, for an eligible electorate of around 380,000 people. In areas with populations of several million, costs would have been substantially higher. The costs of deliberative mini-publics do not rise with larger populations: representativeness is achieved through the quality rather than the size of the sample. They are, nevertheless, costly: learning materials must be developed, support staff engaged, and accommodation hired. The one-day Coventry citizens’ panel was criticised for costing £21,500 (Reid, 2015). Our pilot assemblies suggest that this was an unnecessarily high figure, but expenditure in excess of £20,000 for a full weekend of meetings is certainly to be expected.

Whether such costs should be thought justifiable depends on the effects that deeper consultations may have. This leads to the second potential criticism of such consultations: that technical questions of governance are better addressed by experts than by wider publics. To assess this claim, we can consider two questions: whether issues of devolution are indeed technical, ‘expert’ issues or not, and whether it is unreasonable to expect that members of the public could gain sufficient expertise to express informed views in a relatively short space of time.

As the Coventry exercise suggests, questions of identity can be central to local governance reform. Indeed, as earlier experiences of local government reform in England show, if people do not identify with the areas in which they are governed, they are less likely to accept any new arrangements. Identity is not a matter of expert judgement, and is a textbook case where inclusive consultation exercises – such as those deployed in Durham – are appropriate. The Coventry exercise took place in the context of a rival ‘devolution bid’ from neighbouring Warwickshire (since abandoned), which sought to include Coventry. Decisions on what area to be part of are appropriately influenced by questions of identity.

Given its limited remit and duration, the Coventry citizens’ panel does not offer useful information on whether ordinary citizens can engage meaningfully with more technical aspects of devolution. But our pilot citizens’ assemblies do provide such information. They suggest (Flinders et al., 2016) a positive assessment: both assemblies were able, after just two weekends, to reach coherent conclusions that reflected substantial understanding of the issues. In Sheffield, there was a strong desire for powerful regional government for Yorkshire as a whole; both areas saw particular concern over mechanisms of democratic accountability. Yet, for some issues, more time would have been helpful to explore in further depth. Devolution is a genuinely complex subject, and high-quality deliberation on its details does therefore require time. Thus, it is appropriate to limit them to an advisory rather than decision-making role.

Set against the concern that members of the public may lack the necessary expertise is the hope expressed by democracy activists and many scholars of deliberative democracy (for discussion, see Dryzek, 2001) that engaging people in the design process may increase the legitimacy of the structures that are created and promote their effective operation. This view should also be challenged as there are two reasons for thinking that deep consultations could harm legitimacy. First, as experience in Coventry suggests, the extra expense of deep consultation processes may be criticised in the local press. Second, if deliberative mini-publics replace mechanisms of participation involving self-selection, members of the public who have and want to express strong views may feel unfairly excluded. Nevertheless, evidence strongly suggests that greater inclusion, when well designed, can promote legitimacy (Bloomfield et al. 2001; Innes and Booher, 2004; Fournier et al. 2011, 130–32). Deliberative mini-publics should only ever complement self-selection-based mechanisms of inclusion: those who want to express themselves should be able to do so, either in evidence to the citizens’ panel, jury, or assembly, or through a parallel traditional consultation exercise.

This analysis points to the conclusion that consultation processes around English devolution have been not only limited, but also unhealthily limited: opportunities for deeper public engagement would have allowed more thorough examination of public concerns, particularly about local identities and democratic accountability. This would have entailed additional short-term financial costs – but only on a scale that some local authorities thought worthwhile.

This leaves us with our third constraint on such consultation procedures, namely political will. Central government was keen to move quickly in implementing its devolution agenda, and it had a clear view on the structures through which it wanted this to happen. While it negotiated the details of each deal locally, particularly to determine the exact powers that would be devolved, it was unwilling to give way on key provisions, such as the existence of an elected mayor – despite much evidence of local disquiet on this point. The detailed commitments within each deal text form another bulwark against consultations influencing outcomes. Local authority leaders, meanwhile, were caught by the need to respond quickly in order to secure the additional funding that was on offer: they secured a few veto powers over matters such as budgets, strategies and spatial planning, but the deals offer little discretion for locally-driven policy. It is clear that space for extensive, open-minded local consultations would open up only if central government adopted a rather different approach.

Developments towards the end of 2016 suggest that limited consultation may be starting to impinge on the effectiveness of English devolution. In September, the North-East devolution deal collapsed, over concerns that the UK Government was unable to underwrite EU structural fund payments after the UK left the EU. In November, the deals in Norfolk/Suffolk and Greater Lincolnshire also collapsed after participating councils voted to withdraw. The creation of an elected mayor was the lightning-rod for discontent; but it is significant that the government was not open to consultation on this and that no attempts were made by local elites to enlist popular support to challenge this position. Consultation-related issues have also led to delay, and further doubts, in the Sheffield City Region. At the time of writing, the mayoral election planned for May 2017 had been delayed for twelve months, and this hiatus has encouraged the re-emergence of proposals for a ‘pan-Yorkshire’ deal.

5. Conclusion

This article has examined a widely-voiced argument that the devolution deals rolled out in England have been subject to inadequate consultation. Having outlined the background to devolution and set out an analytical framework for interpreting consultation processes, we then analysed those processes in two ways. In line with our first aim, we considered whether they have been limited in any way according to the three dimensions identified by Fung (2006). We showed that they are very clearly constrained on two of those dimensions – communication and authority. We also concluded that, while they appeared more expansive in relation to participation, this actually reflected a weakness in Fung’s schema: in terms of who actually participated rather than who could have participated. This insight speaks to a second aim, which was to assess and critique Fung’s governance framework through application to the contemporary case of English devolution.

We then considered the normative question of whether these consultations have been limited to an undesirable extent. Our evidence suggests that they have. We argue that, even given a desire by political leaders to move quickly, the examples of Durham and Coventry show that wider and deeper forms of consultation would have been possible. Deliberative mini-publics would also have usefully accessed informed public opinion on aspects of system design such as priority areas for devolved powers or arrangements for democratic accountability. Such deeper consultation exercises could appropriately have remained constrained to offering advice and consent. Nevertheless, they

could have created opportunities for stronger public engagement in, and thereby legitimation of, the local governance reform process. It appears that this has not happened not because it would be undesirable, but because leaders in government – both central and local – have preferred to maintain tighter control.

It may be argued that a speedier devolution process is desirable if it can deliver expected benefits to local communities earlier, while central government clearly has a legitimate role in steering the overall direction. There are concerns, however, about the public legitimacy of the arrangements being put in place and about whether they will stand up to scrutiny in coming years (particularly as several were put to the test in late 2016). It may be that deeper processes of consultation could, to some degree, have addressed such concerns.

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FIGURES:

Figure 1: Mechanisms of participant selection

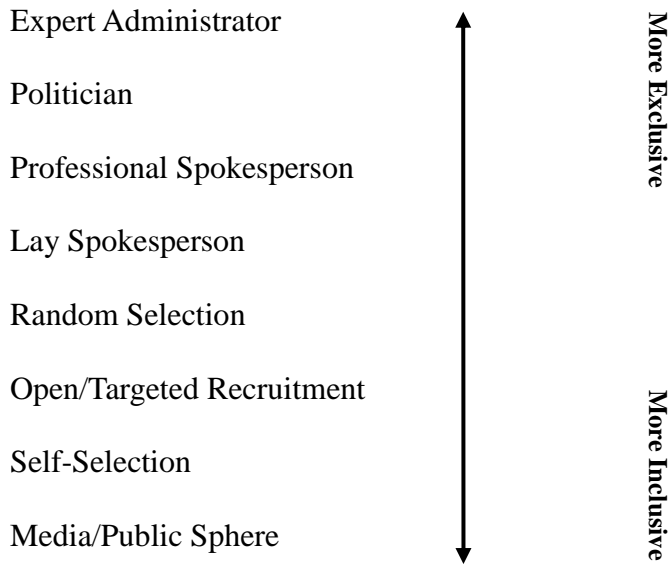


Figure 2: Mechanisms of communication and decision

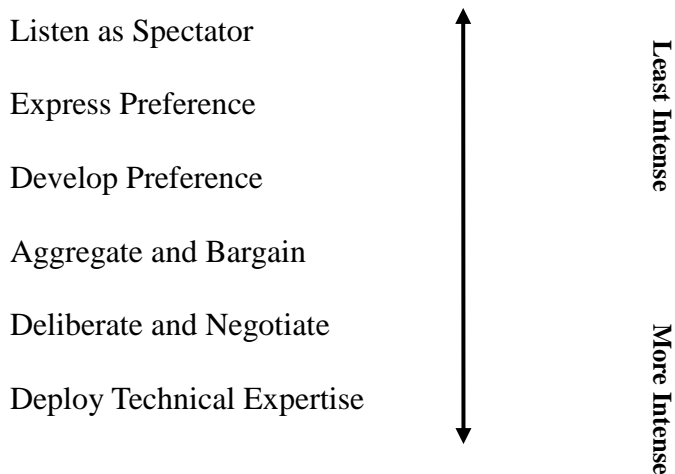


Figure 3: Mechanisms of authority and power

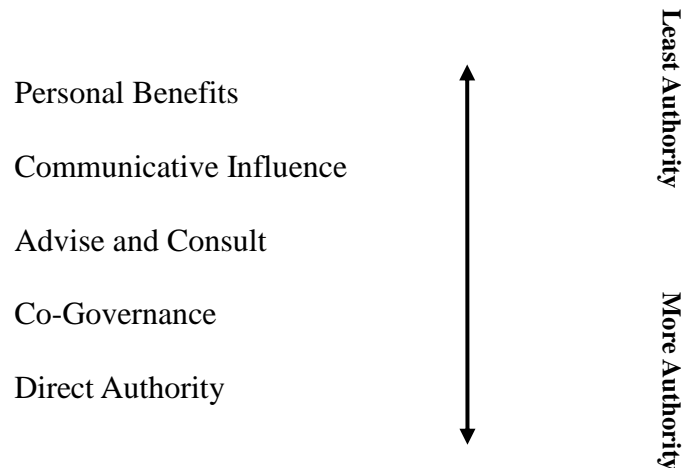
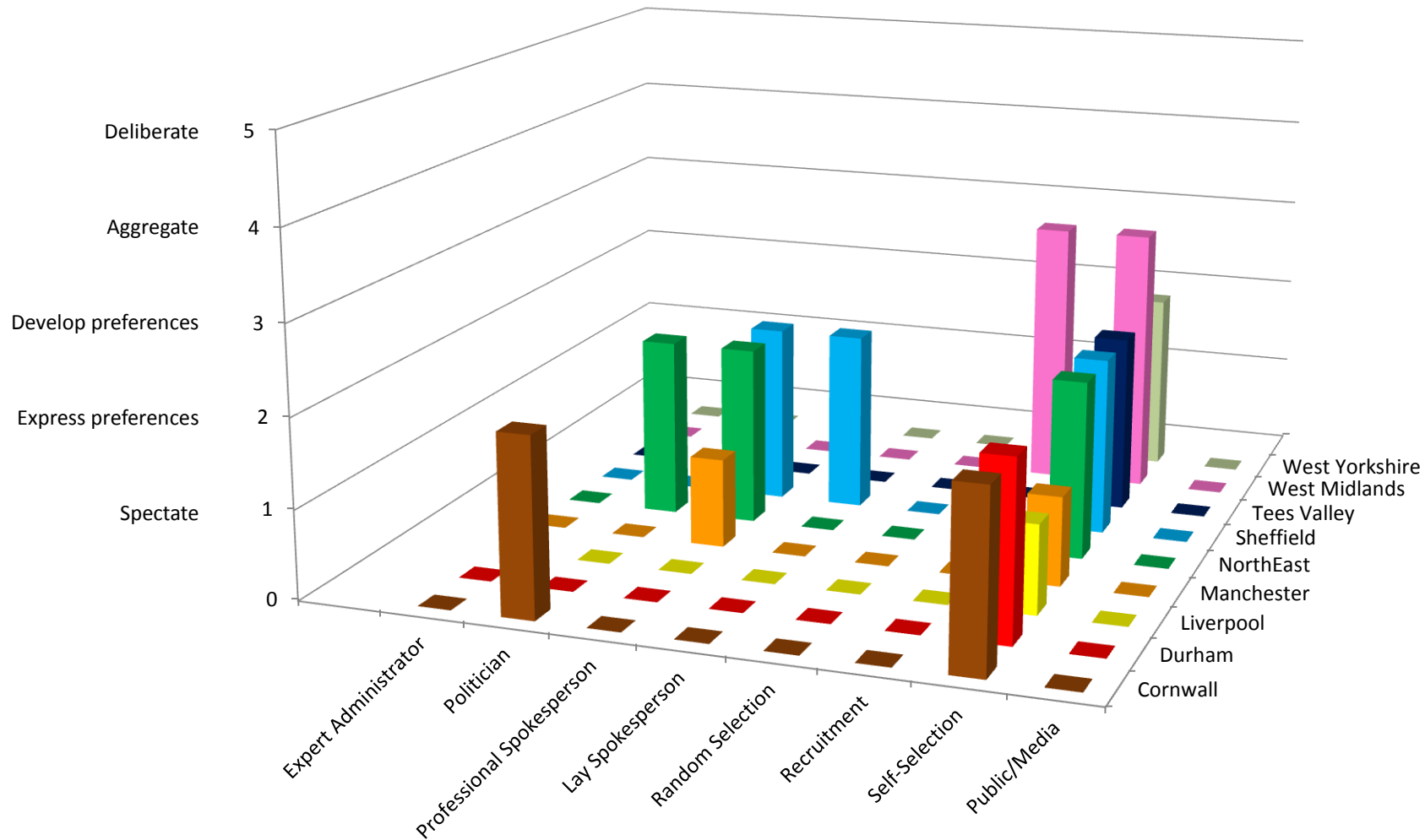


Figure 4: varieties of public participation in English 'devolution deals'



Please note: all models involved in 'Advise and Consultation' rather than other authority mechanisms.