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The Mutual State is a citizens-oriented approach to public service reform. By bringing users into the frame and creating a framework for social entrepreneurship, the Mutual State fosters more responsive public services, and helps to reweave democratic relations between citizen and state. This report draws together the findings from a virtual think-tank on mutualisation, designed to test, challenge and improve the core approach, running over six months up to May 2002.

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Building the Mutual State

findings from the virtual thinktank
www.themutualstate.org

edited by Ed Mayo and Henrietta Moore

New Economics Foundation and Mutuo

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The Mutual State is a stimulating contribution to the debate concerning the future of public services, and illustrates how a new and imaginative approach can refresh the old and increasingly jaded arguments concerning the public/private divide.

Professor Julian Le Grand, London School of Economics

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BEYOND THE MARKET AND THE STATE

The early anthem of privatisation was "rolling back the state", and yet, the state has emerged from the era of privatisation in a position of relative strength. This is both in terms of its tax take as a proportion of the national economy, after projected rises in health spending, and as the favoured mode of public service delivery in the many cases, from policing to health, in which the profit motive is not trusted by citizens.

The idea of opening public services to competition in the open market is of course accepted in many areas formerly run by the state, from water and telecoms through to waste collection. The market may bring cost advantages, which is what drove the early privatisations, but crucially is also seen to have the capacity for responsiveness and innovation.

But as opportunities for privatisation dried up, what emerged was the "managerial state" of the Conservatives under John Major, and of Labour in the first term of Tony Blair. Out of a perception that public services remained inflexible, bureaucratic and often of poor quality, the aim was to drive up productivity. In the development in the 1990s of "quasi-markets" in health, for example, with purchaser / provider splits, and compulsory competitive tendering, the state in effect became the sponsor and champion of market activity in public services.

The managerial state is replete with league tables, performance indicators and public service agreements. But just as the limits to privatisation set in, so have the limits to central control and reform instituted from above.

After all, what the best of private sector management has already shown is the need to limit the costs and distortions associated with layers of management, reduce hierarchy, focus on core business and start to move dynamically at the pace of the market.

The first attempt at moving beyond both privatisation and the managerial state was therefore the attempt to create more autonomous business units within government, operationally independent, but strategically accountable. The model of "executive agencies" dates back to a report by Sir Robin Ibbs in 1988. Government spawned a wave of internal agencies, units and czars, designed to be more focused and innovative than multi-purpose departments.

There are examples of excellence in this approach, sometimes dubbed "agencification", but in most cases the system simply bit back. Independence was notional rather than real, undermined in reality by systems of appointment, reporting and accountability.

Independent-minded czars and commissioners, such as Elizabeth Filkin overseeing MPs standards, were not reappointed. Units such as the Small Business Service never took on the intended life of their own, ending up as fiefdoms of the same empire as before. Even where agencies and non-departmental bodies (those that in previous political times had been damned as quangos) set up boards to oversee their work, this was in many cases a parody of true governance, with limited powers and reappointment at the whim of central government.

The search for more responsive models for managing public services, and the discovery of the limits to market and state, forms the background to the new-found interest in "social enterprise". These are business-minded non-profits and voluntary organisations, led by social entrepreneurs. They operate with a public ethos, but they are entrepreneurial, self-governing and have proved effective at engaging the participation of users.

Self-governance is an essential recipe for what we have described as the Mutual State. After all, if management is to have significant freedom to innovate and respond to need, then creating single-purpose self-governing organisations is the way to do it.

But how do you promote self-governance without creating incentives for free-riding, lack of coordination and poor quality? The answer is to look for models of organisation that internalise public service excellence and co-operation with other parts of the public service jigsaw, rather than have to have this imposed through costly regulation. This is the "new mutuality".

The New Economics Foundation (NEF) and Mutuo launched www.themutualstate.org in October 2001 as a time-limited "virtual think-tank" on user participation and the possible mutualisation of public services. The rationale was that there is a lot of practice already going on, but it is rarely brought together or properly understood. It followed the publication of the NEF report we co-authored, *The Mutual State*.

The website was designed to galvanise wider debate in order to:

- learn and share what is already happening across the public sector in terms of user participation and social enterprise;
- explore how new mutuality could work in public services, and where it will not;
- refine and test the ideas for mutualisation as a model for public service investment and civic renewal.

The programme brought together a unique alliance of policy think tanks and practitioners concerned to explore the role of social ownership in public services. The site averaged around 185 participants and contributors in the debate per month, contributing to online discussion, review of regular think pieces and voting. Patricia Hewitt MP, the Secretary of State for Trade and Industry, made the initial contribution.

Over the period of the programme, participants also contributed to an open national competition based on the website, to propose a new name for the successor body to Railtrack. The winning name was **Trust Rail**.

The results of the key Debating Points are set out in **Table 1**.

TABLE 1

DEBATING POINTS – VOTING RESULTS ON THE MUTUAL STATE WEBSITE

There is no real political will for meaningful participation.	
Yes 80%	No 20%
Is user participation too time consuming to be practical?	
Yes 11%	No 89%
Will mutualisation threaten pay and conditions for staff?	
Yes 15%	No 85%
Would you give up ownership to your employees?	
Yes 33%	No 67%
The NHS should be broken up into self-governing mutuals.	
Yes 75%	No 25%

While weighted to contributors that were clearly interested enough in the ideas to participate in the debate, the results suggest that there are significant untapped opportunities for mutuality in public services, but that these lack the backing of an enabling policy framework or even a licence for experimentation.

The papers that are set out in this report cover three main areas.

- First, they outline the underlying principles that inform the new mutuality: co-production, accountability, citizenship and scale.
- Second, they look at models for mutualisation, covering legal and other aspects designed to create replicable social enterprises across public services.
- Third, they explore opportunities for creative mutualisation across a range of public services.

The driver for the Mutual State, as set out above, is the promotion of management and staff freedom, within a framework of quality assurance. However, the decentralisation of power in this way also creates firstly, the need for new forms of accountability /governance and secondly, the opportunity for new forms of citizens' involvement. The key principles for building the Mutual State, as discussed by the contributors in section A below, are co-production, accountability, citizenship and scale.

CO-PRODUCTION

Citizens' involvement in public services is nothing new, but in the story of the welfare state as the narrative of "professional" public services, it has often been taken for granted as discussed by Ann Blackmore in section B below. Tony Crosland, decades ago, declared himself staggered by the extent to which statutory services depended on the volunteer. He was drawing on his visits to public services. In fact, the numbers were only collated across public services for the first time in 2000. The results are still staggering:

- 170,000 volunteers who work in the NHS, befriending and counselling patients, driving people to hospital, fund raising, running shops and cafes and so on;
- 12 million meals a year that are prepared by volunteers to people in care;
- 1.85 million people are regular blood donors, with 8.2 million signed up as potential organ donors;
- 750,000 people volunteer in schools.

The contemporary approach to citizens' involvement widens the focus from volunteering as part of service delivery to the input of users themselves. This is characterised by Edgar Cahn, the US pioneer of time banking, as "co-production". The idea of co-production reconceives public services. Instead of a traditional model, in which disinterested and expert professionals deliver services on behalf of, or for the use of, passive users, co-production is about finding ways to unlock the knowledge and contribution of service users, valuing them as partners.

In the field of health, for example, the concept of the "expert patient" has highlighted opportunities for NHS staff to draw on the knowledge of patients with chronic illness, and indeed to use this to benefit other patients, offering them not just dispassionate advice but first-hand experience of how it feels.

The co-production approach also addresses one of the major paradoxes of the welfare state, which is that, in trying to target assistance to people in need, it can generate stigma and, in fields such as welfare benefit, deny people's dignity. And where inflexible systems combine with a lack of human scale, as David Boyle argues in Section A, the result is a public disservice.

Citizens' involvement of this type also offers the prospect that public service reform can operate as a strategic opportunity for democratic re-engagement. After all, people care about public services. They are important spaces for community gathering, in the same way that Settlements, community buildings set up by the churches and universities, were intended to be in the inner cities of Victorian times. Co-production is an opportunity for people to act as citizens from the most effective of motives, which is the combination of self-interest and public concern.

In the framework of social capital, the real opportunities for rebuilding trust come not from what the state does, but the way that it does it. As Perry Walker argues, co-production ensures that citizens are involved in public service design and delivery, and the result is an improvement in the range and quality of services.

GOVERNANCE AND ACCOUNTABILITY

Co-production is clearly linked to issues of governance and accountability. Decentralisation moves decision-making closer to users and improves the quality of service, whilst participation in governance can clarify lines of accountability and responsibility.

A report, *It Takes Two to Tango* by the Development Trusts Association, Local Government Association and New Economics Foundation, offers a range of examples in which community organisations have taken on local services. Much is small-scale and has evolved according to accidents of need and circumstance.

Social housing, in the form of registered social landlords, offers one of the clearest, larger-scale case studies of social enterprise.

To meet the significant demand for housing in society, social housing has received significant subsidies from the public sector. This has included £25 billion of concessional finance, in addition to development support and housing benefit for tenants that underpin a revenue stream. The quid pro quo has been tight and restrictive regulation on behalf of government by the Housing Corporation. On the back of this funding; the assurance of regulatory scrutiny; their significant asset base; and assured long-term income streams, registered social landlords have raised around £20 billion in funding from the markets in private finance - with not a penny of default.

In addition, over 580,000 homes have been transferred by local authorities to registered social landlords since 1988. This now represents 35% of their housing stock. In Glasgow, 80,000 tenants voted in favour of transfer of their homes from the city authority to the Glasgow Housing Association, which in turn promised a rent freeze and a £1.9 billion investment programme over ten years. In Birmingham, in contrast, tenants opted to stay in municipal control. The Welsh Assembly voted in May 2002 to nominate "community housing mutuals", described by Peter Hunt in Section C, as the preferred future model for stock transfer.

While it is still too early to judge the overall success of this approach, voluntary transfer does appear to be accompanied by evidence of improved tenant satisfaction, as the National Housing Federation has documented. Giving tenants the say on transfer also seems democratic and fair.

However, as Andy Roberts discusses in section C below, there are still real dilemmas in terms of forms of accountability in non-state social housing and a need to restore a genuine ethos of mutuality as a means to improving internal accountability in many housing associations. As David Leam points out in Section A, not-for-profit entities are not necessarily linked to community ownership and participation, and do not inevitably lead to improved accountability.

In section B below, several contributors discuss new models for public service delivery within the Mutual State. A key concern here is how to promote innovation and social entrepreneurship allied to democratically managed and accessible services, improved autonomy for workers, and more control and choice for citizens as discussed by Jack Dromey.

One solution is the public interest company (PIC), discussed by Jane Steele that would provide the UK with a legal form that offers an alternative to the choice between public and private. The PIC would be a form of organisation that would be both not-for-profit and permanently and securely committed to the public good. As the case of the building societies has shown, community membership is not enough on its own to prevent demutualisation, with subsequent individual gain from mutual assets.

New mechanisms such as this inevitably raise questions about who makes decisions and how are they made. In the context of the development of a non-profit successor to Railtrack, Cliff Mills outlines the strengths and the weaknesses of companies limited by guarantee, but shows how legal form has a direct bearing both on governance structures and on the mechanisms for funding the enterprise. All too often debates about community participation take place in a vacuum and underplay the legal and financial issues involved in designing mutual public services.

What all the contributors in section B show is that the new models underpinning the Mutual State will work outside the old division between private and public. Successful innovations in social enterprise stitch together aspects of the public, private and voluntary sectors. What is at issue here is capacity building: the development of skills and resources from across sectors to develop future capacity within social enterprises.

Paul Maltby discusses how Community Trusts - community not-for-profit public/private partnerships - could play a key role in regenerating deprived areas. The view here is that regeneration projects are more likely to succeed if local people are involved, and if best use is made of public, private and voluntary sector expertise in the local area. Co-ordination of effort would lead to the bundling together of assets and services on a neighbourhood basis. As community organisations with an asset base, community trusts would attract financial support and be an attractive new model for public/private partnerships.

ENTREPRENEURIAL CITIZENSHIP

Involving citizens in the design and delivery of public services, and thus in the running of the Mutual State, inevitably changes the relationship between the citizen and the state. In sum, it extends the notion of citizenship for the simple reason that, in contrast to the myth of standardised, universal services, the more you put in, the more you get out. As Cliff Mills points out in Section A below, the current debate about the right form of ownership for public services is not just about how those services should be funded and who should carry the risks of ownership, but about people's willingness to engage as citizens in a new way.

The interrogation of what it means to be a citizen has been the hallmark of the UK state in the last decades of the 20th century. What lay behind this debate was the question of how to rework the relationship between the economic and the social, between individual benefit and the social good, between the market and the State. This reformist impulse has continued to be evident in recent Government initiatives - the attempt to spell out specific rights and responsibilities as the basis for new forms of social contract - and in contemporary policy language - the "New Deal" and "working families".

These changing ideas about the role of the State and the responsibilities of the citizen have taken place alongside other social changes, notably in a marked growth in civil society and an expansion in the diversity of its forms, accompanied by a crisis in older forms of community and in the family. The new forms of civil society have fought to find expression within political forms that struggle to accommodate them - neither eco-warriors nor Women's Institute members appear to find appeal to their MPs to be of much value.

There is a sense in which the new forms of civil society are demanding the creation of new democratic and public spaces within social life. Such spaces are not necessarily antagonistic to, but certainly cannot be simply mapped onto, older forms of community and solidarity. Government and civil society initiatives recognise this emerging need, which has recently transmuted into a demand for a renewed form of citizenship and for greater civic participation in policy making.

This is the impetus behind the Mutual State. But, how can changing ideas about citizenship, democratic participation, community and the social good be linked to the changing role of the State and to a new vision of the relationship between the social and the economic?

The key issue here, as we have already stressed, is that communities and individuals need to be involved, alongside the State and professionals, in the design and delivery of public services. Adherence to this simple principle has the potential to bring about an enormous change in the way we think that the relationship of the public and the private and the role of the citizen in maintaining and developing that relationship.

In the past, the management of the public/private relationships was largely seen as the responsibility of the State. And, where the State could not or did not wish to function, then charity stepped in. Successive governments have wanted to shift some of that responsibility on to individual citizens, hence the calls for new forms of social contract that have characterised both past conservative governments and the current government. These new forms of social contract are not easy to establish and without a sound basis in participation can appear potentially coercive or neglectful, as Andy Roberts warns in his discussion of how new mutualism could be best introduced into social housing.

Social enterprises based on the principles of new mutualism do not just endeavour to step in to make up the deficit in the public/private relationship, but rather seek to reform and fresh it in an innovative way. They start from the principle that entrepreneurial activity can and should work for the public good.

The basis for large-scale involvement of citizens in the design and delivery of public services would be a new notion of citizen linked to risk. One of the key factors in any enterprise is how risk is managed. In a private company, shareholders as owners drive the success of the company, and the returns on their investment are, in principle, a reflection of the risks they take as investors and owners.

The notions of risk and citizenship seem almost antithetical, and this is because historically the State has taken responsibility for managing the relationship between the economy and the social good, between the private and the public. In its redistributive function, the welfare state has traditionally operated as a mechanism for pooling resources in order to manage risk and meet needs. Through redistribution, the State ensures that those who cannot manage their own relation to the market are not disadvantaged and excluded. This is the theory. In practice, the reality has frequently been altogether more brutal.

Under the Mutual State, new forms of entrepreneurial citizenship would emerge that involve the pooling of risk - through mutual social enterprises - rather than simply the pooling of resources. The creation of social enterprises for the delivery of public services run by citizens for the collective social good, and thereby for their individual benefit, is a new way of managing a relationship both to the State and to the market. In order to pool risk effectively, such social enterprises would need to take new forms, both new forms of mutuality and/or new forms of social investment.

Why is social investment important? Social investment is linked to forms of ownership and it is this form of ownership that would drive the success of mutual social enterprises: the drive for social returns or dividends. Entrepreneurial citizens would take larger risks in order to safeguard their futures, and those of their dependants (children, elderly etc) through the more active management of the quality and delivery of outresourced public services.

The notion of citizen would draw on a much wider understanding of civil society and revised notions of community to include a broader notion of social investor. Under traditional co-operative structures, those who benefited from mutuality were the staff or employees, and their dependants. In the new form of social enterprise, it is not only the staff and employees who need to be participants, but all the relevant constituencies.

Tom Bentley in Section C argues that mutual engagement could become an indispensable part of the new education infrastructure. Imagine, for example, a scenario where a local social enterprise runs a local primary school. In such a case, it is not only the staff or employees of the enterprise who need to be participants, but the consumers (parents) and the supporters (grandparents, concerned individuals, local philanthropists, employers, local authorities). These individuals should have a mechanism whereby they can invest in education in their area and for their community. In other words, they should be social investors and equity holders. The relationship between equity and risk is crucial here, not only in relation to financial returns, but in relation to social ones as well. Accountability and transparency is based on equity holding and social return rather than simply on committee representation.

In Southern Europe, as Jonathan Bland discusses in section C below, changes in legal frameworks have allowed new models for growth and access to finance to emerge. Official recognition of the social aim of social enterprises is linked to their status, and restrictions are in place to prevent the demutualisation of successful entities. The result is that social enterprises can raise equity through capital or through financing members with limited voting rights. Investing members can be individuals, private sector companies or local authorities. The key to success here is social investment, where the return or dividend on that investment can be ploughed back into or retained by the community.

However, the notion of social investment underpinning the Mutual State is not just a matter of finance, but of investment of skills, time, and experience, as Angela Putman discusses in section C below. Stakeholders invest not just to return financial value to the community, but also to build capacity, employability, new skill sets and to reinvigorate the community itself. This is the true dividend on which entrepreneurial citizenship is based.

MULTI-STAKEHOLDER GOVERNANCE

The mutualisation announcement by Alan Milburn, the Secretary of State for Health, in January 2002, that non-profits would be allowed a key role in the management of the National Health Service has brought health care mutuals to the fore. Alan Milburn said that new "Foundation Trusts" could operate as independent bodies, offering a much greater range of freedoms to manage local services, and benefits such as:

- having a clear public service ethos and not-for-profit basis;
- giving greater control to patients and service users and opening up options for greater accountability to local communities;
- more active involvement and control for both staff and management;
- offering freedom from "top-down" management from Whitehall;
- immunity to takeover by organisations which will not provide such benefits.

Health mutuals exist in many parts of the world and deliver primary and hospital care, as well as public health and ancillary services. These mutuals are most usually owned either by users (potential users), providers or non-co-operative enterprises interested in joint purchasing. Health maintenance organisations in the USA can be co-operatives and may organise primary and hospital care, care for the elderly, public health and ancillary services, and medical help lines.

In Japan, health co-operatives own and operate medical facilities, including screening and public health. Asset purchases are funded by member's share capital, members' loans and interest-bearing bonds, and the income comes from public provision for health care, including social insurance systems, employer schemes, local payments and other charges. Such not-for-profit providers are dependent for the largest part of their income on the State. But members play a key role in raising capital and in providing additional revenues through co-payments and other charges.

The UK National Health Service has always been free at the point of delivery and this principle has recently been re-iterated in the new proposals for decentralisation. However, what makes potential health trust mutuals different is not just that they would offer greater freedom for managers but also that the members could begin to have a major say in how the service is designed and delivered and it is they who would decide whether co-payments or fixed charges for non-core services are appropriate and whether new income-generating opportunities could be developed or new funds raised by issuing ethical investment NHS Bonds.

What has still to be worked out is how the governance of such a mutual would work. In user or provider co-operatives of the usual sort members are able to vote, receive information and appoint board members. In the case of Japan's health mutuals, utilisation committees made up of people directly elected by the membership work alongside the board of directors and the management. In the USA, special interest groups are set up from the membership to deal with special issues such as care for the elderly and mental health.

What is clear is that if citizens are to actively and seriously participate in the design and delivery of public services then health mutuals would have to have some form of multi-stakeholder governance. This would mean local citizens, staff and other stakeholders on the Board of Directors, but it might also entail multiple "Boards" - customer and user forums, employee councils and a community committee - whose members report to a stakeholder council that provides feedback to the main Board. The main Board of Directors would then have executive members, as well as representatives of the stakeholder owners.

The key here is the relationship between the stakeholder council and the main Board. A Board of Directors cannot create strategy, manage finances and monitor management at the same time as being representative of all interests. It is the stakeholder council that informs and is informed by the Board, thus bringing all stakeholders into processes of decision-making and ensuring full and appropriate information flow. Within the Mutual State, this model is not one that is necessarily based on individual membership as in the most familiar form of co-operative societies, but is one that allows both individuals and collective stakeholders - employers, unions, local authorities, higher education institutions - to be members, and to serve at all levels. Geraint Day and David Green discuss health mutuals and mutual health care purchasing in section C below, and they emphasise both the importance of getting governance structures right and the necessity to share risks through mutuality.

What is crucial in such a model is that multi-stakeholder governance allows not only for the participation of stakeholders, especially citizens, in the design and delivery of local health services, but it also allows each mutual social enterprise to form strategic alliances and relationships with other players in the local health economy. This is the critical added value of mutuality. The social dividend on social investment is a mutual web of public service provision, with co-operation built in not just to the culture of public services but into its institutions as well.

The model of governance developed for Foundation Trusts, alongside the pioneering work of Glas Cymru in the water sector, could provide the model for other public service sectors and for local governance as a whole within the UK. An agenda of building the Mutual State is now starting in earnest.

A.1 CO-PRODUCTION PERRY WALKER

One reason for the poor quality of some public services is the failure to involve the public. Co-production refers to the joint production of services by the producer/expert and the consumer/user. "Co-" does not mean that each party contributes the same, or contributes equally. It does mean that both parties are essential.

Here is an example that shows how radically it is possible to rethink the current divide between producer and consumer. In 1996 the Washington DC Superior Court authorised a Time Dollar Youth Court, so that first offenders come before a jury of their peers. Sentences can be community service, restitution, counselling or an apology. In addition, jury duty is now a mandatory element of every sentence. Jurors earn Time Dollars that they can exchange for a recycled computer. The Time Dollar Youth Court is now handling over a third of first-time juvenile offenders in the District.

This approach benefits both jury and offender. The jury felt affirmed enough to say things to friends like, "If you stand at that corner, sooner or later you're going to get busted and someone is bound to be carrying drugs". Normally, saying such things would be death to peer acceptance. The offender is tried by people who know what it is like to be a teenager, because that is what they are.
One young man had slashed the tyres on his teacher's Lexus because she kept him in after school for failing to hand in his homework. He explained that he lost control because he had promised his parents that he would bring his younger brother and sister safely home across gang territory from a neighbouring school and his teacher wouldn't allow him ten minutes to do that.

The jury's sentence was:
1. Write a letter of apology to the teacher and make a good faith payback of at least $30 that you personally earned.

2. Write a letter of apology to your younger brother and sister, explaining to them why, despite the provocation, this was no way to act. They look up to you; you need to put them straight that acting this way is not right.

3. Hang out a minimum of 20 hours at a boys club over the next month. You need to be a kid and spend some time just being with your own age group.

To the Time Dollar staff they said, "Get him another teacher. A teacher who doesn't understand what this kid was going through has no business being his teacher."

Time banks are now spreading widely across the UK. They are illustrations of a fundamental shift in power, possible in public services, to validate the voice, choice and knowledge of users and affirm their worth and dignity through appropriate forms of participation.

The benefits of co-production are: the people who need to be involved are involved; people become more assertive; the range and quality of services is improved; and a constituency of support is created for that service.

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A.2 ACCOUNTABILITY DAVID LEAM

For the past decade or so the private sector shareholder model has reigned supreme as the organisational form of choice. The twin trends of privatisation and demutualisation seemed to foreshadow only defeat for those advocating a Mutual State.

But 2001/2 has seen the shareholder model itself come under attack. In Wales privately owned Welsh Water has been taken over by Glas Cymru, a newly established company limited by guarantee. In Hackney, the local council has rejected the private sector path taken by, amongst others, Islington, in favour of an independent not-for-profit trust to take on the management and delivery of its education services.

Most sensational of all has been the demise of Railtrack, the runt of the privatised litter. Unwanted and unloved the company was finally left to starve by Transport Secretary Stephen Byers who, like many a grizzled commuter, despaired of waiting for Railtrack to deliver a service that seemed indefinitely delayed.

Supporters of mutuality could be forgiven for cheering these developments, but an obvious point demands to be made. None of these models are mutuals - although befuddled commentators may often refer to them as such. In none of them does ownership transfer to the community in question. And in none of them do enhanced accountability, public participation or community involvement feature as a necessary consequence.

Just because these models are not-for-profit, it does not necessarily follow that they are for the public - in the way that mutuality's proponents believe it is. After all a banker does not become a doctor merely by donning a white coat and putting a stethoscope around his neck. We must probe beneath the not-for-profit garb and ask ourselves how this new breed of organisation is likely to behave and operate in practice.

For example, we might ask what are the rights of bondholders in these new not-for-profit models? Where will ownership rights in fact reside? Who are the members and how did they get there? What are the corporate governance arrangements? How is management performance measured and, crucially, remunerated? And to what extent will ordinary people have a voice?

Now it may be that the answers to these questions are still being formulated by the organisations concerned. Where there are answers, however, I suspect that they would be unpalatable to those currently engaged in mutual service delivery.

Take the case of Glas Cymru, for example. In as much as its thirty or so members are representative of Wales, they are so in the way that the House of Lords is representative of the UK. They are not bad people - on the contrary, many are very impressive - but they are not your ordinary man or woman in the street. Now it could be argued that this is no bad thing, but that is surely not a vision that a new mutualism would want to embrace.

Similarly, it appears a feature of this model that it is perfectly possible for senior management to be very highly remunerated. Again, if they deliver the service then perhaps that is fair enough. But a new mutualism would surely part paths on this point (and I doubt that the people and press of Wales will be particularly forgiving if such an eventuality comes to pass).

The point is this. The phrase "not-for-profit" generally has positive connotations in the minds of the public. Whilst policy wonks and the like appreciate that the phrase could be used to describe a vast array of organisational forms, to most people the spectrum will blur into one - and mutuals will inevitably be caught within this.

So how then should proponents of mutuality react towards these new kids on their block? The most propitious approach could be to develop a critique of the recent wave of not-for-profit models, focusing on the accountability gap that lies at their heart. At the very least this would help to differentiate the mutual model and help guard against potential "contamination" of the mutual brand. More positively, there may also be scope to help develop mechanisms for bridging this accountability gap - whether through the creation of stakeholder boards or other such means.

Time alone will tell whether this new breed of not-for-profit models helps to take us closer to the mutual state. But given some of the dangers, advocates of a new mutualism should treat them with caution.

David Leam is a senior researcher at the Social Market Foundation.

A.3 CITIZENSHIP
CLIFF MILLS

Marking a cross on 15 ballot papers (a few more if local elections are included) might be, and, for many people may well be, the sum total of their participation as a UK citizen in their country's democratic and civic process.

The experience of the last 25 or so years of privatisation has made matters worse. Whilst the removal of services from local or central government control may have led to greater transparency and openness, the process has also greatly increased the number of areas in which we are all now customers or consumers. Being treated as a customer or consumer, we are likely to insist on our consumer rights, demanding performance of the contract under which we are paying for services, and seeking compensation if we do not get it. We are consumers, not citizens.

Our attitude may also be affected by the fact that it is a company selling us these services, probably paying very substantial salaries to its management, and earning profits for its shareholders. Since our only relationship with the company is as a customer or consumer, and since we have no other means of participating in or influencing the company, far from having an interest in seeing it prosper, our only interest is in getting what we can out of it. This is the antithesis of citizenship.

On the other hand, there are many people who take part in public, voluntary or charitable organisations, participating in and providing advice and support in their local communities. There may be a variety of reasons for such activities including an innate sense of public service or duty, a desire to support friends and family, or simply the desire to play an active part in society.

The debate about the right form of ownership for our public services is not just a debate about how those services should be funded, and who should carry the risks of ownership. Where people are dependant on basic services such as healthcare, water supply and transport, the role that those services play in people's lives and their willingness to engage as citizens (for any of the reasons referred to above) in relation to those services should also be taken into account.

In their landmark booklet *The Mutual State* Ed Mayo and Henrietta Moore refer to the historical origins of mutuality in the role of the guilds in medieval England. What we would now call citizenship (whether driven by altruism or self-interest) was just as strong a driver of public services then as it was during the nineteenth and first half of the twentieth centuries when the mutual movement was at its most active. The same is true today, when we are even more dependent on public services because of our higher expectations and standards of living.

Mutual forms of ownership not only provide opportunities for people to play a part in the provision of the public services which they rely on, but they actually use that participation to drive the success and efficiency of the business. We can be more than just customers or consumers, having a greater interest and influence in the success of the business providing the service, for the benefit of ourselves and others.

Clearly not everyone would be interested in this sort of participation, though with modern communications systems, many are interested in receiving more information. Modern mutuals are aware of the need to nurture active membership, and the variety of means of communication and methods of engaging people are being used to deliver this. Citizenship is the life-blood of the new mutuality.

Communities with an active interest in the services they receive and the assets involved in delivering those services will not only try to get the most out of those assets and services, but will also strengthen the links that bind people together. Few would argue that a society in which such links are stronger, where people have respect for community assets, and where they treat each other with respect, is a desirable goal. The benefits in reducing crime, promoting employment, and improving the quality of life do not need elaborating. Privatising public services so that they are run for the profit of shareholders destroys citizenship by turning the relationship with users into a market contract. It weakens the ties that bind us, and damages the basis needed to make sure that democracy flourishes.

Giving ownership to people in local communities is a means of building robust, successful and efficient services, re-invigorating citizenship, and producing more stable caring communities.

Cliff Mills is a partner with Cobbetts Solicitors.

A.4 HUMAN-SCALE DAVID BOYLE

There is a problem about resources invested in public services. Services in the UK have suffered from underfunding for generations compared with those on the continent, but the debate about resources obscures the real problem. It's what economists call "externalities".

We have created a generation of monstrous schools with over 1,500 pupils, controlled from Whitehall by the manipulation of dubious exams and league tables, and then we wonder why some pupils aren't suited to the factory method. We have created a parallel generation of monstrous hospitals, and then wonder why they are beset with medical mistakes and super-bugs.

Anyone who has recently put themselves in the hands of these will know what this means.

Different doctors with every visit. Long waits while you are ignored by indifferent and harassed staff. Impersonal service, enlivened by the occasional personality who manages to break through the atmosphere of creaking machinery.

According to narrow bottom line measures, factory schools and hospitals are supposed to be more efficient. They are even supposed to provide better and more varied services. But the truth is that these models leave out what's really important - local knowledge, personal commitment, human-scale values.

On health outcomes, it is small and medium sized hospitals, for example, that dominate the list of top-performing "three star" NHS Trusts. In the field of tackling youth crime, some of the most promising innovations, such as Youth Offending Panels, appear to be those that offer a return to the human scale in the justice system.

The technocrats regard the mistakes, the hospital bugs, the general atmosphere of herding cattle, simply as difficult peculiarities that must be ironed out - and don't seem to grasp that they are the direct result of abandoning human-scale institutions. And so it is that politicians debate the size of classrooms, but never the size of schools; they debate the measurement of hospitals but never their size.

That's the key insight that the Mutual State approach could offer - the concept of human-scale.

David Boyle is an associate at the New Economics Foundation and author of *The Tyranny of Numbers*.

B. MODELS FOR THE MUTUAL STATE

B. 1 SOCIAL ENTERPRISES AND PUBLIC SERVICE DELIVERY JACK DROMEY

The Public Interest Company is a new model of social enterprise for the delivery of public services

I argue that Councils and Unions should embrace the social economy in the difficult debate on the future of public service provision.

We have to find another way to deliver good quality services in a way that puts the interests of the public first.

In areas, the social economy has been able to achieve this. Organisational structures like worker co-operatives, Industrial and Provident Societies and community businesses are finding new ways to serve the interests of local communities and still make a profit and be successful as enterprises.

In Bristol, the social economy now accounts for 5% of the city's employment and Public Sector services like leisure services have successfully transferred from Local Authority control to community control without making excessive demands on the taxpayer, without exploiting the workforce and yet vastly improving the local service.

The money that local people pay to swim or keep fit at any one of Bristol Community Sports' 13 sites is retained locally to benefit the service and the local community. And it is this kind of initiative which has inspired our work to develop the concept of a Public Interest Company.

We have seen how these types of initiatives benefit our members as citizens, as consumers and as constituent members of the community. It is this type of innovation which will, given enough support and time, protect our infrastructure from the excesses of globalisation by developing new tools in our armoury, which protect us from the worst kind of Private Sector provision, and giving the best kind of Public Sector Company a benchmark by which to assess their success. We should not let ourselves get into a position where we have no choice, other than to give what are fundamental services for the long-term success of our country away to the Private Sector.

That would be to leave ourselves open and vulnerable to exploitation as these companies then compete on a global scale with our assets and our futures in their hands. If our only defence is regulation, we rely too heavily upon the effective policing of the Private Sector and the reliability of independent verification. What we need are alternatives, a multi-provider economy which makes appropriate use of different business models. And we need to do that, making a case on behalf of our country, a land where we need to strengthen local communities at a grassroots level, where we need to bring together what's best for the people as consumers, as citizens and as constituent members of a community.

I think that this development could be as significant as the emergence of the Co-operative Movement in response to industrialisation. The Public Interest Company can offer ten benefits in the context of globalisation:

- first, economic development and regeneration of local communities;
- second, business efficiency, innovation and competitiveness;
- third, sustainable economic development;
- fourth, democratically managed and accessible services;
- fifth, opportunities for workers to take on new roles;
- sixth, protection of the values of the public sector;
- seventh, more control and choice;
- eighth, better targeted service provision;
- ninth, ownership of wealth;
- tenth, involvement in the management and forward planning of community services.

Jack Dromey is National Organiser for the Transport and General Workers Union, and is writing in a personal capacity.

B. 2 LEGAL MODELS FOR MUTUALISATION CLIFF MILLS

A somewhat puzzling debate is taking place around the proposals to replace Railtrack with a “not-for-profit” company limited by guarantee.

There is explicit acknowledgement that the equity model has failed here; a reasonable conclusion to draw when a company, which has made a loss, has nevertheless paid a dividend to its shareholders, and shortly afterwards gone into insolvency proceedings with (currently) no prospect of a distribution to shareholders.

The proposed solution of putting the business into a company limited by guarantee (CLG) acknowledges that (i) the business will not be funded by equity capital (a CLG does not have any), and (ii) it will therefore be controlled by a special group of people who have the opportunity to become members (a CLG has members just like a company with a share capital; the difference is that members have to give a guarantee rather than subscribing for shares).

Is this a good idea?

A CLG is a commonly used vehicle in the charitable sector, where it is convenient for a charity to have a rather more sophisticated structure than a simple trust, perhaps because it needs employees and other officers. The CLG is also used in other situations where incorporation is required for some reason, where generating profits for investors is not the priority, and some kind of alternative purpose underlies the business.

There are some interesting one-off examples of this in some quite big businesses (Reuters) where some special purpose is being protected (in Reuters case, editorial integrity). Social housing is also an example of this, where local housing companies use the CLG structure to own housing stock. BUPA is another example.

One of the advantages of a CLG is that the company can make its own rules about who the members are. Commonly the board itself determines this, and it is also common for the members of the company to be the members of the board. This is obviously suitable in the charitable context, where those who are effectively the trustees appoint their successors, thereby ensuring that appropriate individuals continue to have responsibility for the charitable objectives.

Big questions arise, however, when the CLG is owner of a substantial business where accountability is important. If there are no shareholding investors with a right to remove the board if they are failing to perform, how will executives be held to account? Who should be responsible for choosing their replacements? What is the mechanism for driving efficiency and success in the organisation?

And what about the customers?

It is interesting that the CLG is still used and promoted by lawyers in social housing, where such organisations are running very substantial businesses.

Actually, between [1960 and the mid 1990s], the majority of housing organisations set up to provide housing used the industrial and provident society (IPS) model, trading for the benefit of the community. In truth, the traditional IPS housing association model which has been used is a CLG wearing different clothes - it has no constitutional democracy within it, which is the historical background and backbone of the industrial and provident society (or mutual) sector. It is a company limited by guarantee dressed up as an industrial and provident society. The skin-deep attachment which housing really had to the IPS form has been amply illustrated by the trend from the mid 1990s to use a CLG when it was found to be easier than having to deal with the sometimes difficult questions from the Registry of Friendly Societies.

The problem that has been identified in housing is that the traditional models - both CLG and IPS - leave a democratic deficit, and this is now high on the agenda for change in the housing sector.

The housing sector has survived using a CLG or non-democratic IPS model, without any accountability or democratic control, for two main reasons. First because the regulator (the Housing Corporation) plays a very active, some might say unduly interventionist role, helping to keep management under control. Second because with a very high level if not 100% debt finance provided by the major lenders, the lenders themselves have played a not insignificant role in constraining management. Lenders have gone along with this because from their point of view, housing is relatively low risk in the sense that the income stream is substantially guaranteed given the nature of the business.

You could make the same comments about Glas Cymru, the parent company of Welsh Water, another CLG running a public utility: a low-risk business, with a customer base and basic service which is unlikely to change substantially over the foreseeable future. Here too, the democratic deficit features strongly, with bondholders (the business is funded entirely by debt) having very substantial rights and protections.

So is the use of a CLG (or a CLG pretending to be an IPS) a good idea, for housing, hospitals, reservoirs or any other public assets? To answer that question, you need to start with some fundamental points about the basic ingredients of a business, and how you drive a business's success. So with apologies to management consultants, here goes.

There are three essential ingredients to any business: customers, workers and money. If one of these is absent, the business will collapse. If all three are present, no particular legal structure is needed for a business to exist, and indeed to succeed, given the right environment. However, for any number of reasons including stability, continuity, succession, legal commercial and other requirements, the majority of businesses are put into a legal structure. The limited or joint-stock company is the most common form used, with more than two millions businesses trading in the UK through the company model.

There are two key points to note about choosing a company as the legal framework for a business. The first is that the company is a vehicle for the generation of profits. The statutory framework and the legal doctrines that have built up over the last two hundred years support this.

The second point is that the company model elevates one of those three essential ingredients - customers, workers and money - and subordinates the others. It elevates money - share capital, that is to say investors - to a place of greater importance than customers and workers. It does this by giving to shareholders ownership. By giving them ownership, this gives shareholders control, and the right to the profits. They can remove directors and appoint new ones, withdraw profits earned or re-invest them to expand the business, or they can sell their shares, or the entire business if they wish.

The joint-stock company played a very significant part in the development of the UK and other economies. From the industrial revolution, it has been the means by which new ideas - railways, electricity, the internal combustion engine - have been developed and exploited. By attracting investment, it has provided the mechanism, through the incentive of profit, for encouraging businesses, and competition between businesses.

By giving priority to the money ingredient, and subordinating customers and workers, the company model has also been a mechanism for exploitation. Customers and workers do not enjoy any level of control, or right to profits, in a traditional company structure. Those rights belong to the investors, and the argument goes that the control and the right to the profits are the price or reward for the risk taken by investing in the business (the price of equity funding). Customers can of course choose to buy what they need from elsewhere if they wish, and workers can withdraw their labour and work elsewhere.

Where in reality customers cannot buy elsewhere because there is a real or effective monopoly, and where economic conditions do not provide other opportunities for workers, these two groups have in the past suffered from exploitation.

This played an important part in the birth of the mutual movement. The early building societies, permanent societies, and co-operative societies all had in common the idea that their customers were the owners, not a separate group of investors. The three basic ingredients are still needed, of course, but the mutual models found other ways of providing it without giving ownership to outside investors. Instead, ownership was given to those participating in the business, and this evolved into the consumer co-operative movement and the worker co-operative movement.

There was another key difference, which evolved as co-operative political theory developed. This was the idea that unlike a company, a co-operative was not trading with the purpose of producing a profit. Instead, its purpose was to trade at a fair price, so that nobody was exploited in the process. If at the end of the financial year it turned out that the pricing had been too high, any "surplus" left over after making proper provision for future needs was returned to customers in the form of a dividend. In other words, the co-operative dividend was an after the event means of adjusting price, not a means of distributing profits.

Co-operatives like any other business required capital, but in the co-operative context, capital was only entitled to a low rate of interest - sufficient only to secure the necessary funding. There was no entitlement to profit.

The legislation under which mutual organisations were incorporated was different and separate from that applying to companies. The Industrial and Provident Societies Acts, Friendly Societies Acts and Building Societies Acts are a different world from the Companies Acts. They have different aims and objectives.

Company law, on the one hand, has to provide a framework in which proper protection is given to those who entrust their investments into the hands of others who are charged with the responsibility of running the company (directors). The current volume of primary and secondary legislation applying to companies bears testimony to the extent to which such protection is needed.

Industrial and provident society law, by contrast, is a much lighter and less prescriptive statutory regime, simply aimed at providing a consistent framework within which such organisations can be registered.

Indeed because of this lighter and less prescriptive regime, it was necessary to introduce new restrictions on registration under this legislation, as the growing onerous obligations under company law were, by the 1930s making the company an unattractive model. Specifically, entrepreneurs did not like the prospectus requirements that had been introduced for companies to protect investors, and sought to evade them by incorporating and selling securities in industrial and provident societies.

This led to the Protection of Fraud Investments Act 1939, which in essence introduced new restrictions on what could be registered under the Industrial and Provident Societies Act, specifically aimed at excluding businesses that should be registered as companies. Until that date, it was the nature of the business that dictated whether or not registration under the IPS legislation was possible. The 1939 Act changed this, and made registration depend instead upon the underlying purpose of the business instead. It therefore permitted bona fide co-operatives to be registered, and businesses that were being run for the benefit of the community.

With hindsight, this was a defining moment for the mutual movement. Not only did it draw a line between the profit-driven investor-owned company sector and the mutual, community benefit sector, but it also made the Registry of Friendly Societies (now Mutual Societies Registration at the FSA) the gatekeeper of mutual status. For the Registrar not only had control over entry to mutual status as a registered IPS, but also had continuing responsibility to monitor such continuing status including the approval of any rule changes. What this means is that compliance with the basic registration criteria is regulated, thereby ensuring that a registered society remains true to its purpose.

We therefore have available to us today a choice of legal structures for holding businesses. This choice is particularly under examination at the moment in the context of the debate about public services, and public or community assets. What is the right legal structure for holding and operating these?

On the one hand there is the company vehicle, which has as its underlying purpose the generation of profits. As noted above, the basic model is one where ownership is given to the providers of the money, normally external investors. The profit-seeking instincts of investors are used to drive efficiency and success for the business (measured by the level of profits).

The other option is the IPS model, with an underlying purpose of the co-operative principles, or the closely related purpose of providing a benefit to the community. It is often characterised as the "not-for-profit" sector, which whilst being a technically accurate description by comparison with the company sector, it conjures up unhelpful images of inefficiency and unprofessionalism.

The IPS model is not prescriptive about who ownership is given to. In the retail co-operative movement, ownership is given (largely) to customers. In the worker co-operative sector it is given to workers. There are interesting historical examples (not that common) of co-partnership societies where both workers and customers are members. The retail co-operative movement is effectively going through a re-examination of that option in re-appraising the role of employees within its democratic structures.

In truth, in an IPS or mutual model you can choose either customers, or workers, or a combination of both as owners, and therefore the ones who drive the success and efficiency of the business.

The choice of who should have ownership will depend upon the nature of the business. For example, a residential care home for the elderly is a type of business whose success is entirely dependent on the commitment and performance of its workers. The workers have a very close relationship with those for whom they are caring, and without their commitment and support, the care home is unlikely to flourish. It is a worker intensive business.

A water company by comparison is a capital-intensive business. The physical assets it needs, and the state those assets are in, are a key part of the success of that business. Workers are important, but in practice you can get by with a small work force because you can subcontract a great deal from invoicing to engineering. In that case, customers are the more appropriate owners.

But it is more than just who the owners are that matters. It is the underlying purpose of the organisation which is inextricably linked to that ownership issue. The difference with a co-operative or community benefit organisation is that their reason for being is based upon the fulfilment of a need, and those who own and control such organisations have it within their power to ensure that the need is met. The organisation is therefore run according to guiding principles, and the owners are the custodians of those principles, whether they be co-operative or community-based ones.

So how do you choose the right structure? How should public assets be held?

There are two key issues, the first of which is the funding question. Funding or money is the oxygen without which no business can operate. If funding can only be obtained from investors willing to take a risk, there is no real alternative to a joint stock company. It is expensive because investors require a high level of return to reward them for the risks they take.

If funding can be obtained from other sources, other options may be available. A low risk business, or one that can be reduced to a low risk business with a captive market and long-term demand such as housing, and utility businesses illustrate the point.

Other options also exist where, for example, a local authority needs to do something with one of its services under a best value review, and might be prepared to support what would be a start up of a new self-standing business, either with an endowment, or favourable terms for use of land or other assets.

If there are alternative ways of funding which do not involve equity, the second question can be posed - ownership. Who is to be given the ownership, and how will ownership drive the success of the business or service?

Shareholders drive the success of companies and it may still be appropriate to use a company even though alternative forms of finance are available, if shareholder control is desirable for some reason. By contrast, customers or workers drive the success of mutuals. This works where there is some other purpose to the business than earning a reward for investors. If, for example, the real purpose of a service is not to generate a return, but to provide a service to a community, the community through the customers and/or workers may well be the appropriate people to drive success, and therefore to be given ownership.

Customers, for example, could drive the success of a water company. A combination of workers, residents and their families and friends could drive the success of a residential care home.

Where a community based service is benefiting from some level of central or local government financial support, an IPS model which forbids distribution, but uses ownership by customers to drive efficiency and success may well be an attractive model.

A co-operative or mutual structure which puts the interests of the community at the top of the agenda has clear advantages. A society where such organisations played a bigger part, with greater opportunities for citizenship and the engagement of people in their local communities, would be a more healthy society.

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B. 3 THE VOLUNTARY SECTOR'S ROLE IN PUBLIC SERVICE DELIVERY
ANN BLACKMORE

A debate is going on in this country, which has, until recently, ignored a significant group of organisations who employ one in 50 of the workforce, contribute nearly 2% of GDP and provide support and advice to nearly every member of the population from cradle to grave.

That debate is about the future of public services. And it is the voluntary sector that is being largely ignored. But why is the voluntary sector being ignored when an ICM poll carried out for NCVO in October 2001 shows that 6 out of 10 people agree that specialist not-for profit organisations are better placed to deliver many of our public services than profit making businesses? We are ignored because those responsible for providing public services are rarely aware of what the voluntary sector can bring to the delivery of public services

If the Prime Minister is serious about making public services user-led - putting the consumer first - then he should turn first to the voluntary sector which has led the way in developing user-led services. And the same applies to his other principles of public service reform:

There are many examples where the sector has led the way in setting standards. For example, the Autism Services Accreditation Scheme, run by the National Autistic Society, has been a pioneer in benchmarking based on quality standards and has opened its membership to private and public providers of autism services. Indeed some local authorities have joined the scheme specifically to ensure that they are not providing a "cheap option" service.

Voluntary organisations are already accountable to their funders but have also been accountable to their donors, supporters and beneficiaries. Quality management in the voluntary sector is in fact being driven more by an internal desire for greater accountability and continuous improvement than it is by external pressures from funders and standards authorities.

Our services have always been devolved to the front line - indeed most evolved from the front line in the first place, growing out of the local creativity of many who we now refer to as social entrepreneurs. As a direct result the voluntary sector is now one of the most diverse sectors and continues to evolve and retain its diversity based on the right of free association.

So first of all we need to step back and look at the bigger picture. We need to ask what role voluntary organisations play in society, what their relationship with government should be and also ask where they fit in a mature democracy. There are three possible scenarios for how this

relationship will develop.
In the first scenario, all contact with the state is considered to be corrosive to the sector. This scenario can be quickly dismissed. Since 1979 the political landscape has radically altered. The barriers between the public, private and voluntary sectors have been so comprehensively broken down that they have gone forever. In fact the delivery of public services by voluntary organisations is not a new phenomenon. The earliest record we can find is of the Thomas Coram Foundation being paid by the Treasury to provide childcare services to the poor of London in the 1760s (an early form of Surestart perhaps).

Ultimately this relationship broke down for very modern reasons - unrealistic performance measurements and lack of proper funding from government. But that didn’t make the service bad. Nor did it mean that it was fundamentally damaging to the Thomas Coram foundation that exists to this day, providing high quality services to the children and families of London.

The second scenario paints a picture of a purely residual state, which manages all of its policies through a range of agencies and which has a direct delivery role. Realistically this is not going to happen in the current climate of partnership, joint working and collaboration. Added to this the long-term public support for institutions such as the NHS would make it politically impossible to reach this form of delivery.

The third scenario is the one most likely to produce the most benefit to the most people. This scenario involves a state that retains responsibility for core functions but in which the voluntary sector delivers a range of public services, along side both the public and the private sector, on the basis of who does what best. The voluntary sector delivers public services only in areas where it adds value and is in their beneficiaries’ interest.

This is the scenario I believe we are now entering. It is a new engagement between the state and a range of alternative providers. It is an era where public services are delivered by those best placed and most suited to do so - in terms of economics, efficiency and effectiveness, but also in terms of the public will.

The voluntary sector is already a key delivery agent for many publicly funded services. NCVO’s Almanac research shows that in 1999 over 15% of income to charities was in the form of government contracts. If we add grants to the equation government contributes almost 30% of income - or £4 billion - to general charities. And since 1999 income from government grants and contracts has increased by 3.2% or £136 million.

Most of this income is derived from the provision of services, and especially personal social services, on behalf of local authorities and health authorities. But the sector also delivers a wide variety of regeneration, housing and education services. Examples include:

- Hospices are flexible to local needs and able to provide extra services which add considerably to the quality of the service for the beneficiary, but which the state would find hard to fund. So while hospices are small in relation to the total NHS budget they provide the majority of the total specialist palliative care services.

- The charity NCH has taken on the delivery of children’s services in the London Borough of Westminster. Leonard Cheshire delivers disability services in Hackney (and Wakefield, amongst other places). Both of these are clear examples of where generalist state providers are recognising that specialist or niche providers from the voluntary sector are better able to provide a more beneficiary focused service to users.

- In addition a new breed of energetic, innovative social enterprises are emerging, employing the techniques of social ownership, non-profit co-operation and the voluntary sector to develop experimental services for the community by the community.

- Ealing Community Transport, originally set up by social services and now serving eight local councils and 425,000 households with recycling and community transport services.

From these and other examples, two key issues emerge. The first is consideration of the costs and benefits. Voluntary organisations are not agents of the state. While we welcome the support of government for our work, it is not for them to determine what we should be doing. The history of the voluntary sector is one of meeting unmet needs - identifying the gaps in provision and filling them. Indeed this is one of the many values voluntary organisations add to the mix of service provision in this country, and in many ways the sector's raison d'etre.

Many voluntary organisations see positive benefits in delivering public services where they accord with their primary objectives. Doing so can help secure a better deal for their beneficiaries, not least because the sector has a unique role in involving users and communities. Indeed if we can use our knowledge and influence to shape policy, to influence the way service needs are determined and services are provided, we can exert greater control over the style and content of our services.

The second issue is the added value voluntary organisations bring. This includes:

- the provision of specialist niche services;
- services to a particular locality or community of interest;
- our ability to secure assets for the public benefit;
- our unique ability to engage with the hard to reach and those excluded ;
- our credibility with and knowledge of the client group;
- our ability to highlight and articulate issues which other agencies may be unable (or unwilling) to deal with.

The Prime Minister has said, "In developing greater choice of provider, the private and voluntary sectors can play a role. Contrary to myth no-one has ever suggested they are the answer. Or that they should replace public services. But where they can improve public services, nothing should stand in their way."

We have identified several barriers which could stand in the way of voluntary sector organisations being able to take on a greater role in the delivery of public services.

These barriers include:

- capacity;
- skills-related issues;
- risk and accountability;
- fear of loss of independence;
- a number of legal and regulatory barriers;
- some tax and fiscal issues.

Capacity building is crucial to the success of any partnership. We return to this issue time and again - not least because the Government continues to draw the sector in as a partner in the delivery of a range of government programmes. But it will not go away until the Government recognises the need to adequately resource capacity building. And this includes resources to properly develop the sector's infrastructure, to build sub-sectoral capacity and local and regional infrastructure capacity. It also includes building programme capacity by allowing sufficient time and resources for partnerships to develop and work effectively.

If the voluntary sector is to help deliver sustained successful public services it needs a consistent and widespread level of advice and support. The way to do this is to introduce the small business service model for the voluntary sector. With central support and funding we can create a high quality network of advice centres for voluntary organisations, which can offer a consistent and high quality level of advice in key areas and create learning networks to translate more widely the experience of voluntary organisations and their users.

Supporting capacity also means supporting the development of skills. There is a need in all sectors to build the skills required to work effectively in partnerships. For example, the voluntary sector will need to concentrate on building the skills of leadership and negotiation as well as its financial management skills. The Government must make it a priority to introduce a fully supported and funded voluntary sector skills council.

But there are other issues crucial to building capacity within the sector. Core costs is, of course, a hardy perennial here, but government still needs to fully operationalise the Compact Funding Code and pay for all reasonable associated costs of delivering services as part of the funding package. This includes management costs, the costs of support services like training, IT and premises and R&D costs.

Let us be clear - we are not asking for any more than alternative providers in the private sector, or even public sector, would ask for. In the long term it is the only sensible way to secure sustainable reform of our public services. If voluntary organisations delivering quality public services are not themselves sustainable at the core then the reform agenda is likely to be undermined from the outset.

Risk and accountability present both dangers to be avoided and barriers to engagement. For example, while it is right and proper for voluntary organisations delivering publicly funded services to have to be accountable for the money they receive, it is madness for them to be faced by a dozen or more separate reporting requirements for each different source of funding. The dangers of such over regulation and multiple regulation is that organisations can find themselves spending too much time reporting and not enough time doing real work, crushing their energy and innovation at the same time.

Performance indicators should balance the requirements of central government with those of local partners. Performance indicators should, above all, be proportionate to the scale of the activity and should take account of local circumstances. And there is much more scope for performance measures to be jointly agreed in the spirit of partnership.

The risk involved in taking on government contracts also appears to present a major barrier to many voluntary organisations. So we are looking for a shared approach to risk - rather than the current wholesale shift from government to the provider. Indeed concentrating responsibility in one organisation can prevent the risk taking necessary for successful innovation. And the ability of the voluntary sector to innovate should be preserved as far as possible.

One of the dangers we face - and which therefore acts as a barrier - is the loss of independence, whether perceived or real. There are a number of possible implications for voluntary organisations engaging more with government and delivering public services on behalf of government.

It can blur the boundaries between the sectors - the voluntary sector may be perceived as little more than an agent of the state.

- It can make it harder for an organisation to criticize government and work on behalf of the community (although some organisations tell us that as the relationship matures they are more confident about criticizing government).

- It can lead to mission drift, with organisations focusing on government priorities rather then their own core objectives.

- And in certain circumstances it can create financial dependence, where an organisation ceases to be viable if it loses government funding.

The Compact offers a framework we can build on and strengthen in order to better preserve the sector's independence. The Compact clearly states that government will recognise and support the independence of the sector, including its right within the law to comment on Government policy, and to challenge that policy, irrespective of any funding relationship that exists. But this must become a reality - not just within central government but also crucially at local government level.

Other barriers exist. VAT for example, remains a thorn in the sector's side. We have the most complex VAT system of any sector. Public sector partners operate in-house services VAT free.

Finally, and possibly most difficult, there must be an attitudinal change. For too long central and local government have treated the voluntary sector as a servant to their master. For too long the voluntary sector has been seen as a sector of volunteers who were a good, cheap alternative provider, available to pick up services in the areas nobody else wanted. This must change. Indeed some would argue that the Government needs the sector more than the sector needs government.

Ann Blackmore is Head of Policy at NCVO.

B. 4 PUBLIC INTEREST COMPANIES JANE STEELE

The idea of a "not-for-profit" company is being discussed as a suitable vehicle for running a whole range of public services, with Railtrack as the most prominent candidate for this new status. And it is a new status that is needed. Much of the commentary in the media fails to make it clear that such an organisational form, although it would have great potential for public services, does not exist in the UK at present.

'Not for profit' is a misleading label. It is generally meant as shorthand for "not for private profit". A not for profit company would not distribute profit to investors. Instead it would re-invest profit in the organisation's services and purposes. This country does not currently have a form of organisation that is both "not for profit" and is securely and permanently committed to public (rather than private) benefit.

A public interest company would be a new organisational form, an addition to the range of forms already available. For public services it could be an important alternative to the stark choice between the public and private sectors, a choice that often seems to limit visions of the future for public services.

A distinguishing feature of the public interest company is that it must aim for the public good, not for shareholder benefit. Further, that commitment to the public good would be permanent and unalterable - there would be a lock on the public interest company to proscribe any future privatisation or alteration of purpose away from the public benefit.

None of the current forms of company can guarantee that they will remain as non-profit distribution companies. Any company can decide to change its purpose and activities, and choose to sell the assets and take the proceeds for private benefit. Mutuals are not safe from privatisation either. Even those industrial and provident societies that are registered as for "the benefit of the community" have no absolute guarantee against conversion from their mutual status, as their members can vote to covert the organisation into something else.

Charitable status does provide a guarantee that the organisation's purposes are exclusively and permanently for the public good, but they have to fall within the definitions applied by the regulator, the Charity Commission. And charitable status does not encompass many of the public purposes that can be envisaged for public interest companies. There are also restrictions on charities' ability to trade and to pay their trustees and directors.

The public interest company would therefore be a new organisational form. It would also be a new brand, one that is associated with: public, rather than private, benefit; accountability to the public; and with entrepreneurial approaches to public service delivery.

Jane Steele is Head of Research at the Public Management Foundation.

B. 5 NON-PROFIT PUBLIC / PRIVATE PARTNERSHIPS PAUL MALTBY

Community based not-for-profit public/private partnerships could play a crucial role in regenerating deprived areas

The Government is becoming increasingly aware that local regeneration projects need to be targeted at the neighbourhood level if they are to have a lasting impact. The New Deal for Communities and the National Strategy for Neighbourhood Renewal are both designed to achieve results at this sub-local authority level. However, if we are serious about neighbourhood regeneration, we need to facilitate mechanisms that allow greater control to be exercised by local communities.

Effective public services and attractive community spaces are vital to help regenerate deprived areas. But all too often services are fragmented at a local level, even though local people would benefit from co-ordinated local services such as one-stop-shops. Meanwhile, assets that could provide a focus and support for the community are either neglected or regenerated in an ad-hoc fashion. If regeneration projects are to succeed we need to ensure that local people are actively involved in the regeneration schemes operating in their area, and that we need to make best use of local private and voluntary sector expertise.

There is a role for Community Trusts to help resolve these issues. These new bodies would have assets transferred to their control to help join-up service delivery. They would be similar to existing Development Trusts, but differ by having control of a broader range of assets, and the ability to procure new PPPs. Incorporated as not-for-profit companies limited by guarantee, Community Trusts would be controlled by local stakeholders, such as members of the council, residents and local businesses. They have already been proposed in a few areas, such as the Woodberry Down estate in Hackney.

Because Community Trusts would involve bundling together assets and services on a neighbourhood basis, they could help co-ordinate different services according to local priorities. For example, they could examine whether a primary school site was the best location for a new health clinic. They would also help ensure that mainstream services join up with any wider regeneration strategies. As a recognisable organisation with an asset base, they could help attract financial support and could be seen as an attractive partner for smaller scale PPPs. They could also provide local people with more direct control over local services than they would have through sole local authority control. However, there are impediments to the wider use of Community Trusts. Not least, local authorities and other public bodies may be reluctant to transfer assets out of their control. There is also the recurrent problem of ensuring that local stakeholders are seen as representative and accountable to the communities they are drawn from, although involving local people from the newly formed Local Strategic Partnerships could offer a way forward on this issue.

By bundling services at a neighbourhood level, Community Trusts could be seen as running counter to the recent trend of bundling PPP projects on a sectoral basis, such as recent schemes that bundle contracts for all schools within a local authority area. Whilst sectoral bundling can help achieve economies of scale, it also means decisions relating to key local assets are transferred out of the reach of local communities.

As with all not-for-profit PPPs, Community Trusts could sell their assets to a for-profit company at any point. If Community Trusts are to retain the trust of local people we need to examine how their not-for-profit status could be protected in law.

On balance, Community Trusts look like a promising way to deliver community services. We would be interested in seeing a small number of pilot projects undertaken, perhaps through the Neighbourhood Renewal Fund and with the help of Partnerships UK, to see if the potential problems could be overcome.

Not-for-profit models are being increasingly seen as the fashionable future for PPPs. They will not always be more appropriate than traditional forms of PPP, but we believe that it offers a sensible way forward in the case of Community Trusts. We also believe that Community Trusts do not have to be restricted to a means of regenerating deprived communities. If they were shown to facilitate active community involvement, joined-up service provision, and a beneficial use of key local private and voluntary sector skills, Community Trusts could become a basic model for the effective delivery of local services in all our communities.

Paul Maltby is a Research Fellow at the Institute of Public Policy Research

C. 1 MUTUAL HEALTH CARE PURCHASING – A BETTER WAY TO FUND THE NHS

DAVID GREEN

A growing body of opinion sees a role for mutual ownership of hospitals to ensure that medical providers serve the interests of patients. But there is an even more powerful case for mutualism in the financing of health care.

Health care expenditure is potentially unpredictable and can be very costly. Consequently it makes sense to share the risks through insurance. But once a third party has the money, how can it be encouraged to act in the best interests of the people whose money it holds?

In Britain the Government has assumed the role of third party, partly to spread the insurance risk and partly to ensure coverage for the poorest members of society. How effectively does it serve the interests of consumers?

In France the third party for the vast majority of French people is CNAMTS which is governed by a board representing employers and trade unions. Representation of consumers at board level helps to encourage service of the consumer, although it is an imperfect mechanism.

In Germany, the third parties are competing sickness funds. They too are typically run by boards representing employers and unions, but people have the additional weapon of being able to switch insurer if they are dissatisfied.
Partly because their third party payers are strongly influenced by consumers, French and German health care is of a very high standard. Could we do better still by creating mutual health insurance purchasing co-operatives?

The idea of purchasing co-ops emerged in America under the influence of Professor Alain Enthoven and for the most part it was expected that employers would act on behalf of their employees. Could the idea be widened so that any group of individuals could purchase health insurance together?

The basic idea is not that we should establish mutual insurance companies to provide health cover. In any event, mutual insurance has had a tarnished record in recent times. It is rather that it would be useful to form groups to purchase insurance from competing companies, after shopping around. It is mutual purchasing not mutual insurance.

The Federal Employees Health Benefits Program is the model on which purchasing co-ops are based. The US federal government offers its employees a choice of insurer and agrees to pay 75% of the cost. The scheme does not offer every insurance plan available in America but filters out the ones it regards as unsuitable. Moreover, purchasing insurance as a group member overcomes one of the weaknesses of insurance markets where some people buy as individuals and others buy as group members. In such cases, there is a tendency for groups to be offered discounts at the expense of individual purchasers. Under a system of purchasing co-ops everyone would make an individual choice but as a group member.

Imagine a cost of £1,500 for individuals and £3,000 for families. An individual opting to purchase insurance through the co-op would receive let's say 50% of the cost from government and pay the difference out of pocket. As a condition of receiving the 50% tax credit individuals would have to agree to take full personal responsibility for their health costs, thus relieving pressure on the NHS.

People with no earnings could not be expected to pay 50% of the cost and would receive the whole cost of an approved plan from the government. This arrangement would allow public opinion to determine the standard of care to be guaranteed by the government for the poorest members of society. This standard would effectively be based on what people on middle incomes chose for themselves.

There are several complications not touched upon here, but the end result of co-operative health care purchasing would be to put rich and poor alike in a position to choose their own insurer as group members with all the bargaining power that entails.

David G. Green is Director of Civitas.

C. 2 MUTUAL HEALTH CARE PROVISION – A BETTER WAY TO MANAGE THE NHS GERAINT DAY

"The NHS cannot be run from Whitehall." This statement by the Government was in accord with one of the starting points for some work by the Institute of Directors (IoD). This seems very topical in the light of recent remarks from Government.

As an organisation with a United Kingdom individual membership of 55 thousand leaders of business and other important organisations - including the public and mutual sectors - the IoD takes an interest in issues of national importance. Health services are important to the country as well as to employing organisations, which need to know that employees who need health interventions will get them promptly, effectively and efficiently. As the leading professional body for directors, the IoD also takes great interest in governance.

In terms of corporate governance and management - let alone delivery of healthcare - the NHS has serious problems. Despite the best stated intentions of governments, what happens in practice is highly inefficient. Some people refer to it as attempted micromanagement. On the one hand there is still a stream of circulars and guidelines from the Department of Health that attempt to prescribe a whole host of activities - culminating in management by targets (429 performance indicators issued recently, for example). On the other hand, the NHS Plan has led to the creation of quite a few new quangos (including the bizarrely named Modernisation Agency), which do not have direct managerial control over the hundreds of NHS bodies such as trusts and authorities, but nevertheless add to the complexity of having more entities to report to. They also consume valuable resources with a plethora of meetings, including talking to each other.

At least two things are achieved. One is a stifling of local initiative. The other is the continued removal of real accountability and engagement with the users of health services - the patients and local communities. For example, one survey of public attitudes to the NHS found that 57% of the respondents felt that the public had little or no influence over the way the NHS is run and how it sets its priorities.

Ruth Lea (Head of Policy at the IoD) proposed that free at the point of use largely publicly funded healthcare be delivered by locally self-governing mutuals. It could also lead to boards of directors being far more accountable than under the present top-down and unwieldy system. It could also help reconnect the NHS with local people and organisations. It would be a way of putting into practice the Government's idea of "earned autonomy" for NHS trusts that perform well.

The IoD produced a document based in part on a United Nations survey of healthcare mutuals worldwide. They do exist. Questions are already quite rightly being asked about how this would actually work in the UK. A key question is who would be the owners? In the context of the Mutual State this is tantamount to asking, "what sort of mutual?".

One idea, proposed by Gareth R. Thomas MP, is the "community mutual". Each adult member of an area might be offered (one can't impose membership of a mutual!) a nominal share in an NHS trust and a vote in electing the non-executive directors. By analogy with some of the more vibrant consumer retail co-operatives there could be members' meetings, events and literature circulation, including reports. There is a lot of goodwill towards health and the NHS; witness the vast number of friends of hospitals and health-related voluntary groups. This energy could be harnessed. Primary Care Trusts (PCTs), being at least nominally rooted in localities, might be appropriate vehicles to pilot such a model. Ian Hargreaves has also suggested PCTs as one starting point. PCTs might better lend themselves than would hospital-based trusts, which may have an ivory tower image and certainly tend to draw patients from less well-defined geographic areas.

Just as it is right that there be diversity of healthcare provider, as the Government plans for hospital-based care from April 2002, it is right that no one "right" way to proceed be plucked out of the air. The history of the NHS contains too many examples of the imposition of one-size fits all unevaluated top-down changes.

In fact, a variety of organisations are bringing energy and serious deliberation to bear. These include (apart from the New Economics Foundation and Mutuo):

- the Public Management Foundation, which has been pursuing the decentralisation concept, including legal issues around, a “public interest company” that might be applied in all various circumstances to oversee and run public services;

- the Association of Friendly Societies which has recently published a major report on mutuality and the welfare state;

- the Adam Smith Institute, which has proposed mutual applications in education and health;

- the Independent Healthcare Association, which has published and advocated on healthcare mutuals;

- Professor Chris Ham (University of Birmingham) who wrote a Demos booklet in which it was suggested that there be experiments on moving from state to community ownership of healthcare providers;

- the London School of Economics and Political Science (LSE), where Professor Stephen Yeo (who also chairs the Co-operative College board) has catalysed a series of seminars on mutuality;

- Loughborough University Centre for Research in Social Policy, which published a report in 1996 on community enterprise working in health;

- Dr David Green, the Director of Civitas, has written widely on the subject of healthcare funding via mutuals.

In the longer term, an intriguing concept could be to put the idea of self-governing autonomous NHS healthcare provision mutuals together with this kind of collective social insurance model. It could be a form of consumer co-operative, possibly having a board drawn from the employed professionals alongside non-executive Directors elected from the community, possibly with other groups being represented. Users might also be invited to join and contribute share capital as is done in other consumer mutuals. The financial experience of the mutual sector, including consumer co-operatives and friendly societies could also be drawn on in developing such entities.

Mutuality may well be a viable alternative to managing the monolith that was the NHS of 2002.

Geraint Day is Business Research Executive at the Institute of Directors

C. 3 LESSONS FROM SOUTHERN EUROPE JONATHAN BLAND AND PALOMA TARAZONA

Specific cultural, political and economic factors have played an important role in shaping the way that mutual organisations deliver public services in both Italy and Spain. Nevertheless we believe that there are some interesting issues which apply to the current debate about new mutualism in the UK. Below we look at some examples of social enterprises delivering public services in southern Europe and identify three areas which we think are important to consider in the context over here: the legal framework, models of growth and access to finance.

1. Spain: the rise of co-operative schools

Co-operative schools in Spain currently represent 15% of all privately managed (but mainly publicly funded) education. They emerged mainly as a response to the need for plural and diverse education. The first ones were set up in Catalonia in the late ’60s and early ’70s mainly by parents dissatisfied with the education available at that time. They experienced considerable growth in the ’80s as a result of the combined impact of rising unemployment among teachers and social and political changes in Spain. There was a switch from parents’ to teachers’ leadership. This in turn lead to a new wave of co-operative schools, set up mainly as worker co-operatives rather than as parent or consumer co-ops, which were the most popular model among the pioneers of the ’60s and ’70s. At present there are over 750 co-operative schools in Spain. Most of them operate as worker co-operatives (80%). The rest are either parent owned or mixed (involving parents, teacher and sometimes additional stakeholders as members).

2. Italy: The provision of care services by social co-ops

There are over 4,400 social co-operatives in Italy. Around 2/3 of them (known as type A) deliver social, health and educational services on behalf of the regional and local authorities The rest are (type B) social co-operatives using trading activities to create jobs for the disadvantaged. Social co-operatives emerged in Italy in the 1970s, grew rapidly in response to the crisis in the Italian Welfare state during the 1980s, becoming a key player in the supply of social, educational and health services in Italy and the creation of jobs for the disadvantaged. In 1991 the Italian Government approved a specific Law intended to promote the development of social co-operatives. Since then the number of social co-operatives has increased dramatically.

3. Key Issues

A number of issues emerge that relate to growth of these mutual solutions in both countries.

3.1 The Legal framework

Comprehensive legal frameworks exist which set out exactly what is considered to be a social enterprise. Official recognition is given to social enterprises as businesses with an added value (their social impact/aim). This clear legal status enables such business to have "brand visibility" and allows the state to effectively target support measures such as tax breaks or start-up grants.

On the negative side, in both countries, it leads to inflexibility and the quasi monopoly of one or two forms of social enterprise. There is also a complex bureaucratic framework, which in the case of Spain is even worse due to a combination of state centralisation of some things such as taxation, and decentralisation of others like co-operative law, education, etc.

3.2 Models of growth -"Small is beautiful, but in a big way"

The Italian social co-operatives have developed a consortia based model of growth. Often Type B co-ops result from spin off processes originated in type A "mother co-ops". They tend to be small and dynamic, averaging 10 workers. Consortia gather together groups of between 10 to 30 social co-operatives. They provide a range of common services such as: payroll, accountancy services, training services, preparing joint tenders, fundraising for bigger projects, etc. This allows economies of scale while maintaining a human scale. This is in strong contrast to some of the worker co-operatives delivering social services in Spain which can have around 30 worker members and over 700 contracted employees.

The growth of the Italian social co-operatives has been closely linked to a proactive role played by local and regional authorities in the way they tender for the delivery of services.

3.3 Access to Finance

Both countries recognise the added value of social enterprises and grant them specific tax breaks. These include lower company tax rates as well as the exemption of certain local taxes and taxes levied on acquisitions, mergers, and purchase of fixed assets.

Both countries have a widespread system of specific grants for social enterprises. In both cases these grants are related to job creation among people who have specific difficulties in accessing to the labour market and long-term investment (mainly in fixed assets).

In both countries, social enterprises have developed their own "mutual" self-financing mechanisms. In Italy, co-ops have to dedicate 3% of their annual income to set up a fund whose aim is to finance new co-op initiatives. In Spain, co-ops have to dedicate 20% of their annual income to indivisible reserves and reinvest it in the co-op. If the co-op goes into liquidation or turns into a capital based business, loosing its social aim, the indivisible reserves have to be paid back to the regional government or to the regional co-op federation and be invested in the promotion of other co-ops. This operates practically as a limit to demutualisation.

In both countries the legislation for social enterprises allow the raising of equity through "capital" or "financing" members with limited voting rights. In Spain this has often been used in the co-op schools to raise additional finance from the private sector. In Italian social co-ops the investing members have tended to be local authorities.

4. Key Questions for debate

How can the UK legislative framework be improved to give the advantages of brand visibility, effective targeting of support measures and protection of social interest (e.g. indivisible reserves) without creating a monolithic straight jacket?

How can social enterprise solutions provide the scale of delivery needed for effective public service delivery and maintain their human, local focus?

Should the state encourage social enterprise with tax breaks?

Can grants be effectively used to kick start new social enterprises or do they create a dependency mentality?

What new mechanisms can be developed to get sufficient access to capital on terms appropriate for social enterprise?

Can public authorities at local and regional level play a greater enabling role through changes to contracting processes?

Work is currently going to look at some of these issues. The Cabinet Office will soon report on proposals relating to reforming legal structures for social enterprise, the Treasury cross cutting review of the voluntary sector and public service delivery has been expanded to include social enterprise, the DTLR is about to publish a new white paper on the role of Local Government and the DTI Social Enterprise Unit is looking at a broad range of issues, including business support. Those with knowledge of and an interest in this sector should be active in the current debate.

Jonathan Bland is Director of Social Enterprise London. Previously he worked for 5 years in Spain for FVECTA, the Valencian Federation of Worker Co-operatives.

Paloma Tarazona is a project manager at Social Enterprise London and also worked for FVECTA before moving to the UK.

C. 4 MUTUAL EDUCATION TOM BENTLEY

The place of mutual forms in education is complex but potentially compelling. National education policy over the last five years has revolved partly around the enduring tension between central control and local autonomy. Labour's winning formula on schools pre-1997 was "standards not structures" - the contention was that the old "ideological" disputes about system structure were obsolete, and only a pragmatic, insistent, parent and media-friendly focus on pushing up formal standards of attainment mattered. This was successful in short term, producing momentum and consensus around schooling. But the further reform efforts have gone, the more difficult it has become to avoid complex structural issues.

This is because the nature of organisation - its underlying principles and design, as well as its ethos, scale and guiding purpose - has a formative influence on what services are capable of providing. And while the standards agenda has promoted the message that it is focused solely on providing more of a good thing – improvement in outcomes, but nothing fundamentally different – in fact, the pressures on schooling and learning services are to provide *different* experiences and outcomes, and a wider range of them, alongside the traditional norms.

These pressures include: communities and user groups becoming more diverse and demanding; individualisation and specialisation of provision, made possible by both expectations and new communications technologies; the need to create self-sustaining high performance organisations in education, capable of continuous redefinition and improvement but not dependent on a demoralising stream of centralised instructions; the growing tension between schools, colleges and universities whose organisational structures follow industrial lines of mass hierarchy, and a surrounding environment which is organised more and more around networks.

There is also an interesting contrast between the attempt to reinvent schools, the most resilient and inflexible institutions around, and the isolation of many individual lifelong learners, who are finding that the ability just to log on to a virtual world of "e-learning", without being rooted to any firmer social or organisational identity, is not enough to sustain their participation. What both need, for different reasons, is an ecology of organisations that can provide belonging, purpose, focus and human scale to groups of learners, but fit far more flexibly into a system of planning, provision and assessment on a mass scale: cue mutuals.

This means that a series of policy, and practical opportunities will present themselves in the next 2-3 years in which refined and strengthened forms of mutual engagement could become an indispensable part of the new education infrastructure. The specific opportunities include:

- New intermediary structures linking separate providers and offering specialist guidance and support to 14-19 year olds, helping to coordinate more diverse services under the proposals outlined in the current Green Paper;

- Mutualisation of some LEA functions and of the partnership boards created to deliver management of education services;

- Expansion of community-based learning intermediary groups dedicated to providing opportunities in non-traditional settings and liaison/partnership with bigger education institutions;

- Mutualisation of parents and other learning interest groups, to help provide localised service and coordination solutions (such as out-of-school hours learning and care services), and to provide political profile and influence to more learning groups than just university students);

- Providing the right for parents to establish their own schools, under not-for-profit status, with some state funding, as in Denmark and the Netherlands;

- Allowing more schools to develop their own community status, while using mutualisation to define more clearly than currently the roles and responsibilities that successful schools will take on in relation to the communities surrounding hem, an issue of contention with the current crop of specialist schools.

All of these specific could realistically be imagined emerging from the current policy mix. One intriguing issue is that which will be successful is likely to depend as much on the quality of local innovation, learning and networking as it is on thinking at the level of public policy.

Tom Bentley is Director of Demos, the independent think tank.

C. 5 MUTUALISATION IN WALES ANGELA PULMAN

Wales has a healthy and expanding social enterprise / community business sector. This approximates to upwards of over 500 initiatives with a turnover well in excess of £100 million. This includes several instances of these initiatives taking on public services. In care, Swansea City Council is looking at turning their day care provision training to a Community/ Mutual Business. With leisure, Tonmawr have their own community owned and run sports and leisure centre; Neath and Port Talbot County Borough Council are looking to turn their community centres in to community/mutual businesses and Rhondda Cynon Taff have several sports clubs owned and run by the community as sustainable businesses.

Youth provision, in the form of music-based social enterprise, is to be found in most parts of Wales both in the Rock and Pop Field and more Traditional Music and Arts Fields. We are seeing more young people looking to take on providing their own training and job creation through initiatives like "WWW", which is specifically for young single parents. Several Councils, such as Penrhys in the Rhondda, are investigating handing over the running of council estates to tenants.

Wales is moving mutuality into the private sector as well as the public arena. One of Wales's leading companies Welsh Water is now a Company Limited by Guarantee with members rather than shareholders. It is there for the mutual benefit of its customers, the water consumers of Wales. Its progress is being watched very carefully, but to date it is ahead of expectation on all fronts. It is opening mutualisation in a different way.

Those of us who have been actively participating in Social and Community Enterprise for the past decade can see the advantages. Our main task is persuading the civil servants, rather than the politicians of the validity of our argument. Here in Wales all four main parties are supportive of social enterprises. We have lobbied long and hard to get that support.

At Local Authority level, support for mutualisation is patchier but getting less so as many Local Authorities seek to keep services at an acceptable level with diminishing budgets. The main problem they encounter is narrow-thinking older councillors. However all Local Authorities support, and have, initiatives and funds for community business and the social economy.

Social enterprises are more likely to be innovative. They attract and retain highly motivated staff, free of the bureaucracy of large organisations, who have a high degree of commitment. Social enterprises offer ways of involving excluded groups, providing services that are absent from disadvantaged neighbourhoods, enabling communities to develop skills, self-confidence, business experience and employability.

Provision of public services will be a challenge and an opportunity for the Welsh Assembly as much as it is for the Westminster government

Angela Pulman, Community Enterprise Wales

C. 6 COMMUNITY HOUSING MUTUAL – A NEW OPPORTUNITY FOR SOCIAL HOUSING PETER HUNT

Traditional housing associations and local housing companies fail to deliver real tenant and community ownership and control. They either do not attempt to do so (having no tenant members) or they only go part of the way by enabling tenants to comprise a small part of the membership. This approach does not deal with the "us and them" attitude, which leaves tenants feeling that somebody else owns and controls their home.

If tenants are to have a real sense of ownership of their homes, it is necessary that they should be members of the organisation that holds the legal ownership of the properties. Whilst the landlord and tenant relationship will continue to apply, the tenants' role as members creates a new environment in which their participation can be enabled.

A Community Housing Mutual is therefore based upon offering membership to all tenants. In this sense, ownership of the housing rests with the people who use it.

But simply giving each tenant a share in ownership is unlikely to bring about the necessary improvements in quality. To achieve the desired results, engaging and empowering tenants must be at the centre of the activities of the managing organisation. The Community Housing Mutual achieves this by creating fundamental constitutional commitments designed to promote and encourage membership and participation in decision-making.

The board comprises three stakeholder groups. First, the tenant members of the Community Housing Mutual elect, on the basis of one member one vote, representatives from amongst themselves.

Secondly, the local authority nominates candidates to represent itself on the board, and here again the option exists for such board members to be elected by the members from a list of candidates.

Finally, a board policy document will set out the necessary skills required to discharge the responsibilities of the board, and candidates from the community will be sought in consultation with respected local organisations to ensure that a balanced board is formed to meet these requirements. The tenants then confirm by resolution the appointment of Community Board Members.

In this way, tenants have a key influence upon the choice of the individuals who are responsible for the direction of the organisation of which they are the members.

Executives (who are not board members) are appointed by the board, and are responsible for running the day-to-day business of the Community Housing Mutual.

Is this just another legal model?

A legal model is of itself insufficient to bring about change. Without the commitment of individuals, it is likely to be ignored.

A legal model can, however, create an environment in which those with a vision for change and progress can achieve significant things. Tens of thousands of homes were built using the mutual support provided by the building societies in the nineteenth century. The Community Housing Mutual is based on the same concept of mutuality.

As the state continues inexorably to divest itself of direct responsibility for public services, the mutual sector movement can again provide a framework and an opportunity for individuals to play a larger part in controlling their own lives.

The Community Housing Mutual is designed as a vehicle to receive housing stock transferred by a local authority. It has been developed in consultation with representatives of tenants, funders, local authorities as well as the National Assembly for Wales. It has been registered as a model constitution with the

Financial Services Authority and is therefore available now for new organisations to use.

Peter Hunt is Director of Mutuo.

C. 7 SOCIAL HOUSING WITH A DIFFERENCE ANDY ROBERTS

Social housing should be protected and expanded, not curtailed. The last thing we need right now is the further involvement of the private sector in the provision of non-profit social housing. But, we also need pluralism, and indeed even competition, between different forms of non-profit social housing, state and non-state. And we certainly do need to go beyond the old-fashioned state v. non-state polarisation.

This stand-off is between, in contemporary terms, "The Council" and "Registered Social Landlords" (RSLs) - the New Labour neologism for non-state forms of social housing. If some continue much longer trying to defend uncritically old-fashioned state housing provision - and municipal housing has an appalling record of mismanagement, as vast numbers of council tenants will willingly testify - as the least bad option, without offering alternatives, then in the end non-profit social housing will just wither away.

The "right to buy" has, and still has, such a strong and election winning resonance. It struck a real chord. Its popularity was not just due to narrowly economic reasons - the arguments of the left focus all too often on the monetary side of things - basically rent levels - which not to say that this is not important. But it is also, critically, about the lack of control, autonomy, and flexibility available to people in council housing. In view of this lack of control in most council housing, it is not surprising that those who can have often opted out.

Also, some housing associations offer much better levels of service regarding repairs than "the Council" - and some people are willing to pay a little more rent to benefit from this. Therefore more money is not the solution, although it is of course absolutely necessary. There needs to be *qualitative* as well as quantitative change.

On the other hand, the new Labour argument that improvements can be achieved on the cheap, by injecting private finance, is equally bogus - and very shortsighted.

In relation to non-state social housing there are real dilemmas - given the current state of the law and policy concerning security of tenure, forms of accountability, methods of funding. One fear is transferring control of financing from local government bodies to central government quangos, i.e. in the case of housing, mainly the Housing Corporation. At least with council housing you have a local councillor to lobby, rather than some remote non-elected official. I certainly wouldn't want to hand over my council flat to most of the "RSLs" currently on offer.

Firstly, above all, we need to improve the internal accountability of many housing associations to their tenants, and restore a genuine ethos of mutuality. Secondly we need to upgrade the rights o tenure of housing associations tenants to meet those of council tenants.

Thirdly, we need to reform the regulatory framework. There are questions about who controls the Housing Corporation, and other central state bodies that provide housing finance. Maybe, for instance, we need to have genuinely independent local non-profit housing funding bodies, which are democratically accountable to local people. Housing benefit funds could be re-directed in ways that empower tenants to find mutualist solutions, rather than subsidising landlords.

We also need to consider more active encouragement of tenant management in council housing itself, and the promotion of housing co-operatives. At the same time, this cannot be force-fed, it needs and enabling framework and then has to grow out of real demands by tenants.

Andy Roberts is a tenant in the East Dulwich Estate, Southwark, London.

THE MUTUAL STATE TOOLKIT

The aim of mutualisation is to blend the entrepreneurialism and responsiveness of the private sector with the social purpose and professionalism of the public sector. However, there is no one way to mutualise public services and there are likely to be considerable issues of design and preparation in getting it right.

Elements of the Mutual State Toolkit (Table 2) could be applied and adapted as appropriate across a range of public services, helping to learn what works and refine the new mutuality.

The development of self-governing units of public service delivery – the social enterprise option – is for example only one model for evolving more participative and responsive public services. It would clearly also be possible to build a degree of co-production as part of services that remain in public ownership.

TABLE 2 THE MUTUAL STATE TOOLKIT

Tool	Description	Illustration
Social enterprise	A self-governing model, constituted as an independent non-profit, legal body	Industrial and Provident Society for the benefit of the community Company limited by guarantee New public interest company
Co-production	Models of user participation across public services	Citizens scorecards Timebanks Volunteering
New models of finance	The use of new powers to raise finance by social enterprise	Loans Bond issues Social investment
Multi-stakeholder governance	A two-tier governance structure, with wider strategic stakeholders and an executive board.	Similar to local authority "cabinets"
Horizontal accountability	Accountability to direct stakeholders of public services, rather than (vertical) accountability, upwards to government. Strong accountability plays the role envisaged for competition in full privatisation in terms of feedback and ensuring effective performance	Social audits
Market testing	Competition and privatisation retain a role in services that can be market tested and may be provided by private companies, as well as any social enterprises	Local authority procurement

WHAT IS IT APPROPRIATE TO MUTUALISE?

However is it also possible to start to draw up a schema for matching levels of participation and elements of the Mutual State toolkit to different parts of the public sector. To do this, we have drawn on the contributions set out above, coupled with research posted to the website library such as surveys completed by the Institute of Development Studies, with input from the New Economics Foundation, on client focus and user involvement in public services internationally. The result is a Mutuality Test, a checklist of six key characteristics (Table 3) that define the opportunity and appropriate nature of stakeholder participation in public services.

One of the key recommendations of the initial pocketbook *The Mutual State* was the completion of a "participation audit" of public services, to identify existing good practice. This remains a key requirement. However the Home Office has completed some very useful statistics on the role of the voluntary sector and social enterprises in public services, which demonstrate the extent to which non-profit organisations are already involved in public services. We expect more details to be published with the 2002 Treasury cross-cutting review on the role of the voluntary sector in public services.

The extent to which public funding, raised in taxation, is passed through to voluntary organisations and social enterprise helps to demonstrate that the distinction between "governmental" and "non-governmental" organisation is no more helpful the stand-off between "public" and "private" in public service reform. If funding comes from government, operates for a social purpose and demonstrates clear accountability (in particular the "voice or choice" of users), then the service might be better thought of as a "public interest service", whatever the particular structure of delivery.

In this way, the concept of the Mutual State represents not a step away from the collective interest but rather a new form of democratic governance. As Manuel Castells argues, NGOs "are to my taste the most innovative, dynamic and representative forms of aggregation of social interests. But I have a tendency to consider them 'neo-governmental organisations' rather than non-governmental organisations, because in many instances they are directly or indirectly subsidised by governments, and ultimately represent a form of political decentralisation rather than an alternative form of democracy. They are part of the emerging network state, with its variable geometry of institutional levels and political constituencies."

The conclusions from applying this are that there are in principle, widespread opportunities to test:

- user participation in existing public services;
- social enterprises to operate public services, while the involvement of different stakeholders will vary according to the nature of the service;
  citizens auditing of public services;

- Multi-stakeholder models of governance for public services.

TABLE 3. THE MUTUALITY TEST

Criteria	Nature of Public Service	Examples	Barriers	Opportunities for Co-production			
				1. Service design	2. Service planning & delivery	3. Service evaluation	4. Governance & accountability
1. Complexity	**Technically complex**	Higher education, hospital services, utilities, infra-structure coordination	Knowledge barriers, resistance from expert producers	✓	✗	✗	Medium
	Low-tech	Primary education, primary health,		✓	✓	✓	Strong
2. Consumption	**Service consumed by individuals**	Housing, utility services	Constraints on choice, such as housing benefit.	✓	✓	✓	Strong
	Services collectively consumed	Regulation, environmental health, military	Regulation tends to be responsive to powerful institutional lobbies	✗	✗	✓	Weak
3. Delivery	**Face-to-face delivery**	Schools, health clinics, rubbish collection.		✓	✓	✓	Strong
	Detached delivery	Regulation, taxation		✗	✗	✓	Weak
4. Relationships	**Long-term client relationships**	Schools, local police, crime prevention, GPs, public transport (regular travel), childcare, residential care, prisons		✓	✓	✓	Strong
	Short-term or one-off client relationships	Hospital emergency units, public transport (irregular travel)	Citizens can have a low stake in, and little incentive for, collective action to repair services, which they rarely use or do not imagine they might use (e.g. highly specialized surgery).	✗	✗	✓	Weak
5. Concentration	**Physically dispersed clients**	Road users		✗	✗	✓	Weak
	Physically concentrated clients	Urban rubbish collection, parents of school children, planning		✓	✓	✓	Strong
6. Money flows	**Funded exclusively out of taxation**	Police, courts, military		✓	✓	✓	Medium
	Funded in part through user fees	Leisure services, libraries		✓	✓	✓	Strong

RECOMMENDATIONS

What is needed to make the Mutual State a reality is a cross-sector pilot programme where many of the ideas discussed in this report can be tried and tested.

Crucial to any change in public service delivery will be the staff employed in public services, many of whom have already demonstrated their commitment to change and to greater participation of users. At the present time, there is a tendency to see public sector staff as reluctant to change and more forward. This view requires revision and what is needed in policy terms is an opportunity for staff to demonstrate how their experience and skills can contribute directly to public service reform and to the development of new mutuality.

The essence of the Mutual State is local public services designed and delivered by local stakeholders. The consequence of this is that local authorities will have a major role to play in making the Mutual State a reality. Their skills, assets and experience will be in the front line. These are the people who have been delivering social services to our citizens and their commitment will be essential in the next stage of transformation.

The four recommendations set out below would help to drive forward the next steps in public service reform:

"Charter Services" Programme

The Cabinet Office should launch a "Charter Services" pilot programme to test the rollout of frontline public services selectively freed up to operate as independent social enterprises rather than arms of government. This programme would operate across Government, with departments and local government submitting candidates for inclusion in a first round. Monitoring would be by the Cabinet Office.

Evaluation would include performance, innovation in service delivery and value added from users or other stakeholders and investors.

New Professionalism Award

The Active Community Unit in the Home Office should establish a new Award Scheme for public sector entrepreneurialism and user involvement.

Social Innovation Framework

A wide range of approaches exists in the private sector for the development and promotion of entrepreneurs. These include corporate venturing, schemes for "intrapreneuring" and business innovation incubators. These address the constraint that entrepreneurs face, when their concept for innovation runs up against the constraints of their existing institutional framework. The Cabinet Office Delivery Unit should consider the development and testing of prototypes to operate in a similar way as part of a wider framework for supporting social entrepreneurs operating in the public sector.

Mutualisation Advisory Service

The Department for Transport, Local Government and the Regions should test the feasibility and demand for a "Mutualisation" or "Social Enterprise Advice Service" for local authorities. This would be a time-limited programme, possibly commissioned to be run by existing agencies such as IdEA or the Local Government Association, operating with the aim of ensuring good practice and shared learning at a time of experimentation and learning.

CONCLUSION

One motto for public service reform in the 21st century is going to be not "rolling back the state", but "rolling forward the community".

If this vision is to become a reality then ordinary people, as well as policy makers, politicians and public service staff, will have to champion it and to make it part of their understanding of what they expect from a modern state. What this report both demonstrates and argues is that there is a compelling case for allowing them the opportunity to do so. In an era of globalisation, we can advance a new, forward-looking model of democratic, network governance.