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The role of the private sector in publicly funded schooling in England: finance, delivery and decision making

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In England, there is significant involvement of the private sector in publicly funded schools. This article focuses on different forms of involvement via academies and city technology colleges; specialist schools; Education Action Zones; outsourcing of services; and the Private Finance Initiative. Private sector involvement varies along different dimensions: service delivery, source of funding and locus of decision making. In the most far-reaching forms of involvement, decision making no longer rests with the public sector but is transferred to the private sector. The effects of the blurring of public and private finance and delivery are discussed in relation to democratic accountability.

Introduction

Increasingly in the UK, the private sector has become involved in the provision and supply of public services. Under both Labour and Conservative administrations, the government has looked to the private sector to assist with the provision of public services: 'Public private partnerships (PPPs) are a key element in the Government's strategy for delivering modern, high quality public services and promoting the UK's competitiveness' (HM Treasury, 2000: 8). One of the key public services that has been affected is education, and here the involvement of the private sector in relation to schools has been significant. In this article, we examine a range of different policy measures all involving schools in England and the private sector. We focus specifically on the provision of finance, the delivery of services, and the locus of decision making. We argue that while in some cases there are clear benefits to the public sector, in others the situation is less clear-cut; significantly, in some cases there have been fundamental changes that have resulted in decision making transferring from the public to the private sector. These developments can be seen as being underpinned by the major changes in the management of public services that have taken place in Britain and a number of other industrialised countries in recent years (eg Hood, 1991; Stewart and Walsh, 1992; Denhardt and Denhardt, 2000; see also Dent, 2005).

The focus in this article is explicitly on school-based education in England. The following section outlines the English school system, focusing in particular on school funding and governance. Then, the different ways in which the private sector has been involved in publicly funded education are examined. Three key questions are asked in relation to each of the policy measures examined, namely who provides the finance, who is responsible for service delivery and who is responsible for decision making? The final section discusses these issues and the blurring of the roles played by public and private sectors in relation to democratic accountability.

Key words: accountability • finance • private sector • schools

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The school system in England

In England, 93% of pupils of compulsory school age are educated in schools within the state-maintained sector. State-maintained schools are funded by their local authorities; local authorities, in turn, receive the majority of their funding from central government via a dedicated schools grant, to which they can add their own resources (from local property taxes). Local authorities are obliged to distribute funds to schools via a formula, the key determinant of which is pupil numbers (see West, 2007). The use of formula funding was part of the quasi-market reforms (see Le Grand and Bartlett, 1993) introduced into the state-maintained school system following the 1988 Education Reform Act.

Local authorities do not run schools, but provide funds for them and also have a range of specific duties and powers in relation to the school system; schools are thus semi-autonomous and managed and governed by their headteachers and governing bodies. School governing bodies include representatives of the local community, such as the local authority, school staff and parents; along with local authorities, school governing bodies can be seen to provide democratic accountability.

Publicly funded schools are of different types; while some are fully state maintained, others are not. Thus, 'voluntary-aided' schools, which account for around 21% of primary schools and 17% of secondary schools (DCSF, 2007a) and which, in the main, have a religious character, receive their revenue funding from the state; however, 10% of capital funds are met by the Church or other charitable foundation (see West et al, 2006). Two other types of newer school – city technology colleges (CTCs) and academies – are not classified as being state maintained but receive revenue funding from the government; these operate under different legislation from state-maintained schools and are classified as 'independent'. Overall levels of resourcing appear to be important, given that associations have been found between increases in resources and attainment (eg Jenkins et al, 2006).

Private involvement in publicly funded schooling in England

Our focus here is on private involvement in publicly funded schooling in England. In much of the literature the focus has been on partnership, namely 'a formal agreement between two or more parties that provides mutual benefits to those parties' (Levin, 1999: 124). Levin identifies businesses as providers of financial assistance to schools, of expertise in particular subjects and of employees acting as volunteer tutors. Such arrangements can be construed as being an example of a 'mutually beneficial partnership activity because it supports both the learning and the training of a local workforce' (Levin, 1999: 129). Partnerships of this type are also common in England (Kleinman et al, 1998), but over the past 25 years a wide range of other forms of private involvement in the publicly funded school system has developed. In this article we go beyond these notions of partnership and focus on a range of different forms of involvement, all of which can be construed as being forms of partnership.

We examine five recent modes of involvement, each of which involves the private sector working in partnership with the public sector to finance and/or deliver services. These comprise: academies and CTCs; specialist schools; Education

Action Zones; outsourcing (or contracting-out) of services; and the Private Finance Initiative (PFI). In each case we address the issue of who pays, who takes operational control for service delivery and who is responsible for decision making. We also review evidence about the extent to which the private and public sectors appear to have benefited.

Table 1 provides a framework for our analysis, based on sources of finance on the one hand and service delivery on the other. Sources of finance are classified as being public, mostly public with some private, and private. Delivery is classified in terms of public, private and both public and private.

Table 1: Private involvement in publicly funded schooling

		Financing of initiative		
		Public	Mostly public/ some private	Private (capital)
Delivery of service by:	Public		Specialist school	
	Private	Contracting-out services	Academy	Private Finance Initiative
	Public and private		Education Action Zone	

In all cases, it is important to stress that the decision-making process in relation to each type of initiative, involves: first, central government setting the policy and where necessary introducing legislation and regulations; second, the public sector facilitating the involvement of the private sector (eg via issuing invitations to tender); and, third, the private sector being willing to participate – the initiatives, as partnerships, are dependent on the active participation of the private sector.

Minority private financing/private sector delivery

Academies and city technology colleges

One of the first initiatives to increase the involvement of the private sector in the provision of publicly funded education in England was the CTCs programme; this was introduced by the Conservative government, with the first CTC being announced in 1986. CTCs were designed to improve the quality of schools in disadvantaged areas.[1] They were a new type of school, classified as independent, but in receipt of public revenue funding (and not allowed to charge fees). While the policy decision to facilitate CTCs was taken by the government, the decision to invest was taken by private sector sponsors.

Very few CTCs were set up – only 15 – all of which were in England. The intention when they were set up was that the capital funds for the new schools would come from private sector sponsors. However, according to Whitty et al (1993: 59):

> [E]ven if all promises were fulfilled, the private stake in the CTC programme would amount to no more than 20% of capital expenditure.… The misjudgement has led to an unforeseen commitment of well over £100 million

> of public money to keep the programme going, and made the government by far the major shareholder in the enterprise.

Although the CTC initiative cannot be viewed as successful in so far as very few CTCs were established, the Labour government decided to set up a similar initiative in 2001 (DfES, 2006a), this time for city academies (now called academies). Like CTCs, they are designed to improve the quality of education in disadvantaged areas, are classified as independent, are in receipt of revenue funding from the government and are not allowed to charge fees. Unlike CTC sponsors, most academy sponsors are only expected to contribute a very small share of capital costs – a 'charitable donation of 10% of the building costs' (DfES, 2006a: 3) up to a total of £2 million or £1.5 million if completely new buildings are not needed.

There is a target to establish 400 academies in England: in September 2007, there were 84 academies (DCSF, 2007b, 2007c). In order to attempt to reach this target, whenever a new school is proposed, an academy must be considered by a local authority in order for the latter to be eligible for capital funding for conventional schools (ie not academies). The setting up of an academy entails a sponsor (from either the private or the voluntary sector) coming forward with sufficient funds to assist with the capital costs, although in 2007 there was a policy shift with higher education institutions being encouraged to act as sponsors, but with no requirement to provide assistance with capital funding (DCSF, 2007d).

The evidence suggests that contributions to capital costs to date have been around £1 million per school from the private sponsor,[2] although the average cost has been £24 million (NAO, 2007). Thus, to date only a very small percentage of funds for capital work has been provided by private sector sponsors. Concerns about 'honours' being promised to financial backers of academies were made at one stage, as seven academy sponsors have been honoured; however, a 'cash-for-honours' inquiry found 'insufficient evidence to provide a realistic prospect of conviction against any individual for any offence in relation to this matter' (Crown Prosecution Service, 2007: 1).

In terms of the beneficiaries of the academies (and previously CTCs) the public sector gains a new school, which, in theory, should cost the public sector less than a traditional school as there is a financial contribution from the private sector to offset costs. However, the public sector loses an asset as the school transfers to the sponsor[3] and it loses control of the school. Concerns have also been raised about academies as they control their own admissions and exclusions and do not have to adhere to the full national curriculum nor to the national regulations on school teachers' pay and conditions (DfES, 2005, 2006a; *TES*, 2006; DCSF, 2007c). The private sector, on the other hand, gains control of a school, owns the assets (the school site and buildings) for a very limited outlay, and takes control of decision making about staffing and the curriculum, as well as expenditure more generally. One particular concern that has been raised in relation to the curriculum relates to the teaching of 'biblical creationism' in some academies (BBC News, 2003).

The situation with academies is, however, fluid as local councils – part of the public sector – are sponsoring academies. In two local authorities, councils are investing around £1 million in each of five schools. In each case there is a private sector sponsor as well, contributing the same amount. The intervention of the local authority 'will deprive some academies of independence, particularly over admissions and exclusion' (*TES*, 2006). In another local authority, the council is not sponsoring any academy but will retain control over admissions with the result that 'the authority will effectively run the school' (*TES*, 2006).

Other proposed government changes will mean that building standards and quality control will be similar to those for state-maintained schools; this is expected to reduce the cost of academies. In addition, there is to be a new sponsorship model, whereby contributions from the sponsor will be used

> more flexibly for charitable purposes for the benefit of pupils and local communities. In most cases we will expect sponsors to set up a charitable investment fund, the income from which will be used to counter the educational impact of disadvantage and/or for educational work within the local community. (DfES, 2006b: 5)

The government's intention is that sponsors will be able to concentrate on the 'educational, legal and organisational changes' (DfES, 2006b: 5) needed to establish an academy.

Minority private financing/public sector delivery

Specialist schools programme

The specialist schools programme is designed to encourage schools to specialise in different areas of the curriculum (in addition to following the national curriculum). It was first introduced in 1993 (by the Conservative government), when it was known as the technology colleges programme. It subsequently expanded to cover a wide range of other subject areas. In 1997, when it was elected into office, the Labour government relaunched the programme with a focus on community involvement and also expanded the range of specialist subjects.

Schools themselves decide if they wish to seek specialist status; they then need to submit a bid and raise £50,000 of unconditional sponsorship[4] towards the cost of a capital project to improve their facilities for the specialist area(s). Once specialist status is conferred by the Department for Children, Schools and Families (via a competitive process following the submission and evaluation of bids), schools are eligible to receive additional capital and current grants from central government to complement business sponsorship. In September 2007, 85% of all secondary schools in England had specialist status (DCSF, 2007e). The popularity of the programme is undoubtedly linked to the major financial benefits that can accrue to the school – an early evaluation indicated that about half of headteachers and chairs of school governing bodies surveyed were motivated to apply for specialist school status because of the additional money it would bring (West et al, 2000).

Sponsors for specialist schools can be from the private sector or from the voluntary sector: a national evaluation of the programme found that the average number of sponsors was 11 per school (the median was 5) and the number of sponsors ranged from 1 to 240 (West et al, 2000). What is particularly interesting is that several information and communications technology (ICT) companies were sponsors of more than one school and one company was identified as a sponsor by over a quarter of headteachers. This is significant as such companies stand to benefit from closer relations with schools given the burgeoning of ICT teaching and learning in schools. Research by Noden et al (2004), involving case studies of specialist schools, explored the issue of sponsorship. In one school, the headteacher reported that sponsorship of £30,000 was offered, but that the conditions were unacceptable to the school in that they went against government guidelines for sponsors; the headteacher felt that the government was 'misguided in believing that businesses would give "something for nothing"' (Noden et al, 2004: 6).

The guidelines for 2007 require the sponsorship to be 'unconditional'. There are also ineligible categories of sponsors, in particular, supplier sponsors, that is companies that have or that could have a commercial interest in the school; and sponsorship that is 'conditional on future business with either the sponsor or any other organisation' (DCSF, 2007f: para 10.2). In order to ensure that sponsorship is indeed forthcoming, the Department for Education and Skills requires a sample of specialist schools to 'provide copies of bank statements or other finance related documentation, providing evidence of receipt of all funding by the end of the first year of operation' (DCSF, 2007f: para 10.1). One of the conditions of funding specialist schools is that they should accept such checks (DCSF, 2007f).

With specialist schools, there are advantages for both public and private sectors: schools receive sponsorship from the private sector and as a result of this (assuming the bid for specialist school status is successful) additional capital and revenue from the government follow. Given the number of schools that have now been successful in achieving specialist school status, so having succeeded in raising sponsorship, it is not unreasonable to assume that the private sector perceives advantages to its association with the programme. Nevertheless, it is clear that the public sector is the more powerful of the partners, not least because schools have a choice of private sector sponsors and are not bound in by contractual arrangements with the private sector. With the specialist schools programme, the school governing body retains decision-making power and is clearly the dominant partner: indeed, if the sponsor decides to withdraw, the onus is on the school to find replacement sponsorship (DCSF, 2007f).

Minority private financing/public–private delivery

Education Action Zones

A high-profile initiative, in the early days of the Labour government, was the establishment of statutory Education Action Zones (EAZs):

> Education Action Zones (EAZs), area-based partnerships in areas of the greatest educational need, are based on the principles of partnership.... [B]y involving all stakeholders of the education process, including employers whose businesses suffer from a poorly educated workforce, EAZs have a greater incentive and ability to focus on the key issues affecting education in deprived areas and to identify and deliver on the action necessary to improve performance. (HM Treasury, 2000: 44)

EAZs were set up by the government under legislation passed in 1998. The intention was to encourage 'imaginative approaches to raising educational standards in seriously disadvantaged areas' (NAO, 2001: 1). They consisted of a cluster of schools, usually in one local area, run by a forum of different partners (parents, teachers, businesses, etc), constituted as a corporate body with charitable status. The schools were still part of the local authority. However, for schools covered by the EAZ, the forum was responsible for raising educational standards, and to assist with this received £750,000 of funding from the government and was expected to raise £250,000 each year in business contributions. Many EAZs paid grants to schools from the funds provided by the government, although in some cases they had difficulties 'gathering evidence on what those monies were spent on and whether they were used in the period for which they were allocated' (NAO, 2001: 15); nor were correct procedures necessarily followed in relation to competitive tendering.

While, theoretically, private business partners were not a prerequisite for application, in reality the private sector 'was higher up the Government's pecking order than other potential providers' (Hallgarten and Watling, 2000: 24). According to Hallgarten and Watling, this was because of the possibility of 'levering in' outside funds and the notion that businesses could change the culture of schools by making them more responsive to industry, encouraging innovation, and instilling new management expertise. However, many private donations were in fact from public bodies; money and 'in-kind' contributions already pledged under other schemes were recycled into the EAZs and many of the latter were overvalued. It was also found that considerable creative accounting had taken place, giving the impression of private involvement. The government wanted local authorities to play a lesser role, but they were still central to the initiative – in fact, private partners were not pre-eminent in leading Zones or participating in them (Hallgarten and Watling, 2000). Moreover, the power of EAZs was limited as they did not take over the running of individual schools – headteachers and school governing bodies retained this role.

The National Audit Office carried out an examination of EAZs (NAO, 2001). This revealed that private financial investment was very limited. EAZs were also slow at establishing appropriate governance arrangements, such as declaring business interests or overseeing finances. In addition, EAZ members had assumed that they would be exempt from value added tax (VAT), which was not the case, and so drew up spending plans not taking VAT into account. As a result the government had to make additional grants to Zones. The initiative was short lived and all statutory EAZs ended in 2005. The mixed success of the EAZs was likely to have been a factor in the decision by the government to phase out their funding and not to create any new Zones (Halpin et al, 2004).

Public financing/private delivery

Outsourcing/contracting-out

In the 1980s, legislation was introduced requiring local authorities to open up a range of services provided by the local authority to private competition; this was known as compulsory competitive tendering (CCT) and its main aim was to reduce costs. In this respect it has been broadly successful:

> Competition has the virtue of forwarding a number of Government policy objectives. It provides more work for the private sector, it reduces the power of the local authority and it weakens the public sector trade unions. The policy is flexible because the Secretary of State [the most senior government minister] can add further services to the list for competition.... Loopholes in the legislation can quickly be closed by the issue of regulations, and if the Government does not see the policy as having the effects that it wants as quickly as it wants them, then it can easily change the rules. (Walsh, 1995: 47)

Outsourcing is the term commonly used to describe the delivery of services by specialist providers, in the main by private sector companies (NUT, 2005). The terms contracting-out and subcontracting are also used. With outsourcing, a school or a local authority decides within the regulatory framework (formerly CCT, now 'Best Value') to put services out to tender. In the early days, outsourced services affecting schools included cleaning. Later, in 2000, the funding of school meals was delegated to secondary schools in England; there are now three large private contractors of school meals – Scolarest, Sodexho and Initial. The impact has been positive in terms of cost, but negative in terms of job losses; there are also concerns about staff training (Davies, 2005) and facilities, with, for example, kitchens being removed from schools. Significantly, there have been problems with outsourcing school meals in the case of schools that have been built under the PFI (see below).

Hudson (2005) surveyed 40 schools to discover schools' reasons for choosing outside (private or non-profit) contractors to provide services as opposed to providing these services 'in house'. A wide mix of providers were identified for the key service areas examined – payroll administration, catering, cleaning, legal and contractual support and information technology support. The administration of the payroll and catering were the two services most likely to be provided by external private (for-profit) contractors and information technology (IT) and cleaning were most likely to be provided 'in house'. Local authorities were found to play a significant role in relation to the provision of legal and contractual services. Interestingly, interviews with eight schools revealed that external contracts were revised more frequently than internal arrangements: the majority reported reviewing contracts every year or two. It was also found that a drop in quality was the most likely reason for a contractual agreement to be reconsidered. Quality decisions were a particularly important issue in relation to a move away from local authority provision. However, it is interesting to note that in two cases services had been brought back 'in house' because the contract staff were not able to fully participate in the life of the school – for example, they were not able to benefit from financial awards made to the school as they were not employees.

Contracting-out has extended to local authority education services and can arise following a poor inspection report by the regulatory body, the Office for Standards in Education (Ofsted). It can also be undertaken on a voluntary basis: one local authority, which received a good Ofsted rating (Ofsted, 2003), transferred most of its education services to a private sector partner (NUT, 2005). Some local authorities have been required by the government to outsource education services. One of these was the London Borough of Southwark. Following an inspection by Ofsted in 1999, the government 'intervened to support the Council' when it entered into a five-year contract in 2001 with WS Atkins to deliver the local authority's schools' services (DfES, 2003).

The contract between the local authority and Atkins Education, worth £100 million (*The Guardian*, 2003a), had a number of 'performance indicators'. In the first year of operation, 2001-02, performance was poorer than had been expected, with a majority of the key performance indicators not having been achieved. An inspection report by Ofsted in 2002 (see Southwark Council, 2004), concluded that, while strengths outweighed weaknesses, there were areas that gave cause for concern. Three months after the 2002-03 annual report, the situation worsened: Atkins experienced financial problems and its performance began to deteriorate rapidly. Headteachers and governing bodies became increasingly concerned at Atkins' persistent failures in a number of areas: filling senior management posts, increasing numbers of schools failing their inspections and poor national test results:

> Overall, the Council came to the conclusion that they no longer believed that Atkins were capable of moving forward with sufficient resource or vigour to achieve the agenda in Southwark of raising educational achievement as was intended in the PPP contract. (Southwark Council, 2004: 3)

Atkins decided that it wished to terminate the contract, finding the contractual arrangements 'increasingly financially challenging' (DfES, 2003). The total cost of withdrawal from the contract was reported to be £2 million, mostly for lawyers' fees, which was paid by the government and the local council, with a contribution from Atkins (*The Guardian*, 2003b).

In terms of the beneficiaries of contracting-out it can be argued that the public sector should benefit when schools contract-out services on account of reduced costs and improved quality. However, there have been negative impacts. The public sector failed to benefit in the case of Atkins, because of poor performance and the payout from public funds when Atkins decided to terminate its contract.

Interestingly, in the case of contracting-out, while decision making rests with the contractor for the duration of the contract, the dominant partner can be either the public or the private sector – what seems to be crucial is the nature of the contract. With short-term contracts, between schools and private contractors, the power rests with the school's governing body as it has the power to re-tender or to terminate the contract at relatively short notice. However, with larger, longer-term contracts, the private sector is likely to be at an advantage due to the difficulties associated with terminating long and complex contracts.

Private financing/private delivery

Private finance initiative

The PFI is the most far-reaching of the public-private partnerships introduced by the Conservative government and has continued and been expanded by Labour. The introduction of private finance was first introduced into the public sector in 1981, with PFI being introduced in 1992 (McCabe et al, 2001).

PFI schemes vary, but the norm is for a private consortium – the PFI provider – to invest in new or refurbished buildings, such as schools, once a local authority has put out an invitation to tender. With PFI, a contractor builds the school and provides a range of specific services, such as maintenance, heating and school meals, on behalf of the local authority through a long-term contract. Once the school has been built, the contractor is responsible for maintaining the infrastructure and the provision of the agreed services (Audit Commission, 2003). Local authorities pay a monthly charge to use the infrastructure provided by the PFI consortium, as long as the required standard is maintained. At the end of the contract, responsibility for the infrastructure reverts to the local authority. There are two fundamental requirements of a PFI project – value for money must be demonstrated, and risk must be transferred to the private sector (McCabe et al, 2001).

Originally, PFI was seen as a way of increasing public sector capital spending, but now it is seen more as a replacement for public sector capital, even though it is between 1 and 3% more costly for the private sector to raise capital (see Lonsdale, 2005). PFI was justified by the need for capital investment, which the public sector could not provide due to government constraints on capital finance and the limits on borrowing and debt set by the Maastricht Treaty (McCabe et al, 2001). More recently, PFI has been justified more for its supposed efficiency and value for money:

> The only economic rationale for using the PFI is that it is hoped it will offer better value for money. Despite the fact that the private sector faces higher borrowing costs, these are expected to be offset by greater operating efficiency. (Chote et al, 2003: 14)

A study of PFI schools and traditionally funded schools was carried out by the Audit Commission (Audit Commission, 2003). Among the key findings[5] were:

- The quality of the PFI schools was worse than the traditionally funded (non-PFI) schools.
- There was no difference in unit capital costs between PFI and non-PFI new schools.
- There were no differences between PFI and non-PFI schools in the costs of building maintenance, grounds maintenance, water, sewerage and fuel.
- The average cost of cleaning and caretaking was higher in PFI schools than in non-PFI schools: this may be because contractors have an incentive under PFI to provide higher-quality services at higher costs.
- There was no evidence that PFI schemes resulted in schools being built more quickly than by traditional means.
- The standard contractual clauses for variations of the contract were problematic when it came to making small, frequent changes.

Also, as contracts are over a long period, the costs of some potential risks may be overestimated by the provider to protect itself, which increases costs (Audit Commission, 2003).

A range of concerns have thus been raised in relation to PFI on the delivery side and in relation to costs. There is, moreover, a concern about the issue of 'lock-in', which the research indicates is a major concern with PFI in general:

> It will not always be possible for interdependent relationships to be engineered by public bodies – on many occasions public bodies will find themselves asymmetrically locked-in to their supplier. This situation leads to private sector suppliers becoming dominant in those relationships which, in turn, will allow them to pass back risk and obtain greater returns. (Lonsdale, 2005: 67)

This relates to our earlier discussion about school meals. *The Guardian* (2005) reported that new schools were 'locked into' 25-year PFI contracts, with associated catering services, and were unable to remove 'junk food' from the menu even though the government has pledged to improve the quality of school meals. It also noted that other schools have found that they will be liable for large financial penalties if they try to opt out of PFI-associated contracts with private catering companies.

In summary, the public sector can be seen to be a beneficiary of PFI, in that it gains a new school. However, the overall cost is higher due to the higher costs of borrowing and this is met by the public sector paying higher charges. Transaction costs are likely to be particularly high: writing the specification, evaluating the bids, negotiating the detailed terms of the contract, post-contract monitoring and enforcement, and meeting the costs if the contract needs to be terminated (Adnett, 2004). Moreover, the public sector is locked into a long-term contract from which it is hard to withdraw. The evidence suggests that the private sector in PFI contracts emerges as a powerful – if not the most powerful – stakeholder.

Discussion

The involvement of the private sector in the delivery of aspects of the publicly funded education service in England has increased markedly in recent years. This can be seen to be part of the far-reaching changes introduced by governments in the UK and elsewhere. In this final section, we discuss financing and delivery in each of the cases we have examined, along with the role played by contractualisation, before highlighting the blurring of the boundaries between public and private finance and what this means for democratic accountability.

Within the school-based education system, a number of different models of financing and delivery have been identified. In terms of financing, there are initiatives that are fully funded by the public sector; in part by the private sector; and where the private sector finances the capital costs. In all cases, it is important to bear in mind that there are transaction costs (paid by the public sector) associated with contracting. In terms of delivery, the various examples involve the public sector, the private sector and both sectors working together. The partnerships are underpinned by contractual relationships of differing kinds and these are fundamental when considering the issue of decision making.

The academies programme is supported mostly by public funds, but with some private monies. The private sector is responsible for service delivery and decision making and considerable power and influence is vested with the sponsor, who owns the school's site and buildings, controls admissions and has the opportunity to influence the curriculum. Interestingly, this power is not dependent on paying the majority of the costs towards the school. In financial terms, the state loses an asset, although controls are in place in the event of the sponsor pulling out. The interesting case of local authorities contributing towards the capital costs instead of the private sector or other philanthropic body (such as the Church) suggests, however, that, in political terms, the academies programme may, in some cases, be more dependent on additional resources than necessarily on the involvement of the private sector.

With the specialist schools programme, the public sector is responsible for delivery, but there is 'minority' private funding. The school's headteacher and governing body are responsible for decision making and retain ultimate power; the role of the private sector is limited and the regulations on sponsorship restrict the extent to which private sector sponsors stand to make financial gain. The contract between the public and private sectors is limited in that it does not relate to core funding of the school. There is clear additionality with supplementary funds being provided by the private sector. Interestingly, specialist schools have been found to be more effective than non-specialist schools as measured by pupils' levels of attainment, having taken account of relevant background factors, including poverty (which is strongly associated with attainment) (Noden and Schagen, 2006). What is not clear is whether this higher level of performance is a function of 'good schools' being selected for the programme, or the additional resources made available by the programme (Noden and Schagen, 2006). Indeed, Mangan et al (2007), who used controls other than poverty, found no evidence of increased attainment levels once the effects of additional resources had been accounted for.

In the case of the former EAZ programme, which received some private funding, delivery and decision making were shared between public and private sectors, although the evidence suggests that the role of the private sector was limited. Funds from both sectors were again additional to core funding so, it can be argued, not integral to the functioning of schools; in addition, school governing bodies retained control of additional resources provided by the EAZ. This initiative was not considered a success by the government and was discontinued.

Contracting-out provides an example of public sector financing and private sector delivery. The evidence suggests that for school-based contracting-out, the school governing body retains high levels of control over the provision and is in a position to terminate contracts when necessary with relative ease. While decision making rests with the private sector on a day-to-day basis, because of the short-term nature of the contracts, there are major incentives for providers to provide an efficient, high-quality service. Any re-tendering process provides an incentive for providers to provide a high-quality service. By way of contrast, with large-scale contracting-out of local authority services, the situation is more complex and contract termination can prove costly. The nature, and in particular the duration, of the contract thus determines the extent to which the private and public sectors are responsible for decision making.

The most far-reaching example of private sector involvement in the publicly funded school system in England is PFI, in which the private sector is responsible for the capital costs, service delivery and decision making – taking over this responsibility from school governing bodies. The evidence suggests that the private sector can be very powerful given the long-term nature of the agreements. The contractual relationship restricts the involvement of the public sector in decision making. While capital funding is provided by the private sector, the public sector pays this back over the duration of the contract. With PFI, decision making and hence power, once the contract has been awarded – if not before – rests with the private sector. As there is no re-tendering process and no competition once the contract has been awarded, there is no incentive to provide a high-quality service: the private provider becomes, in effect, a monopoly. In such circumstances, the likely consequence is a bureaucratisation of provision: ironically, one of the reasons for the introduction of market-oriented processes into public service delivery was concern associated with public sector bureaucratisation. The public sector is likely to be 'locked in' to contracts, which cannot account for all eventualities and from which it is difficult to exit; as Walsh (1995: 40) noted:

> The presence of bounded rationality makes it difficult to write contracts because future circumstances cannot be fully anticipated. The less certain is the future the more contracts will need to be written to allow variation, but contractors will always look to variation as a means of making high profits.

Moreover, risk cannot, in practice, be passed to the private sector because of the responsibility of government to provide a given service – in this case a school.

Important issues emerge from this study in relation to the nature of public–private partnerships. The notion of 'partnership' has evolved into a complex set of relationships between the public and private sectors in terms of finance, delivery and decision making; these are underpinned by contractualisation. Accompanying these changes there has been a shift in terms of democratic accountability. Publicly funded bodies are accountable to users via the democratic political process, while private sector organisations are, in theory, accountable to funders via market mechanisms (Leat, 1996). Accountability is, however, a slippery concept and used in different ways in different contexts and different policy areas (eg see Bulkley, 1999; Leat, 1996) and becomes even more complex given the new relationships between public and private sectors.

In the case of the four ongoing policy initiatives reviewed – specialist schools, academies, outsourcing and PFI – there are different types of accountability. With specialist schools, there is accountability via the governing body and the local authority – both part of the democratic process. The financial contribution of sponsors is via a contract with the school, and accountability is to the school governing body. In the case of outsourcing by schools, which is generally of relatively short duration, the private organisation is similarly accountable to the school governing body for service delivery, but there is also accountability via the market given the short duration and relatively limited nature of the contractualisation. With academies, the situation is different, as there is no democratic accountability via the local authority, nor via the academy's governing body given that the majority of the membership is determined by the sponsor. As academies are not bound by the full national curriculum nor the teachers' national pay and conditions document, there is a loss of political control and legitimacy. The democratic deficit is clear. The only recourse in the event of failure to deliver (either resources or services) is via central government or its inspection agency, Ofsted, and beyond them via courts of law and the judicial process.

In the case of PFI, the democratic accountability mechanisms are opaque. Local authorities are in the position of managing PFI contracts, with the private sector being accountable to the local authority, which holds the contract. However, contracts are of long duration, so local authorities are not able to respond to changing circumstances without a costly renegotiation of the contract. Significantly, at school level, the lines of accountability are such that school governing bodies no longer have a role in making decisions relating to PFI contracts, as these rest with the PFI contractor, via the local authority. In the event of the local authority being unable to effectively resolve problems via negotiation, the final resolution is via the judicial process as opposed to the democratic process. Interestingly, even if central government – which provides democratic accountability – wishes to change legislation, for example to improve the quality of school meals, or is required to make changes following new European Union directives, it cannot do so without incurring costs, because of the nature of the contract.

In conclusion, the fundamental shifts in the finance and delivery of school-based education that have taken place have affected the nature of accountability: in the most far-reaching cases, democratic accountability has been replaced with indirect 'public' accountability via contract law and the judicial process.

Notes

[1] The evidence suggests that very low proportions of pupils are from disadvantaged backgrounds (Whitty et al, 1993).

[2] Authors' own calculations from *Hansard* (2006).

[3] The premises must be used as an academy.

[4] The amount that needs to be raised ranges from £20,000 for the smallest schools to £50,000 for schools with 500 pupils (DCSF, 2007f). Prior to July 1999 the amount of sponsorship required was £100,000.

[5] All differences reported were statistically significant.

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