National Commission

National Commission on the future of governance in the public sector

The impact of the COVID-19 pandemic on governance in the public sector roundtable

Good Governance Institute

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Context

The pandemic has led to challenges which cut to the core of governance. The interconnected issues of accountability, ethical decision-making and citizen engagement are fundamental to the public sector. The National Commission has been working on many of these areas, but is yet to fully address the impact of the pandemic on governance. Indeed, few individuals or organisations have explicitly examined the last year through the lens of governance. We do not want to miss this opportunity. The decisions made during and in the aftermath of the pandemic will define our public sector in the coming decades, from the mechanisms of accountability to sources of legitimacy, as well as ethical choices over finances and the climate.

Following the one-year national lockdown anniversary, the time is right to take stock of the decisions made in the past twelve months and use this to determine the steps needed to ensure public sector governance is robust and sustainable for the future.

Purpose

This short document is intended to stimulate thought about the pandemic's impact on governance and help work through the key threats and opportunities for good governance of the public sector now and over the next ten years. We see good governance as a key enabler of better, sustainable and relevant public services and not as an aim in itself. Good governance is one of the catalysers to enable rapid change to be achieved whilst safeguarding ethics and legitimacy. It should provide the grounds for organisations to challenge norms and do things differently.

We believe a truly rigorous evaluation of the public sector necessitates a move away from the short-term, tactical approaches to key issues in our country, which so often mirror economic or electoral cycles, and instead towards a longer-term view accounting for the precedents and patterns that during a crisis.

Blurred accountability

In many ways the pandemic has underlined the confusion in Britain's mosaic of decision taking arm's-length bodies, metro mayors, local government, Special Advisors, officials and ministers. The speed and gravity of decisions being taken often led to uncertainty over who was accountable. As all these institutions were established at different points under different rules, it is very difficult to pin down accountability to specific individuals or decision-making bodies. This is a situation that surely needs reform and cannot be called good governance.

Many of these questions about differing accountability stem from a system with varying sources of legitimacy. This is clearly exemplified in public health, where you may see local government, doctors, hospital administrators, charities and churches coming together during the pandemic to make decisions. Attempts at NHS integration illustrate the issue of bringing multiple institutions together to make decisions which, when they disagree, may result in unelected individuals challenging those directly elected by the public. This issue is not confined to the NHS, rather the pandemic, due to the necessity of taking enormous rapid decisions, has illustrated that anywhere in which there is collective decision making between elected and unelected bodies we have a question over where the ultimate decision-making authority should lie.

Although the command-and-control gold, silver and bronze is far more hierarchical than is ideal outside a crisis, it perhaps had the merit of demystifying who is responsible for what and where they sit in relation to others. Can we draw on anything from this system to clarify the public sector in the post-pandemic world?

While these are largely pre-existing issues that the pandemic has brought to bear, the last year has also created new problems in public accountability. This is most clearly seen in the government pandemic briefings. The public have been presented with phrases like 'following the science' as though the evidence provided by experts and officials is directly implemented by elected ministers without concern to other factors. The reality is, of course, much more complex as there are numerous social, economic and moral considerations that must be factored in to the decisions of great magnitude needed during a crisis. Crucially, it presents the public with a view that the scientists are responsible, and therefore accountable, for decisions, further blurring perceptions of advice.

Ethical decision-making

All institutions have faced unprecedentedly difficult ethical decisions during the pandemic. Much attention has gone into the removal of regulatory barriers and the increased speed of decisions, with relatively less focus on complex ethical issues we have grappled with.

In the early weeks of the pandemic enormous choices were made, from lockdown to closing schools, with very little transparency as to the public policy trade-offs that were an inevitable outcome of these decisions. This raises the questions not only over what ethical frameworks our public sector leaders should be equipped with during a crisis, but also how these should be communicated to the public that allows for transparency and scrutiny. Indeed, this opacity has highlighted the need for disenable ethical standards which we can train leaders to use in crises and work across public sector organisations.

The damaged public finances and likely strained resources in the years following the pandemic will also raise questions over the ethical distribution of funds. Given the vast changes to all aspects of life as a result of the crisis, we may need to develop new standards to account for the new inequalities in our society, be they occupational or intergenerational. To achieve this does the public sector need to uniformly apply an ethical framework across all organisations to ensure consistently ethical allocation of resources, or do they need to be sector- or context-specific?

Recently we have also witnessed the resignation of the government's independent advisor on ethics and concerns over free breaches of the ministerial code, underlining the clear link between ethics and accountability in public life. Indeed, there may be a danger of losing our ethical standards for the public sector and, in addition to finding new ways of approaching our changed world, we also need to consider how we can ensure these standards are adhered to.

Digital futures

Digital technologies are being promoted across the world as an answer to mitigating pandemic fallout and recovery. However, there are major ethical questions that need to be asked when deploying technology for disease surveillance and population control, such as track and trace, vaccine passports or the use of heat sensors to monitor populations as we have seen in China and India.

The use of these technologies, particularly when they rely upon automated, non-human decision-making and impact individual freedoms, contain a number of inherent risks that need to be carefully considered before deployment in society. States run the risk that collective sense of 'public emergency' may lead societies to accept more intrusive digital technologies without ethical debate resulting in more intrusive surveillance becoming normalised. Where should the link be between decisions that support both collective welfare and individual freedom, and how and what kind of public debate or scrutiny do these actions need? Indeed, how do we ensure that we enable technology to help us deal with the pandemic whilst ensuring we are having the right governance and accountability in place?

There are additional concerns that automated decision making fails to correct inequalities in our populations and which may even add to them. Governance will need to be in place to ensure that new and rapidly changing technology can be used to benefit society and all citizens equally whilst ensuring fundamental rights and freedoms are protected.

Climate ethics

The pandemic has underlined the need to take decisive action against major crises facing the world and galvanised many governments to make bold climate pledges ahead of COP26. However, this does mean increasingly extreme, potentially disruptive and invasive actions may need to be taken to preserve the world's climate, raising concerns over who in society will bear the brunt of this.

Institutions will need to balance the need to safeguard the immediate interests of those who they are directly accountable to, and have a statutory duty to serve as constituents, alongside the wider interests of society. However, this leads to the added difficultly of who will hold them to account for climate action whilst maintaining their legitimacy, if not the constituents they serve? This applies to administration at all levels, from counties, to cities and countries. Despite the indisputable collective benefits, there will always be groups disadvantaged by the major societal shifts which will be necessary in the coming decades. These increasingly complex concerns will need clear lines of accountability and may need to bring the public into decision-making, so they do not feel unjustly 'done to'. It will be essential for the public sector to navigate this issue successfully if it is to maintain public consent for climate action.

Citizen or spectator?

The pandemic has led to a strange combination of experiences for citizens. 'Normal' mechanisms of accountability and scrutiny such as elections, parliamentary mechanisms or in-person townhalls have been curtailed and the public has often been passive recipients of Downing Street briefings.

Simultaneously, new forms of agency have emerged, boards and councils have introduced virtual Q&As and many of the traditional barriers to scrutiny and active participation in communities have been removed, leading millions to take ownership of services provided within their neighbourhoods. If the pandemic were to produce more active citizens, harnessing this people power hold the key to resolving some accountability questions. As such, could this lead to more formalisation of citizen engagement activities, or would institutionalising this dilute the strength of the kind of community participation we have witnessed over the past twelve months?

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