

## A SHORT-CUT TO NEW GOVERNANCE? NEW POLICY INSTRUMENTS AND NEW POLICY FAILURES IN NORWAY

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In Norway, as elsewhere, much has been made of the emergence of ‘new’ instruments of government. These are said to move government activities beyond ‘command and control’ towards the use of indirect, market-type and persuasive instruments. The present paper explores recent efforts to introduce more market-oriented mechanisms in the care sector in Oslo, with particular focus on the new policy instruments developed for or used in the process. The reforms in Oslo represent an effort to introduce New Public Management-type reforms in a relatively controversial sector, by way of incorporating a number of the kind of softer measures that are increasingly associated with ‘governance’. The paper assesses the growth of such policy instruments in Norway in the context of the academic debate on public sector reform, and proceeds to consider the effectiveness of the reforms and the use of new instruments in the care sector in Oslo. The degree of reform failure is explained as a combination of political opposition and weak policy instruments.

The term governance is used increasingly not only in Britain and continental Europe, but also in Scandinavia, to capture a broad set of attempts at steering that go beyond traditional ‘command and control’ and involve more than the immediate and formal organisations. Although the term is of course an old one (traced back to Henry IV by Weller, 2000), its salience in the current British debate reflects both the shift from Conservative reform programmes to the New Labour government and policies after 1997 and the evolution of public sector reform into a much more complex set of processes than those envisaged in the literature on New Public Management (Dunleavy 1997; Hood & James 1997; Pierre & Stoker 2002). In the Norwegian context, where reforms have been more cautious than under British Conservative governments, the question therefore becomes whether it is possible to circumvent the more rigid and radical NPM-type measures and find a short-cut straight to ‘new governance’?

The present case study indicates that the answer depends on effective policy instruments.<sup>1</sup> It is sometimes suggested that Norway is best described as slow or reluctant reformer (Olsen 1996), and that it is therefore difficult to introduce NPM-type reforms because to the extent that they are not compatible with prevailing norms and institutions they will be ‘filtered out’ (Christensen & Lægveid 1998, eds. 2001). Less attention has been paid to the question of the extent to which institutional adaptation is required to secure successful implementation of public policy reforms. The present paper therefore addresses and assesses the use of new instruments in implementing market-oriented reforms that are quite radical in principle. Rather than

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<sup>1</sup> It draws on data collected in interviews between 1997 and 2002, originally reported in Norwegian in J. From (ed.), *Hvor moderne? Konkurransetsetting i offentlig sektor* [How Modern? Competitive Tendering in the Public Sector], (Oslo, Abstrakt, 2003).

arguing that Scandinavian public policy reforms tend to fail because they are too radical, and involve ‘too much NPM’, it will be suggested that the outcome of efforts to establish a short-cut to softer reforms depends on sufficiently strong instruments being developed. New governance may be a more nebulous term than New Public Management, but softer reforms may in fact warrant all the more precise instruments.

Although the term New Public Management has come to encompass such a wide range of reforms that there is a danger of it capturing everything and nothing, an essential core can be extrapolated from most definitions (Hood 1991; Dunleavy & Hood 1994). Drawing on the quest to introduce economy, efficiency and effectiveness into public administration and efforts to borrow from private sector management, the core of NPM reforms centre on i) disaggregating or splitting up public organisations into functional units and separating policy, oversight and service delivery; ii) introducing competition into the public sector, either directly or through quasi-market mechanisms; and iii) increasing the use of incentives in public sector management. Taking this definition as a starting point, the term ‘governance’ may be seen as a softening up of NPM, partly by use of more voluntary mechanisms, and thus as a complement rather than alternative to NPM. Stoker (1998) accordingly identifies five key features of governance: i) involvement of actors and institutions beyond formal government; ii) the blurring of boundaries and responsibilities for public policy; iii) horizontal power dependence between institutions; iv) the importance of autonomous networks; all of which results in v) that governments’ capacity to achieve results may depend more on indirect instruments than on command or authority. In this sense, governance entails a combination of radical instruments and inclusive decision making. It is in this sense that Norwegian public policy reforms come closer to the governance model than to the NPM model.

The central assumption behind much public policy reform in Norway, and indeed in the wider Western Europe, has therefore been that success is contingent on NPM designs being softened up sufficiently to fit prevailing institutions and norms. Hence the combination of radical instruments such as competitive tendering with consensual (if post-corporatist) decision making. However, although this constitutes an effort to improve the prospects for successful reform, it also contains a potential paradox in the combination of NPM and inclusiveness. Assessment of this kind of reform warrants more than sector-based studies, it invites focus on the implementation process and policy instruments. Hence the present choice of case study, which centres on recent efforts to introduce competitive tendering and contracting out in the care sector in Oslo and focuses on the process and instruments. Given the nature of the care sector and the potential for headlines of the ‘granny out to tender’ variety (e.g. *Aftenposten*, 8 August 2000) this reform was always going to be more controversial than previous tenders for e.g. refuse collection. A decision was therefore taken to combine a classic NPM instrument, competitive tendering, with new policy instruments relating to accountability, transparency and stakeholder participation as well as voluntary implementation co-ordinated across levels and a balance between private and public actors. Yet the reform can hardly be described as a success, largely because very little competition has actually been introduced in the Oslo care sector. In what follows, the reasons for this policy failure are explored, with a particular focus on instruments and implementation processes.

### **From New Public Management to New Governance: A Recipe for Soft Reforms?**

To the extent that many of the reforms associated with New Public Management in the UK under Thatcher and Major were seen as excessively hierarchical and rigid, and insufficiently inclusive, the new governance agenda offers a modification or reworking of reform processes to the extent that it is often seen as an alternative to NPM. The term has been closely associated with Labour's reforms since 1997 (see e.g. Richards & Smith 2002), with 'joint-up' governance constituting a response to the 'pathologies' of NPM and the fragmentation of government. Nevertheless, in Newman's analysis the governance narrative represents an effort on the part of the Blair government to bring together two strands, "on the one hand of renewal, transformation and innovation, and on the other of centralisation and the ratcheting up of control measures" (2001:viii). In this sense new governance is complementary to NPM rather than an alternative. If in the UK governance thus reflects different, softer or more inclusive approaches to what remains radical changes in public administration, can something similar be achieved in continental Western Europe, let alone consensual Scandinavia, without first going through the relatively radical shaking up of the system that NPM reforms provided in the UK?

#### *The New Public Management and New Governance in Scandinavia*

The above definition of New Public Management, in terms of disaggregation, competition and incentive-based management, captures a wide set of measures designed to modernise the public sector by increasing efficiency and effectiveness in the public sector (see e.g. Bouckaert & Pollitt 2000; McLaughlin, Osborne & Ferlie eds. 2002). Introducing competition into public service delivery lies at the core of this, and has required extensive disaggregation of many of the unitary departments or public organisations that characterised 'old public administration' and the proliferation of the aptly termed Non-Department Public Bodies (Walsh 1995; Ferlie et al. 1996; Greve et al 1999; Cabinet Office 2000). This has entailed considerable efforts to borrow from or introduce private sector incentive-oriented management practices, culminating in Ferlie's (2002) question as to whether 'quasi-strategy' is required for 'quasi-markets'.

The same themes came to feature heavily in Scandinavian public policy reform in the 1990s, albeit with Sweden and Denmark engaging in more radical reforms in more sectors than Norway (Schwartz 1994; Lane 1997; Læg Reid 2001). Nevertheless even Norway saw radical reforms in the utilities sectors, with rapid privatisation and extensive liberalisation in the telecommunications and electricity sectors. Scandinavian public sector reforms have therefore been extensively documented and analysed as NPM reforms, particularly in the local-language literature (Busch et al. eds., 2001; Sørensen et al. 1999) but also increasingly in English (Christensen & Læg Reid 1998, 2001b; Rhodes 1999). Despite the consensual nature of the policy processes radical reforms were launched, and saw considerable success in the shape of utilities liberalisation. However, perhaps the main critique of radical reform efforts has been led by Christensen & Læg Reid (2001), who suggest (1999: 184) that "the administrative reforms undergo a screening process whereby they are filtered,

modified and refined” if they do not fit the system. In other words, reforms fail or are severely altered if they do not fit the existing norms and institutions and are too much geared to the NPM-logic.

To be sure, even in Britain the reforms that gave rise to the term NPM immediately, and arguably inevitably (Dunleavy & Hood 1994; Dunleavy 1995; Hood 2000; Pollitt 2000), gave rise to a new series of challenges. The British experience has thrown up practical questions as to what use to make of the information gathered through new accounting and inspection regimes as well as how to ensure that users make informed choices; and about the trade-off and dilemmas involved in actual public sector reform (Bouckaert & Pollitt 2000); as well as more far-reaching questions related to the growth of regulation (Hood, James & Scott 2000; James 2000), bureaucratic competencies (Hood & Lodge 2003) and democratic accountability and transparency (Barberis 1998; Stirton & Lodge 2001). The main thrust of these analyses is however not that reforms failed because they jarred with existing institutions, but rather that public policy reforms entail inherent potential dangers, weaknesses, trade-offs and dilemmas, which in turn invites a focus on policy instruments and on implementation processes.

In this context the literature on new governance stands out in terms of its combined focus on modernisation and inclusiveness. The Labour electoral victory of 1997 and the changes in the British public sector reform agenda beyond NPM (as opposed to a reversal of NPM reforms) generated public policy initiatives that had much in common with the emerging literature on new governance. Analyses of government that focused on ‘steering’ beyond formal structures and addressed the changing nature of the state as a result of privatisation and liberalisation, provided a term that also captured many of the dynamics involved in the new government’s initiatives. For the purposes of the present argument, the key roots of the term ‘governance’ lie a long-running comparative politics debate on political capacities (Peters 2000) and the more recent debate on the ‘hollowing out of the state’ (Rhodes 1997), as well as thick institutionalist analyses of policy making in multi-level regimes such as the European Union (Bulmer 1993; Sedelmeier 2001). The combination of a softer approach to what remains market-oriented public service provision and stronger orientation toward the local and regional as well as supranational levels produced a series initiatives that come close to Stoker’s (1998) five central features of governance set out above: involvement of actors and institutions beyond formal government; blurred boundaries between the public and private sectors; horizontal power dependence between institutions; autonomous networks; and more use of indirect instruments beyond command and authority.

The British governance agenda is therefore to some extent predicated on earlier relatively radical NPM reforms in e.g. health care or education, and even here the records of and prospects for successful improvement of public services is at least hotly debated. Hence the central question of what the prospects are for reforms in sectors or states that have not gone through similar shake-ups. Much of the debate on public sector reform in Norway (regarding sectors that were not liberalised in the 1990s) reflects the complexity and multiple concerns set out in the governance literature, even if it does not explicitly refer to it. Central concerns include more reliance on indirect and informal instruments beyond command and control combined with introduction of a degree of competition and market-logic in public service

provision. Reforms tend to include explicit references to the roles of stakeholders, and at least implicit commitments to a balance between public and private actors and central and local authority. In this sense the reforms come closer to those set out in the governance than NPM models. Like the term NPM, 'governance' reflects as much analysis of developments as a recipe for action. Yet it corresponds closely to recent reforms in the Oslo care sector, which have been driven by the kinds of concerns that gave rise to much of the work on governance: modern public service delivery beyond hierarchical political-administrative systems.

*The Oslo Case as a Case of Governance Reform in a Consensual System*

The overall goal of New Public Management and governance type public policy reforms is improvement in public services. Not only is this notoriously difficult to measure and assess, at least in the short term, but part of the point of the governance debate is to focus on more than the easily measurable results in terms of the monetary cost of service delivery. In fact, for the reforms in Oslo three sets of goals were elaborated and set out in the City Government's (the executive branch) initial report (CCR 1/98) to the City Council (legislative). These three sets fit the governance agenda surprisingly well, as they combine the pursuit of improved services through competition and a degree of private provision that blurs the border between the public and private sectors; the quest for strategic political control and accountability rather than a complete switch to market legitimacy; as well as the elaborate and inclusive involvement of stakeholders in the reform and decision making process.

First, the overall goal was to change the structure of public service provision in the care sector through the introduction of competition. This is a matter of introducing effective competition based on agreed principles, a set of partial goals that is separate from the overall goal of efficiency gains (higher quality of service at lower costs). However, this entailed both the quest for free and fair competition on one hand, and on the other, a concern that the sector should not be taken over entirely by private companies. The key reform goal thus included an element of ambiguity, and in effect one goal became to secure a 'balanced outcome', competition without private monopolies replacing the public ones.

Second, the quest for overall democratic control of the reform process and its implementation and clear lines of accountability after the introduction of competition were central concerns of all the involved politicians at the outset. However, Oslo features a parliamentary system, and the minority Conservative City Government saw its initial proposals amended to include a higher degree of political control than initially envisaged. Because competitive tendering is controversial, the opposition sought to limit the executive's room for discretion. Twenty-four District Councils constitute a separate political and administrative tier and are responsible for care services, and their applications to introduce competitive tendering would now require approval from the Oslo legislature (not simply the executive). New systems of accountability would have to be developed.

Third, the executive emphasised the importance of employee involvement in the entire reform process, partly because this is legally required and partly in order to be able to take full advantage of the available expertise. Much the same holds for trade

union involvement. Although the Conservative executive did not explicitly call for union involvement, the strength of the trade unions' position in Oslo made this inevitable. The two goals linked to stakeholder participation were therefore, first, involving trade unions in the process in accordance with legal requirements and pacifying their opposition to the extent that reform is not blocked, and second, active involvement on the part of employees and accommodation of their key concerns. Paradoxically, involving employees proved more difficult than circumventing trade union opposition.

These three sets of goals are somewhat ambiguous and only partly compatible, thereby rendering the question of overall policy success or failure more complex. The notion of policy disasters and policy failures almost automatically accompanies any debate on public sector reform. Analysing spectacular large-scale failures in the UK, Dunleavy (1995) suggests that policy disasters are linked to the centralisation of power, rapid decision-making and pressure for ministerial activism in the UK system. However, he finds it more difficult to identify large-scale policy disasters in the rest of Western Europe. Part of the explanation for this probably lies in the differences between what Lijphart (1984) defines as the Westminster and consensual ideal-type constitutional systems. If so, the consensual systems' protracted and negotiated decision-making and multiple veto-points may generate fewer spectacular policy-disasters, but be more open to moderate and partial successes (Olsen & Peters eds. 1996; Peters 2000; Wollmann & Schröter eds. 2000). It is therefore conceivable that complete success is sacrificed at the altar of compromise, thus minimising the chances of complete failure. However, the central aim of the reforms the Oslo care sector, and indeed in broadly in the kind of reforms that are comprised under the governance label, is modernisation of public services by way of relatively radical transformation. This entails moving beyond the traditional command and control instruments of government, towards the use of indirect, market-type and persuasive instruments. An alternative to reform failing or faltering because they are too radical is therefore that success may hinge on the development of effective new instruments.

### **Beyond Command and Control: New Instruments, New Failures?**

In 1998 the Conservative minority Oslo City Government proposed introducing competitive tendering on a voluntary basis for the city's care services. At the time the city's twenty-four District Councils (varying in size from 7,000 to 33,000, some of which are directly elected and others of which are appointed) were responsible for care services, and the proposed reform would allow each District Council to apply for permission to introduce competitive tendering. To date only three units, in two Districts have carried out competitive tendering, hardly an overwhelming success from the Conservatives' point of view (early goals included some twenty cases of competitive tendering in the first few years). The following three sections explore the efforts made to design, introduce and operationalise new instruments with respect to each of the three sets of goals inherent in the reform, with a view to comparative assessment of the growth and success of such policy instruments and an overall assessment of the reasons behind the limited overall success of the reforms.

*Competitive tendering and the blurring of public private boundaries: Balanced outcomes*

The overall goal in of the reform process was the introduction of effective competition, or at the very least the implementation of some competition, in the care sector in Oslo. The overall goal was, and remains, that all care services in Oslo should eventually be exposed to the logic of free and fair competition. This goal was partly and tentatively achieved with the introduction of effective competition in the first two cases, but the introduction of competition also entailed an effort to avoid the mere replacement of a public monopoly provider with a private alternative. Yet the process has proven extremely slow and there are few indications that it is speeding up in the way that the reformers had hoped, even if early evaluations indicate that competitive tendering has yielded considerable improvement (Asplan Analyse 2003).

Because competitive tendering in the Oslo care sector was always going to be a matter of voluntary initiatives, in contrast to Thatcher's *compulsory* competitive tendering, simply achieving some competitive tendering was in itself an important goal. Although the balance of political forces in the Oslo legislature made for a narrow majority in favour of competition in principle, this majority was weak in the sense that other concerns frequently outweighed the principled pro-competition arguments. In politically sensitive sectors such as care services competition challenged vested interest linked to a number of parties, for example private religious nursing homes might also be exposed to competition. The 'soft' care sector was hardly the most obvious candidate for competition. Shepherding through a degree of competition was therefore set to be a precarious process. The combination of a parliamentary system at Oslo city level and a high degree of delegation to the twenty-five district councils added up to a complex decision making process, where successful reform would very much be a matter of 'muddling through'. Securing successful competitive tendering in a few early cases was therefore a paramount concern for the Conservative executive.

The key instrument deployed to secure this outcome was gradual, flexible and integrated procedures. In contrast to the earlier introduction of competition in refuse collection, where the market share open to competition (25%) was laid down by the city executive and the incumbent public provider excluded from this part of the market, the opening of the care sector was designed as a more gradual process. No target market shares were set, and no deadlines established. Administrative reform (the elaboration of the purchaser provider split) became an integral part of the process. The in-house service provider was transformed into an agency under the city government, and could therefore compete with the private bidders. The resulting process introduced competition very gradually, simultaneously with administrative reorganisation. In short, the local government system was given time to adjust to competition.

The result has been a successful introduction of competition in the care sector, but at a very slow pace. By the end of 2003, some seven years after the reform process began, only an estimated 13 percent of all Oslo nursing home places will be run by operators that have secured their contract through a competitive process. Despite a series of problems that have arisen along the process, linked to poor quality and the withdrawal of one private operator, the reform has been implemented without much open protest or opposition. Official estimates claim significant savings in the three first cases that

were exposed to competition. After some initial quality problems, official quality reviews indicate that results are improving. Six more cases have been tendered or are in the pipeline and expected to complete the process during the next two years. Yet inasmuch as this is a very slow process it represents a second best outcome as far as the goal of implementing competition is concerned. Competition is being introduced voluntarily, without much ‘noise’, and is yielding the expected results, albeit extremely slowly. The Oslo Conservatives have therefore declared themselves reasonably satisfied with the overall process.

Moreover, introducing competitive tendering also entailed an explicit effort to ensure that while private service providers should emerge, they should not monopolise the new market to the exclusion of the public provider (internal bidder). In other words, competitive tendering should not necessarily mean privatisation. Likewise, complete victory for the internal bidder and continued de facto public monopoly of provision would also be a problem. This became an issue because a few districts introduced competitive tendering in the care services, which in turn increased the danger that only private or only public bidders might win. The ideal goal of ownership-blind competition was therefore in effect amended to balanced competition, that is competition that ensured a balanced outcome, in the short term and for the first couple of tenders.

The instruments and strategies for handling competitive tendering were more than adequate to accommodate this goal of blurring and balancing public – private provision. The procedures laid down for tendering leaves a number of significant aspects of the process at the discretion of the district director (the highest administrative officer at district level). The very nature of competitive tendering in a sector such as care service entails a particularly careful balance between price and quality. In the Oslo case, in accordance with EU law, this allows a degree of negotiation between the tendering authorities and bidders. In the first case of a nursing home to be exposed to competition, a private bidder won the contract in what resembled a closed bidding process. Although the process consisted of two rounds, the competitors knew little about their relative strengths. In the second case, a more open and iterative bidding process was employed. Negotiations with bidders were more informative, with feedback that permitted a committed bidder to assess its relative competitiveness. Given the pressure on the internal (in-house) bidder due to its loss in the first case and its limited experience with market competition, this procedure was more advantageous than it was for the private competitors. In short, this procedure promoted a balanced outcome.

The outcome in the first two cases of competitive tendering in the Oslo care sector was indeed a balanced outcome. While a private firm won the first contest the second, more open, contest was won by the local authority’s in-house (‘internal’) bidder. Although there is no direct evidence that this change in tendering procedures was designed to enhance the internal bidder’s chances, the more open procedures used in the second case certainly benefited the internal bidder more than its experienced private rivals. Thus was a balanced outcome secured in the first two cases of competitive tendering in the Oslo care sector. At this stage competitive tendering was underway in only one other Oslo district, and the whole reform was widely perceived as precarious. The pace of reform may have been slowed down, and the question of its magnitude remains open, but the direction has not been distorted.

*Multi-level political control, accountability and transparency: Timid political strategists*

The goal of maintaining political control of the reform process was elaborated by the Oslo legislature rather than the minority Conservative executive (in the crucial 1997-1999 period of reform design). Although all political parties favoured relatively tight political control of the reform process, the legislative majority desired a higher degree of control than the executive proposed. While the centre-left wanted tight political control in order to contain reform, the far right desired tighter control in order to secure liberalisation and did not have faith in the executive's stamina. Consequently the legislative majority produced pressure for politicisation of the reform process, and centralisation of this process in the hands of the city government, or more specifically its legislative branch. The executive's preferred option – locating each specific decision to introduce competitive tendering at the district council level (CGP 40/99) – was thus defeated. It is noteworthy that the executive's preference corresponds to the standard distribution of competencies between the Oslo city government and the district councils.

Three means have been invoked for handling and maintaining political control. First, the district councils retain the competence to initiate competitive tendering. However, the power of approval has effectively been located at the city government level by reducing severely the threshold below which the district level can act without approval. Additionally, all care sector cases have been allocated to the city level, regardless of cost (CCP 336/99). Second, the city government introduced tight quality requirements in the care sector and established a city-level system of supervision, thus politicising what had until 1999 been administrative decisions (CCP 204/99). Third, relatively cumbersome procedures were laid down regarding preliminary assessment and decision-making before a district council may apply for approval to introduce competitive tendering, amounting to a five-phase procedure that can take as much as three years. The first five care cases all took more than 700 days from application (i.e. after completed assessments) to approval and implementation. The specific goal of (democratic) political control was achieved, but in a way that differed considerably from the executive's proposition. The explanation is relatively straightforward. At this level, decisions were taken by majority vote in the legislature and most key actors were thus directly or indirectly involved in the process. Consensual procedures secured compliance, although more reform-sceptic legislators (supported by trade unions) were able to draw out the decision-making process. A classic political power struggle, with opposition diluting and delaying the reform process.

The second element of political control, related to accountability and transparency, is more directly related to the NPM and governance literature. The explicit political goal that the local authority retains overall responsibility for care services entails securing political accountability when services are put out to competitive tender. In the context of NPM/governance reforms, this requires that the politicians become *strategists*. In other words, the role of the politician changes from active ombudsman-type case-by-case involvement to a more strategic role that entails developing overall strategy based on acquiring solid information. The somewhat ambiguous term *helhetstenkning*, loosely the equivalent of 'holistic governance', should replace day-to-day steering and

intervention in individual cases, or ‘detail steering’. This is the case at both district and city level. Although the main responsibility for care services remains with the district council, the city government has also accorded itself a role as far as quality control is concerned.

The key instrument for handling this transition is the ‘governance dialogue’, a formalisation of the notion that the politician’s role under NPM reforms of this kind primarily entails interaction (dialogue) with the service purchaser (tendering authority) and provider (winner of the tender), with focus respectively on prioritisation and efficiency. It was assumed that this would follow if the district councillors’ opportunities for direct intervention in specific cases were removed. In other words, if the politicians cannot be ombudsmen they will become strategists. The second key instrument was quality control. Quality control entails both establishing quality requirements and carrying out quality assessment. However, the instruments adopted leave considerable discretion inasmuch as they merely require that the quality control audits *may* be presented to the district councillors and the city legislators. Even where this information *is* forwarded, the political review is usually of a pro forma nature. Third, as emphasised above, the decision to introduce and approve competitive tendering in each case and to set the standards is a political one, shared between the two levels of Oslo local authority.

Yet, paradoxically given the consensus on this goal, it is difficult to avoid the conclusion that the outcome is a policy failure. Two out of the three instruments introduced have not worked, and the result has been the retention of the district councillors’ old political role. The ‘governance dialogue’ has turned out to be a vague norm rather than a guideline with specific content. The replacement for the ombudsman function has proven too imprecise. The new quality control instruments have not been accompanied by incentives to use these opportunities. Quality control remains an administrative affair at the local level. Elected representatives therefore do not even acquire the information necessary for fully functioning accountability and transparency, let alone assuming strategic roles. Only the mechanisms for shared decision-making regarding implementation of tenders has worked as envisaged, but even the new standards have proven difficult to operationalise. To be sure, part of the problem was that many of the politicians involved treated this as a non-issue, despite mandating change. But institutional design has exacerbated this problem, if it did not actually cause it. To the extent that accountability and transparency, or even politicians’ changing role, is an issue, it has been channelled into quality control questions. Yet the new mechanisms fail clearly to elaborate and distribute the tasks associated with competitive tendering and monitoring between the political and administrative levels. In particular, the assignation of the purchaser role to administrators has been questioned.

#### *Stakeholder participation, involvement and legitimacy: the failure of inclusiveness*

The third and final, and as it turned out most difficult, set of goals concerned stakeholder involvement in the decision making and implementation process. On one hand, the City Government sought to introduce a reform towards which the trade unions, and particularly the Oslo chapter of the local government public workers union (*Norsk Kommuneforbund*) were highly sceptical. On the other, at the same time,

these reforms were part of a broader effort to modernise public services and to transform public services into knowledge-intensive enterprises. Stakeholder involvement was therefore seen as means by which the circle could be squared: increasing the employees' direct involvement through new parallel procedures and thereby circumventing trade union opposition. As far as the executive's attitude to the unions was concerned this meant keeping union involvement to the minimum required by law and political reality, thus preventing union opposition from distorting the reforms.

The requirement that trade unions be involved in the decision making process is rooted in the Scandinavian corporatist tradition (Lijphart & Crepaz 1991), and this still holds even if there are some indications that union participation in decision making is becoming less formal (Blom-Hansen 2000). This consultation is therefore both a legal and political requirement, and the unions represent a de facto veto point in the reform process. As far as the centre-right City Government was concerned the motivation for union involvement was reinforced by its own minority status, a generally high degree of scepticism toward competitive tendering in the Oslo legislature and the consequent need to keep the level of 'noise' surrounding the reforms to a minimum. Since the early 1990s similar reforms introducing competitive tendering for refuse collection services had generated high-profile protest, including strikes, legal challenges and considerable media attention. This galvanised trade union opposition to further reforms, and delayed reforms as questions concerning the local authority's legal duties as employer remained in limbo for several years. Trade union involvement and acceptance was therefore considered a requirement for further introduction of competitive tendering, at least in such as sensitive area as care services. The initial goal was to limit this to the formal requirements and absolute political necessity, but the strength of the unions enabled them to secure a partner's role in the decision making process.

This effort to involve the trade unions and secure their support for, or at least acceptance of, reform was facilitated by an open decision making process. A pilot project was launched in advance of the final decision to adopt the reform, in order to develop a recipe for competitive tendering as part of the full policy package. Whereas union involvement in working groups is the norm, they also participated on the board that wrote the report on the pilot project, thus shaping the basis for the final city government decision on reform. This meant that the unions played a substantial role in defining the key questions addressed on the pilot project, and in shaping the findings. Because this pilot (in one district) overlapped with and became an integral part of the central decision making, the unions acquired substantial delaying power. The government – union Contact Group established a special two-member working group that settled controversial design questions, consisting of one representative from the executive and the head of the main trade union.

In the event, this resulted in a classic compromise solution: the executive avoided running the risk of strong opposition, at the cost of slow reform. Through traditional power politics the unions not only delayed the process, but also distorted it. The possibility to introduce new questions during what became a protracted pilot project prompted a series of new problems. These were the subject of debate and negotiation both at the district level (where the pilot was running) and the central level in Oslo, thus considerably increasing the complexity of the reform process. Three matters were

particularly important. First, exploration of alternative forms of modernisation without competitive tendering was mandated. Second, the above-mentioned centralisation at city government level of decisions regarding each case of competitive tendering in the care sector was stipulated. This increased trade union influence because it is easier for an organisation with limited resources to shape a decision at one single level than in twenty-five separate bodies. Third, the unions secured procedures for consultation and participation at all stages of each case of competitive tendering, thereby rendering these processes far more cumbersome. In short, the procedures for introducing competitive tendering became far more complex than originally intended, a far cry from the streamlined procedures associated with the UK.

The other side of the coin proved even less promising from the executive's point of view, despite the overall enthusiasm for stakeholder involvement. Modernisation of the public sector is associated with the notion that the employees constitute a valuable resource because of their expertise, commitment and experience. In other words, the modern public organisation is very much a knowledge-based enterprise. Top-down administration or command is being replaced by more informal consultation (Kooiman 2003). Active involvement of the employees was considered a prerequisite for successful reform in Oslo inasmuch as they held the information necessary for elaborating the specifications of the tenders. Moreover, if the local authority was to establish a competitive internal bidder, as envisaged in the reform, employee expert input was indispensable. This entailed more than simply drawing on the expertise of key employees, it signalled an inclusive approach to stakeholder participation in the reform process. If reform meant modernisation, it entailed a shift away from the traditional corporatist pattern of representation to a more participation-oriented form of employee involvement. In other words, most employees would be directly involved at some stage or other in the process, and this became a recurring theme that was repeatedly impressed upon employees.

The key instrument for encouraging employee participation was the establishment of working groups throughout the reform process, supplemented by meetings to disseminate information and formal channels for input into the reform process. This setup was designed as a parallel process to the formal corporatist system. However, the union-driven corporatist dynamic, discussed above, came to overshadow these more innovative participatory forums. Direct participation failed to live up to its promise, and this parallel arena was not fully exploited, partly because it increasingly became perceived as a pro forma system. Employees reported dissatisfaction with the degree and type of participation, and saw decisions as having been taken in advance and merely legitimised through these procedures. The ambitions were not matched by institutional reforms, and to the extent that they were the new mechanisms that were designed resulted in elite participation rather than broad employee involvement. Mass meetings were used (and perceived) primarily as a means for disseminating information rather than as channels for two-way communication. 'Suggestion-box' mechanisms conducted messages up the hierarchy, while meetings developed rituals and one-way information from the top down. The input from below 'disappeared' inasmuch as it did not generate feedback, while the information from above increasingly became perceived as reports of decisions that had already been taken. In short, the institutional mechanisms designed to promote innovative forms of employee participation ended up reinforcing existing patterns.

Strictly speaking the effort to involve employees in the reform process on a more participatory basis was therefore a failure. Whereas trade union involvement was based on legal concerns and procedural requirements but resulted in the unions gaining de facto partner status, employee involvement was based on the assumption that a knowledge-based organisation could benefit significantly from their expertise but ended up close to pro forma consultation. At least this was the case for the vast majority of employees. Nevertheless, key employees were involved in both the design of competitive tendering and its practical implementation, as were of course the trade unions. The effort to develop new, innovative and more direct forms of employee participation therefore failed, and more traditional forms of employee consultation and representation were maintained.

### **Failure in New Governance: Weak Instruments and Strong Opposition**

In Norway, as elsewhere, much has been made of the emergence of ‘new’ instruments of government. These are said to move government activities beyond ‘command and control’ towards the use of indirect, market-type and persuasive instruments. The debate on public sector reforms has moved beyond the New Public Management agenda and the focus on introduction of competition and incentive-based management, to a broader agenda that is captured by the literature on new governance. Even if the Oslo reforms discussed above were not explicitly cast with reference to this literature, much of the logic behind the reforms reflects efforts to combine the market- and competition-oriented elements of NPM with more inclusive decision making and a focus on new mechanisms for political control, accountability and transparency. However, whereas a much of the debate in the UK has centred on how to move beyond NPM reforms and address the problems or challenges inherent in these reforms, several other European states including Norway have sought to implement reforms that in effect represent an effort to find a ‘short-cut to new governance’. The present case study indicates that the main difficulties lie not in the fact that these reforms are too radical or do not fit prevailing norms and institutions, but rather in a combination of classic power politics and weak new instruments.

Overall, the effort to introduce competition into the care sector in Oslo can hardly be described as an overwhelming success. Yet if it is a failure, it is not completely so. A (very small) degree of competition has been introduced, and it is slowly expanding. Opponents of competitive tendering have effectively both delayed and watered down the process, but have not blocked it completely. This modicum of success, which is closely related to the effort to secure that the first two tenders did not both produce in private sector winners, can be put down to a combination of a consensual political process and the use of voluntary procedures and flexible instruments for implementing competition. In this case, from the executive’s perspective, the reform has been a (severely) limited success. Indirect persuasive instruments have at least prevented complete failure and contributed to keeping the political noise level down. However, effort to alter the politicians role to a more indirect one and operationalise new indirect instruments of control, let alone new accountability and transparency mechanisms have fared less well, largely because the instruments were inadequately developed or used rather than due to political opposition. Much the same can be said for the effort to involve stakeholders and circumvent traditional trade union

opposition. As far as union influence is concerned this again reflects power politics and decision making procedures, but the same cannot be said with regard to the effort to develop a more inclusive approach to implementation and operationalisation. The effort to involve stakeholders was widely welcomed (even by the union that it was partly intended to circumvent), and failed exclusively because of weak, underdeveloped or unused instruments. The overall conclusion is therefore that the reforms suffered from a combination of weak instruments and political opposition: power politics prevented the marginalisation of the unions and the introduction of extensive reform, but even for aims that were not strongly opposed weak instruments rendered reforms problematic (in terms of accountability and stakeholder participation). Only the quest for a ‘balanced outcome’ between the public and private sector can be described as a success, and this came at the cost of slow reform.

Returning to the question of efforts to find a short-cut to new governance, the present case indicates that, unsurprisingly, softening up NPM-type reforms entails a risk of slow reform or even grinding to a halt. Governance reforms involve far more complex processes than the mere softening of the NPM agenda sometimes advocated in the Scandinavian debates. The big challenge is designing and operationalising robust instruments, and this comes in addition to circumventing or neutralising actors that oppose reform. In consensual systems, central actors may retain the power to shape both the progress and scope of reforms. However, even with this problem in mind, aspects of reforms may fail simply on the question of weak policy instruments. Short term successes such as balancing private and public actors may come at the cost of long term dilution of reforms. Even where they are welcomed by all central actors, the growth of new policy instrument beyond command and control is no guarantee that they will be used successfully. And it is in this sense that the failure of governance reforms in Oslo are surprising. That actors with political power may shape the outcome of reforms in a consensual system is hardly surprising, but the fact that the aspects of the reforms that carry broad support and are broadly compatible with consensual systems yield unimpressive results raises new questions about policy failures in consensual democracies.

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