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REVIEW: TRANSPARENCY AND BETTER GOVERNANCE

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Christopher Hood and David Heald (eds), **Transparency: Thy Key to Better Governance?** (Proceedings of The British Academy), Oxford: Oxford University Press for The British Academy, 2006, 231+xiii pp, hb, £30, ISBN 978-0197263839.

It was not until I was almost at the end of this stimulating if ultimately inconclusive collection of papers that I realised that my task as reviewer had been usurped in advance by one of the editors. For this is a book that provides, in the closing chapter by Christopher Hood, its own review. It is also a book whose honesty is conveyed by question marks: first in its title and then in four of its thirteen chapters, including the final one, 'Beyond First Principles?'

It is difficult not to agree that the question marks are necessary throughout. This collection clearly reveals that if we too easily assume that transparency, openness and freedom of information [FOI] (not synonyms, but elements of the same phenomenon, as several of the contributors, notably David Heald, Christopher Hood and Onora O'Neill either say or imply) are unequivocally good for the body politic and the practice of government, then we either delude ourselves or fail to think clearly enough about motivation, response, cause and effect.

At first blush, 'transparency' is clearly a 'hurrah' word. The more we know, or can see, the better off we are. The more we know, the more accountable are those who are set in authority over us, whether in the public realm of government or in the private world of corporate reporting. But anyone who has had the experience of trying to make accountability, transparency and

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perhaps, that transparency is a matter that excites those who claim to represent the public good more than it excites the public themselves.

As Chair of a major public corporation in Scotland, covered by the provisions of the Freedom of Information (Scotland) Act (not mentioned, despite its broad terms and tough enforcement provisions, incidentally, until p.134 of the book), I saw how the company's behaviour, in areas such as minuting and the content of emails, was modified in response to the Act's requirements. More positively, perhaps, the requirements of the Act, and the manner of its enforcement by the Information Commissioner, led to an operating assumption that since almost everything would become public eventually, we might as well publish papers proactively as soon as they had been approved by the Board. The exception, because Scottish Water is a public sector company trading in a market where competitors are not covered by FOI, was commercially sensitive information. Even here, we were never sure that confidentiality could be maintained in the face of FOI. Several contributors to this collection touch upon the drive for transparency in the business world, particularly in the light of the dramatic corporate failures of the last few years. It is probably because privatisation has left us with so few public corporations that the specific impact of transparency on the public body, trading in the market and regulated by the state, gets no consideration here.

A *leitmotif* of this book is that the impact of transparency, and the responses of those affected by it, are often asymmetric, despite the fact that the movement towards transparency was driven at least in part by the desire to ensure that the governed and the governors are on a level playing field. A regulated business, in the public sector as in the private, knows that its business plan, the document that indicates how it will meet its owners' objectives within the regulatory rules, is inevitably a public document. When the owners are politicians, the value of transparency sometimes comes up against the political imperatives of ensuring that news is always good and that bad news should, where possible, be concealed. It is comforting to find that this tension between transparency by publication and the short-term political advantage sought by politicians is not peculiar to the goldfish bowl that is the public sector in post-devolution Scotland.

Taken as a whole, this collection is admirably argued, intellectually stimulating and comes to only the most tentative of conclusions. The editors and contributors cover a wide range, question easy assumptions and are not afraid to disagree with each other, notably on whether transparency is an ultimate value that counts as a basic human right, as argued by Patrick

openness work knows that it is not as simple as freedom of information enthusiasts would like us to believe. For one thing, as Alasdair Roberts shows in discussing how governments, especially in Canada, have changed both their behaviour and the rules in order to ensure that a distinction remains between transparency as a value and transparency as a guide to conduct, a frequent response of those whose actions are to be made transparent is to invent new bureaucratic practices aimed at undermining the drive for openness. The title of Roberts' paper, 'Dashed Expectations: Governmental Adaptation to Transparency Rules', is a lapidary summary of how governments tend to respond to freedom of information policies.

For another, as Onora O'Neill shows in the most intellectually challenging contribution, it is far from clear that the rise of transparency as a principle of governmental practice has achieved the result most sought by its champions: an increase in the trust shown by the governed for the governors. If we accept Hood's view that the rise of the modern transparency 'movement' can be dated from the sixties and seventies (earlier in the USA, a little later elsewhere), a view supported by the dates at which various democracies introduced FOI legislation, it is not immediately apparent that the 35 to 40 years since have been characterised by a rise in trust in, or a decline in contempt and cynicism towards, the activities of elected governments. Quite the reverse, if survey evidence is to be believed. O'Neill's most powerful insight is to challenge the assumption that legally enforced disclosure always leads to the provision of information that is useful to the citizen in mediating his or her relationship with the state.

In a professional lifetime in and around government and the public sector, this reviewer has had various experiences which are relevant to the themes covered in this book. As a councillor, in the early 1970s, as part of a majority party that thought of itself as seriously radical, I argued for, and helped to introduce, a modest reform in the direction of transparency. In advance of legislation that made it mandatory, we opened committee meetings to press and public. Looking back, a number of the issues raised in this book were apparent then. We ridiculed the opposition for saying that the public would be confused by having 'too much information', but that suggestion is not so far from O'Neill's question about the utility of the information provided. The opening of formal decision making was accompanied by an increased incidence of private 'caucus' meetings to determine the 'line' before it saw the light of day at committee: 'government adaptation', in Roberts' phrase. And the public came only very occasionally, and the press not much more often, suggesting,

Birkinshaw alone, or an instrumentality, a means to an end, as argued by David Heald and implied by others. Birkinshaw's argument is passionate and elegant, but ultimately unconvincing. Heald's is evidence based, sometimes conveyed in jargon, but much more grounded in the real world. That disagreement is explicable by noting that Birkinshaw's argument is based in the law and Heald's in economics and politics. By preferring the latter to the former, I may be doing no more than parading a prejudice, but it is a prejudice that has been validated by experience.

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