



LJMU Research Online

Panara, C and Varney, M

Multi-Level Governance in the EU and EU Democracy: Democratic Legitimacy, Democratic Accountability and Transparency of the European Offices of the English Local Authorities in Brussels

<http://researchonline.ljmu.ac.uk/id/eprint/6191/>

Article

Citation (please note it is advisable to refer to the publisher's version if you intend to cite from this work)

Panara, C and Varney, M (2017) Multi-Level Governance in the EU and EU Democracy: Democratic Legitimacy, Democratic Accountability and Transparency of the European Offices of the English Local Authorities in Brussels. *Regional and Federal Studies*. 27 (2). pp. 153-170. ISSN 1359-7566

LJMU has developed [LJMU Research Online](http://researchonline.ljmu.ac.uk/) for users to access the research output of the University more effectively. Copyright © and Moral Rights for the papers on this site are retained by the individual authors and/or other copyright owners. Users may download and/or print one copy of any article(s) in LJMU Research Online to facilitate their private study or for non-commercial research. You may not engage in further distribution of the material or use it for any profit-making activities or any commercial gain.

The version presented here may differ from the published version or from the version of the record. Please see the repository URL above for details on accessing the published version and note that access may require a subscription.

For more information please contact researchonline@ljmu.ac.uk

<http://researchonline.ljmu.ac.uk/>

Democratising Multi-Level Governance in the EU by Promoting Democratic Legitimacy, Accountability and Transparency of the European Offices of the English Local Authorities in Brussels

Dr. Carlo Panara,
Reader in Law,
Liverpool John Moores University,
Redmonds Building
Brownlow Hill
Liverpool
L3 5UG

C.Panara@ljmu.ac.uk

Tel: 0151 2313649

Dr. Mike Varney (Corresponding Author)
Senior Lecturer in Law,
Law School,
The University of Hull,
Hull,
HU6 7RX.

M.R.Varney@hull.ac.uk

Tel: 01482 465735

Multi-Level Governance in the EU and EU Democracy: Democratic Legitimacy, Democratic Accountability and Transparency of the European Offices of the English Local Authorities in Brussels

By Carlo Panara* and Michael Varney*

Abstract:

This paper seeks to examine the role and functions of the representative offices of English local authorities in Brussels by considering the democratic legitimacy (i.e. linkage to elected councillors or mayors), accountability and transparency of the office's activities. Representatives of each of the offices studied were interviewed by the authors and an examination of documents relating to the governance of the offices was also undertaken, resulting in a substantial amount of new data on the activities of the offices. The study demonstrates that the offices differ in their governance arrangements and funding, which has a direct impact on the approach to democratic legitimacy and accountability, noting that those offices which rely most heavily on direct funding from a single authority or a combined authority have the closest links to the authorities concerned. The transparency of the offices varies considerably, with clear distinctions between offices that are creatures of contract (i.e. where authorities have contracted out the activities of the office) or where offices are an emanation of the authority concerned and are thus in the public sector. The pattern here is less dependent on the pattern of funding of the office and depends more on the availability of resources and the approach adopted by the office itself. The article presents a substantial amount of new data on the activities of the offices and their approaches to legitimacy, accountability and transparency. It also seeks to demonstrate that the offices are increasingly important in tying together the territorial and functional interests in a locality in order to represent them at the European level.

(A) Introduction

(i) Aim of the study

The aim of this article is to evaluate the democratic legitimacy, democratic accountability and transparency of the European offices of English local authorities, particularly in relation to the lobbying activity they carry out in Brussels. We would like to answer a fundamental question – to what extent is an office a loyal projection of the local community on the EU level, i.e. to what extent is the office linking effectively the people in the

jurisdiction of the local authority concerned with EU law-making and policymaking?

First, this research will evaluate the democratic legitimacy and democratic accountability of the offices. By democratic legitimacy we mean that the fundamental decisions of the offices concerning the identification of their strategic goals and lobbying priorities shall derive, directly or indirectly, from the people or their representatives. By democratic accountability we mean that the offices shall be held accountable by bodies comprised of democratically elected representatives in relation to their action on the EU level.

Second, the paper will consider the transparency of the offices. Transparency is key in a democratic setting. Only if the offices communicate effectively with the councils and inform the public effectively about their activity, the people and their elected representatives will be able to understand the work of the offices and make the most of their services. Also, transparency is essential to the accountability of the offices. Without information on their work, it would be impossible to assess the performance of the offices in a meaningful way.

We have found that the approach to the selection of priorities for the offices varies significantly. We found no examples of direct consultation of citizens on the offices' policy priorities. Greater Manchester is an example of consultation of stakeholders. There are offices which feature a stronger involvement of the elected councillors in their governance (East of England, Cornwall), however most offices are executive-led in that their direction is determined by the Mayor's Office (London), or by the leaders of the local authorities concerned (Liverpool City Region). Due to the technicality of many EU-related matters, a key role is played by offices and services within the local authorities (this is particularly evident in relation to the European and International Service within Bristol City Council, but also within Cornwall Authority there are a number of teams that are involved in economic development and that contribute regularly to the direction of the Office). A number of offices (Bristol, Southern England, Liverpool) engage in regular communication with local stakeholders. However, this two-way dialogue is between the Office and certain stakeholders (universities, business organisations) and not with the larger community, 'the public'.

The input of local councils into the accountability of the offices varies. Some offices have accountability mechanisms involving the councils (particularly East of England and Cornwall). However, it should not be

forgotten that the councils may exercise some power on the offices via their general budgetary power. This power is stronger where a single authority provides the entire funding for the office (for example, Bristol), than in settings in which each individual authority only contributes a small amount to the overall budget of the office (for example, East of England or Southern England). EU issues are often reported only to the leaders of the borough councils and to senior officials and these issues are not usually discussed within the councils. Two-way communication is largely absent. This is not necessarily due to the approach taken by an office, but to the lack of adequate expertise and resources within the councils and possibly also to the lack of interest in the EU by some local councillors.

Most offices do not engage in public consultations. It is clear that some offices do not undertake wider public consultation because they do not have the resources to do so. Others felt that aggregation of public opinion was a job for elected representatives and those who work in the offices, as local government officials, ought not to be involved in such activities.

The offices make a wide-ranging use of websites and social media to publicize their work and to inform the public about relevant policy developments taking place in Brussels. An issue that some of the offices are facing is the limited resources and staffing for maintaining or regularly updating a website or operating a newsletter. The offices often interact with a very small portion of the community and this limitation certainly impairs their ability to represent the wider community effectively on the EU level.

The offices state that they will disclose any non-confidential information upon request from members of the public. Due to their limited staff and resources, though, they might struggle to accommodate more than a very small number of requests. All the offices and the local authorities that they represent are subject to the FOIA.

(ii) Scope and methodology

This research covers 10 of the 13 currently operational European offices of the English local authorities: Access Europe Network (London); Bristol City Council; City of London; Cornwall Authority; East of England Local Partnership; Liverpool City Region; Local Government Association (LGA); London (Greater London Authority); New Economy Manchester (Greater

Manchester); Southern England Local Partners. Greater Birmingham and West Midlands Brussels Office, Kent Brussels Office and Northamptonshire County Council Brussels Office – which is currently being restructured – could not be covered. As the work of the City of London office and Access Europe Network (London) is not directly comparable to that of the other offices we have studied, we do not address them in detail here, though we seek to draw upon points of particular relevance raised in the interviews.

We chose to limit the focus of the article to the English local authorities and not to include the offices of the devolved administrations which abide by different constitutional rules and occupy a different space in the constitutional structure.

In carrying out this research, the authors have undertaken semi-structured interviews, some in person and some by Skype or telephone with the directors or other relevant representatives of the offices concerned. Details of the key features of offices whose staff have been interviewed can be found in the tables in the online appendix. Each interview was semi-structured and guided by a set of questions generated by the authors in advance. The questions covered all the previously indicated themes (democratic legitimacy, accountability and transparency).

(iii) Contribution to the Literature

Despite the abundance of studies analysing the activity, organisation and impact of regional offices in Brussels, this is the first study dealing specifically with the question of the democratic legitimacy, accountability and transparency of the English offices. Rowe devotes a chapter of her book on the regional offices to their accountability. However, its focus is essentially limited to the ‘constitutional regions’, such as, the German *Länder* and the devolved administrations in the UK. She does not examine the European offices of English local authorities. In relation to the ‘administrative regions’, a group that clearly includes these authorities, she observes that there is a deficit of political control of the offices by elected governmental bodies within the region (Rowe 2011, 205-206).

Greenwood’s 2011 article on the regional offices applies the principal-agent theory to the activity of the offices. He comes to the conclusion that offices of ‘highly devolved’ regions (such as the German *Länder* and the Spanish Autonomous Communities) tend to be the *longa manus* of the regional government and to be mere ‘delegates’ of the regional

government. Those of 'medium devolved' regions (such as the English local authorities) tend to have more autonomy and to develop their independent European agenda (i.e. they tend to be 'agents' rather than 'delegates'), in this way connecting the EU more effectively to wider civil society (Greenwood, 2011, 2014). The evidence offered by Greenwood in support of the larger autonomy of the offices of the medium devolved regions is essentially the wider range of policy areas they cover, compared to the highly devolved regions. However, a broader agenda, per se, does not necessarily mean that the interests of the local community are more democratically and effectively represented by the office. Moreover, it would appear that in Greenwood's analysis 'civil society' is something different from what we would describe as 'local community'. Whilst the latter would include *all* the members of the community, civil society might reflect a smaller portion of the community; i.e., that portion whose interests are effectively organised and represented by associations or other organisations.

Overall, the body of literature on the European offices of the English local authorities is rather small and does not deal with our research question (John 1994, Macneill, Jeffery and Gibney 2007, Sykes and Lord 2011).

(iv) Wider theoretical framework and added value of this research

This study is relevant not only to UK public law, but also to the wider debate on multi-level governance (hereafter MLG) and democracy in the EU. At a very general level, MLG indicates the dispersion of authoritative decision-making across multiple players at different territorial levels within the EU (Hooghe and Marks 2001, xi). It also indicates the participation of sub-national players and their impact on EU policymaking (Marks, Hooghe and Blank 1996, 356-69; Hooghe and Marks 2001, 12-24). This situation has led scholars to investigate more closely the relationship between MLG and democratic legitimacy (for example, Piattoni 2009, chapter 11; Benz 2010, 223-25) and particularly the contribution of local and regional authorities to democracy in the EU (Pernice 2002, 11; Cygan 2013; Panara 2015 and 2016).

There are at least two streams of research in relation to this aspect. One focuses on the role of national and sub-national parliaments and democratically elected assemblies in the EU (Abels and Eppler 2011 and 2015). The second is a wider approach that takes into account a number of policymaking avenues, including less structured channels, such as lobbying, and particularly the activity of the European offices of the sub-national authorities. This study is situated within this second stream and focuses on the European offices and their role.

There is a strong suggestion emerging from political documents of EU institutions and bodies (Commission's White Paper on European Governance of 2001; Committee of the Regions' White Paper on Multilevel Governance of 2009; European Parliament resolution of 14 January 2003 on the role of regional and local authorities in European integration, point 4), as well as from academic literature (Greenwood 2011; Mangiameli 2006, 460-462 and 475-476; Panara 2015, 173 and 2016), that the involvement of local and regional authorities in the EU decision-making could improve the democratic quality of EU policymaking. In contrast, the views of a number of other scholars are quite pessimistic in this regard (Peters and Pierre 2004). DeBardeleben and Hurrelmann (2007: 240) argue that whilst MLG is likely to increase 'output legitimacy' (the problem-solving capacity of the EU), it is also likely to reduce 'input legitimacy' (essentially, democratic legitimacy) because of increased difficulties in calling leaders to account. A study of the activities of English local authorities is particularly important because there is already significant knowledge available in relation to the so-called 'constitutional regions', such as the German *Länder* and the Italian regions, and how the regional parliaments hold the offices to account and intervene in determining their agendas (Panara 2015, chapter 5; Rowe 2011, chapter 6). There is a gap in the literature concerning the democratic legitimacy, accountability and transparency of the offices of the *local* authorities and particularly of the English authorities. Some might argue that a comparison between the approach of English local authorities and cities in Germany might be more appropriate. We believe that given that many offices that we examine are created by combined authorities representing city regions, by large counties, or are emanations of large cities with a relatively wide geographical scope such as Birmingham or Bristol, so they are not directly comparable with the German cities.

(v) The impact of the Brexit referendum

Following the result of the recent referendum held in June 2016 ('Brexit'), English local authorities will no doubt have to reconsider their external engagement with players from outside the UK and will have to develop a new strategy concerning their international relations and those with the EU. For the time being, until the Brexit negotiations have been completed (i.e. at least for the next two or three years depending on when Article 50 TEU is triggered by the UK government), Britain remains a full member of the EU. At present the status of the UK at the end of the negotiations under Article 50 is largely unpredictable. What we know is that sub-national authorities from some non-EU countries belonging to

the European Economic Area (EEA) operate offices in Brussels. This is for example the case of the Norwegian regions and it is principally due to the fact that Norway contributes funding to INTERREG, Horizon 2020 and other programmes. Should the UK after Brexit continue to fund these schemes, UK stakeholders would remain eligible for these sources of funding. Some or all UK sub-national authorities may therefore decide to maintain their offices in Brussels. Also, if and when the UK withdraws from the EU, along with the right to vote in the Council, both the UK government and certain UK sub-national organisations (the City of London, larger cities etc.) might need to lobby the EU in relation to those policies which will continue to impact upon the UK (e.g. standards of quality of UK products marketed in the EU, public procurement, EU workers' rights in the UK etc.). They are therefore likely to continue to need representatives in Brussels to lobby the EU and maintain a link between the local community and the EU.

We will demonstrate below that most of the offices examined have the securing of EU funding as an important part of their remit. It may be that at least some of these offices will be threatened should the UK withdraw from all EU funding regimes and this no longer be eligible for EU funding.

(B) Context

There is no legislation which directly permits or envisages the creation of representative offices, although the legality of their establishment has not been challenged in the courts. Since the coming into force of the general power of competence contained in section 1 of the Localism Act 2011, there is no doubt that local authorities in England enjoy the competence to create such offices.

In the absence of a uniform legal framework governing the offices, there is considerable variation in the manner in which such offices have been created and are operated, in their size, budget allocation and number of employees and also in their territorial scope, with some offices representing a single local authority (e.g. Cornwall, Bristol) and others representing a large number of authorities (e.g. East of England, Southern England). Some offices are created and paid for directly by the local authority or authorities concerned, perhaps with contributions from other organisations with an interest in European policymaking such as universities, whereas other local authorities have adopted what might be described as a 'procurement model', where the services are put out to tender and are provided by a commercial provider.

English local authorities have a fundamental role in fulfilling many of the requirements of EU law (Varney 2013, 353-355; Guderjan 2015). Under Part 2 of the Localism Act 2011, local authorities could face shared liability with the UK central government should a financial sanction be imposed for an infringement of EU law caused by a local authority. Thus, authorities have a clear interest in being effectively engaged in influencing EU law that might affect them.

Given the general policy of economic austerity in the UK and the particular need for local authorities to reduce their expenditure due to reductions in support from the central government of around 40 per cent in the period from April 2011 to April 2016 (Independent Commission on Local Government Finance 2014, 15), local authorities in some areas of England have chosen to reduce or even remove their European representation in Brussels. Jeffery's (1997, 183) survey of local authority representation in Brussels counted 29 UK sub-national offices in Brussels, 20 of which were English. The need for local authorities to reduce costs and the abolition of the Regional Development Agencies (RDAs) by the Public Bodies Act 2011 may explain some of the closures. Although new Local Enterprise Partnerships (LEPs) have been created and were expected to take on many of the functions previously fulfilled by RDAs, this has not always been the case, because LEPs do not receive central government funding.

The Director of London based company Access Europe Network pointed out to us also another possible reason for the closure of Brussels offices. This is the smaller importance of a direct link with the EU compared to a few years ago. Nowadays a great deal of information concerning EU funding is available online and to have someone *in loco* is no longer seen as indispensable. Moreover, within the new financial framework of the EU, structural funding is allocated to the national government. Local authorities can bid for that funding, but this requires negotiation between the UK government and the local authority, not lobbying on the EU level.

(C) Democratic legitimacy and accountability

(i) Consultation of the public

Greater Manchester is the only example of office whose strategy-making involved consultation of the public. The priorities of the publicly owned company New Economy Manchester, responsible for the Brussels Office, are set by the Strategy agreed in 2013 (Greater Manchester Combined Authority 2013) and the Brussels services' lobbying activities shall pursue the objectives contained therein. The Strategy was drawn

up by the local authorities that constitute Greater Manchester following public consultation. Compared to the smaller and more closely defined lists of key objectives of other European offices, the lengthy and overarching 2013 Strategy of Greater Manchester (77 pages) lacks precision on the exact objectives and targets to be pursued on the EU level. In the entire document the only reference to the EU is a reference to the European Regional Development Fund at page 70. If the Strategy is the sole yardstick used to assess the performance of New Economy, it could be difficult to assess whether the objectives have been served. New Economy is accountable to the local LEP, whose Board includes a number of local authority members (Greater Manchester LEP 2016) and to a working group comprising of representatives of Greater Manchester's local authorities. The bodies involved in the accountability of the company do not normally supplement the Strategy with additional instructions for the Brussels based office, because it is felt that the guidance provided by that document is adequate. Therefore, New Economy seems to enjoy considerable autonomy in developing a more detailed European agenda for Greater Manchester. It seems to be an 'agent' rather than a 'delegate' of Greater Manchester (Greenwood 2013, 437).

(ii) The involvement of local councillors in the governance of the offices: the 'democratic deficit' of the offices

Executive-led offices

Some offices appear executive-led in that they receive more detailed guidance from the executive members of a local authority. Here the European strategy is normally the result of a dialogue between the office and the democratically legitimated executive power. The input can be 'top-down', from the local executive to the office, or 'bottom-up', from the office to the local executive. This is the case of London's European Office and of Liverpool City Region. In the case of London's European Office, the structure of government in London places significant executive powers in the hands of the elected Mayor. As such, much of the accountability of the Office and its democratic legitimacy derive from the Mayor. The Office's priorities are decided in London by the Unit of Government and EU Relations (top-down). However, the Office itself often highlights to the Unit and the Mayor a need for action on the EU level (bottom-up).

The degree of accountability of the London's European Office is comparatively strong. The Unit of Government and EU Relations reports directly to the Mayor's Chief of Staff. It is possible for councillors from the

London Boroughs (the local authorities in London) to seek the assistance of the Brussels Office, but such requests will usually have to be endorsed by the Mayor or the Mayor's office. The Mayor's office has strong control over the Brussels Office and members of the Brussels Office return to London three or four times a month to provide progress reports and to receive instructions.

This kind of oversight and accountability is strong also because the Mayor's office provides the vast majority of the funding for the Brussels Office and therefore exerts considerable control and influence. This model is important because it may be an indication of what might come in the future in other areas. The Cities and Local Government Devolution Act 2016 provides in sections 2 – 5 (which insert new sections 107A-107G of the Local Democracy, Economic Development and Construction Act 2009) for the potential for new combined authorities to be led by an elected mayor, who would likely enjoy considerable executive powers. However, a combined authority will only have an elected mayor if the authorities which constitute the combined authority request this model of governance under s. 107B of the Local Democracy, Economic Development and Construction Act 2009. This model of mayoral oversight may be attractive in the sense that it provides direct accountability of the office to the major funder, but may bring the disadvantage that the office is to some extent distanced from the local councillors because the mayor exerts greater influence over the office. Prior to the creation of the Combined Authority, the Liverpool City Region Office (until 2014 called Merseyside Brussels Office) was accountable to its subscribers mainly in an *ad hoc* manner. The main chain of accountability was to senior executive (i.e. non-elected) officers of the subscribing local authorities, who used to come together in a quarterly forum (Panara 2015, 144 *et seq.*). The creation in 2014 of the Combined Authority has brought about a greater degree of political oversight of the Brussels Office's activities. There is some evidence that the elected members of the Combined Authority (i.e. the leaders of the local authorities concerned) are involved in this process. In June 2015, for example, the Combined Authority approved a list of priorities proposed by the Director of the Liverpool City Region Office in consultation with other officials of the Combined Authority and stakeholders, to guide its work in the seeking of European funding opportunities (Liverpool City Region Combined Authority 2015, item 11). Both democratic legitimacy and accountability might be improved if the same approach was taken in respect of priorities for lobbying. However, caution must be adopted in this regard because given the *ad hoc* nature of some lobbying activity, which arises in response to EU policy proposals, the need to seek approval from the Combined Authority to

engage in lobbying on a particular issue could significantly hinder the lobbying process, as the Combined Authority meets only once a month. What we call 'executive-led' model has the benefit of focusing some democratic scrutiny on the Office, although the scrutiny is carried out mainly by the Mayor's team or by the members of the Combined Authority, rather than directly by the local councils or with an active contribution of the councillors. A few offices reported that the limited involvement of the councillors may also depend on the highly technical character of the matters relating to the EU or on the little interest that many councillors have in the EU. Certainly neither in the case of London nor in that of Liverpool there is evidence of significant two-way communication between the Office and the wider local community including consultation of the public on the European agenda of the Office.

Official-led offices

Both Bristol Brussels Office and Southern England Local Partners (SELP) are a 'hybrid' in our classification. They feature some elements of the 'executive-led' model in that the Mayor (Bristol) or members of the cabinets (SELP) play an important leadership role in the governance of the office. However, more immediate and regular guidance for these offices comes from the high level officials within the local authorities. In this sense both offices are 'official-led', as a sub-type of the 'executive-led' model.

The general political inspiration for the action of the Bristol Brussels Office comes from the Mayor's document *A Vision for Bristol* (Ferguson 2015). However, in this document there is nothing specific on the role and activity of the Office and the only references to the EU are to the European Green Capital award obtained by Bristol in 2015. A similar approach is demonstrated in other documents produced by the Authority (Bristol City Council 2015). The actual policy and lobbying priorities for the Office are determined by the European and International Service of Bristol City Council, a body comprising of Council's senior bureaucrats. In a sense the Brussels Office appears to be a *longa manus* of that department, although the Director of the Office explained that he is in regular contact also with elements of local stakeholders such as local universities and business organisations, with a view to making the Office more responsive to the demands of Bristol's civil society. The Office is accountable to the European International Service and the Council's Senior Leadership Team regularly reviews the activity of the Office. Ultimately the Council (i.e. the democratically elected councillors) has the power to increase or decrease the funding allocation for the Office or

even to ‘unplug the machine’ by suppressing the Office if it is felt that this is not delivering adequate results for the city.

Also the Office of Southern England Local Partners (SELP) is a ‘hybrid’ featuring some executive-led elements. However, it would appear that the role of local authorities’ officials in the governance of the Office is somewhat stronger. This office has the peculiarity that it is subscriber-based. It is currently supported by 20 partner organisations, only 11 of which are territorial authorities. The fundamental steer for the Office comes from the Board . The Board comprises of political representatives of the authorities on a high level (i.e. members of the local cabinets, although this is not the case for West Sussex County Council) and high profile people from the other partner organisations (for example, the Dean for Research and Innovation from a major University). The Board, meeting two or three times a year, determines the general direction of the Office and approves its annual work programme. This programme also establishes ‘Key Performance Indicators’ (KPIs) for SELP.

However, more detailed and day-to-day guidance for the Office comes from the quarterly meetings of officials from the partner organisations. There is no evidence that these officials involve or take instructions from councillors of the local authorities.

Examples of stronger involvement of elected councillors and stakeholders in the governance of the offices: East of England and Cornwall

In the case of the East of England Office, 52 local authorities provide most of the Office’s funding via the East of England Local Government Association. Given the large number of authorities funding the Office’s activities, an accountability model akin to that for London and Liverpool City Region would not be viable. The main system of governance and accountability for the Office is delivered via the Europe and International Panel of the East of England Local Government Association. The panel has ten members who are elected councillors, selected for reasons of political balance. There are also representatives of the Local Enterprise Partnerships (LEPs) which subscribe to the Office, the universities and a range of other stakeholders (East of England European Partnership 2015, 6). The Panel sets the annual priorities for the Office and approves the annual business plan, which guides the day-to-day work of the Office. The Panel is open to attendance by any councillor from one of the councils involved in the Office. Furthermore, the Director of the Office has appeared occasionally in the past before Overview and Scrutiny Committees of the local authorities. However, relatively few councils have sought the Director’s attendance, perhaps because a

relatively small number of councillors have an interest in the highly technical matters decided by the EU.

The governance structure of the East of England Office reflects political realities. It would be impossible for the Office to be solely accountable to local authorities because it is also funded by LEPs (of which, elected members of local authorities are board members) and a number of universities and other stakeholders, all of which must have a role in the governance and determination of the Office's priorities. Furthermore, any governance arrangements must be proportionate to the level of resources invested. Given the large number of local authorities involved in the financing of the Office, the cost to each individual authority is relatively small and may not justify the investment of resources required to have more extensive oversight.

East of England has developed a system of governance and accountability which to an extent values the role of the councillors and of the councils. The main limitations are: (a) the mixed composition of the Office (local authorities, LEPs, universities, other stakeholders), which is not limited to democratically legitimated and self-governed local authorities and (b) the high number of local authorities involved in the Office. The fact that the Office represents as many as 52 local authorities puts it in a position to represent a territorial area ('East of England'), rather than a community with a well-defined regional identity reflected in institutional arrangements (for example, the Cornwall Authority).

In the case of the Cornwall Brussels Office, the policy and lobbying priorities for the activity of the Office are indicated by a strategy document approved by the Office's partners in 2013. This document contains a clear indication of KPIs and the Cornwall Brussels Representative reports monthly to the funders against these KPIs.

Local councillors are involved in the accountability of the Office. This is accountable to the Economy and Cultural Policy Advisory Committee of the Council, which is responsible for EU funding.

The Office works closely with Cornwall-based officials and teams dealing with matters relevant to the EU (in particular, the officials and teams responsible for economic development, including EU funding). The Cornwall Brussels Representative will liaise with the relevant staff every time. Often it is the councillors and the officials who ask the Office to lobby on a certain issue (top-down). However, sometimes it is the Office that, after becoming aware of some information in Brussels, advises the Council to lobby on a certain issue and asks for further instructions (bottom-up).

The Office is accountable not only to the Council but also to the other partners: the local LEP and the Cornwall universities. The accountability

to the LEP has been channelled principally through the Council, given that the LEP is closely aligned to the Council. The Office also reports every quarter to the Executive Committee of the Combined Universities in Cornwall, which includes representatives from all the local universities. Additionally, the Office reports twice a year to a steering group comprising of the VCs of all the local universities. In summary, the lobbying priorities for the Cornwall Office are selected democratically and that the elected councillors are adequately informed and involved in the life of the Office. An important role in guiding the action of the Office is played by the relevant bureaucracy, i.e. by the Council's senior officials and teams working on matters which are relevant to the EU.

(D) A unique link to the EU: The Local Government Association Office: A *sui generis* politically-driven office without a territorial community

The LGA Brussels Office is a unique example of liaison and lobbying office, in that it does not represent a local community and territory, but the entire local government in England and Wales. This office is very important also because it is the secretariat of the UK section of the Committee of the Regions (hereafter CoR).

The process for determining the policy priorities of the LGA Brussels Office is democratically structured and transparent. Every year in autumn the EU Commission presents its programme of work for the following year. After examining the programme, the LGA Brussels Office formulates a proposal with a list of items drafted having in mind the topics which are of direct relevance to the local government. A key role in this process is played by the UK section of the CoR which is run by the LGA. The UK section of the CoR shall previously discuss and decide the list of priorities which the LGA Brussels Office shall then put forward to an LGA's Committee or Board comprised of councillors from English and Welsh local authorities. These councillors are chosen by their political groups in proportion to the overall number of councillors they have across these two countries. This Committee or Board has ultimate responsibility for the approval of the LGA's Annual EU Work Priorities. The Office reports regularly on specific items to the various LGA boards (also comprised of elected councillors) responsible for a given area: social issues, environment, city issues, transport, energy, funding etc. Sometimes the Office just reports relevant information, whilst other times it submits a paper for discussion in order to receive the point of view of democratically elected politicians on a certain topic. The relevant board

will usually agree on a detailed LGA's policy position indicating which areas of proposed EU legislation need improving and lobbying. What is the added value of the LGA's Office in comparison with the offices of individual 'regions' or 'localities'? The LGA can be a stronger player in the lobbying process in that it represents an entire tier of government and can form coalitions with similar associations from other countries or with the Council of European Municipalities and Regions (CEMR).

Transparency

Transparency is very important for accountability and communicating the EU's activities to the local level. The East of England Office's Director emphasised the publication of the *Business Plan 2015-16*, which has been endorsed by the Europe and International Panel of the East of England Local Government Association. This is published on the Office's website and is therefore available to the public (East of England European Partnership 2015). Further positive efforts are made by East of England to be transparent and to engage with the public; the website is regularly updated with details of the Office's work, a regular newsletter is circulated around a mailing list (where any member organisation can sign up) at least fortnightly and there is an active Twitter feed. This 'active' transparency is perhaps driven by the fact that the subscribers to the East of England Office are diverse, so an open and transparent approach is the most effective way to serve their needs.

The Office of the Liverpool City Region seeks to be transparent through similar methods to the East of England Office – there is a mailing list of stakeholders. Furthermore, the Director of the Office seeks to convene a forum of stakeholders on a quarterly basis where members and officials of the authorities which finance the Office can meet and discuss issues pertaining to the Office and its work. There is also a website where funding and policy bulletins are published and agendas, reports and minutes of forum meetings are also published (Liverpool City Region Brussels Office 2016). This provides a good level of public access to documents and information about the work of the Office.

The London European Office arguably has a less transparent system – there is a web page with rather little information and there are no regular press releases. There is some media engagement where this might be useful to the lobbying activities of the Office, an active Twitter feed that provides information about its work and a newsletter, though this has only a very limited circulation. This model is likely explained by the level of control exerted over the activity of the Office by the Mayor's office – the Office is in place primarily to deliver the objectives set for it by the

Mayor, with less involvement from the London Boroughs and other stakeholders, hence the relative lack of public engagement. Other offices are unable to maintain a website due to their smaller size in terms of staffing and resources. Bristol (only one member of full-time staff) is currently exploring the creation of a website and the launch of a Twitter feed, whilst Cornwall (one member of staff working part-time) has a webpage and uses Twitter regularly. However, these two offices do not provide regular newsletters for stakeholders or for the wider community. The Director of SELP pointed out that it is not part of SELP's mission to work directly with citizens. It is up to member organisations, including in particular the local authorities, to share the information with the wider community as they deem fit and to interface with the local community on matters concerning the EU.

In addition to the positive steps taken by each of the offices to be transparent and to make their work known to the public, each of the offices will be subject to the Freedom of Information Act 2000 as emanations of a local authority, which is a public authority for the purposes of section 3 of the Freedom of Information Act 2000. It is possible that the offices or the local authorities may be able to withhold disclosure of the information if any of the exemptions in the Act can be relied upon. Any such endeavour to rely on these exemptions would then bring about a 'public interest' test to determine whether the interest in disclosure outweighs the potential prejudice.

The two public companies involved in this study, New Economy Manchester makes considerable endeavours to be transparent – there is a website and an active Twitter feed giving information about its work. There is also a monthly newsletter (a service that must be paid for) which is received by around 200 organisations, including local authorities and universities in the area of the Combined Authority. Finally, there is an EU bulletin made available to members of the public via the website. As such, there is considerable transparency over the activities of the company, but one might argue that the transparency of the governance of New Economy is relatively weak when compared to some of the offices discussed above.

As publicly owned companies, both New Economy and Access Europe Network are likely to fall within the provisions of section 6 of the Freedom of Information Act 2000 and thus would be subject to the requirements of the Act.

Concluding remarks – The limited contribution of the English local authorities to a more democratic MLG in the EU

We conclude that the contribution of the English offices to a more democratic MLG in the EU, although variable from office to office, is limited. A more democratic MLG in the EU requires something more than mere participation by the sub-national authorities in EU policymaking processes. It is also necessary for local and regional authorities to create adequate processes capable of ensuring that their position in Brussels is a genuine reflection of democratically selected priorities of the territorial community. Despite some exceptions, this is generally not the case of the English offices. They tend to develop their agendas without significant involvement of the people and of their elected representatives. Ultimately, they tend to represent portions of the local society, interests of certain stakeholders, rather than the views of the broader local community. The reasons for this are many and varied, but often include a lack of resources, the fact that the offices are often financed by multiple stakeholders and also the fact that office employees are treated by law as local government officers and the requirements of the Local Government Act 1972 are such that local government officers ought not to become involved in political decisions.

Knodt (2011, 420) has argued that territorial interests, such as those represented by the offices of English local authorities have a double-sided role “as legitimated constituencies of democratic systems on the one hand and actors within multi-level systems that pursue lobbying on the other hand”. This role might be contrasted with functional interests, such as those of industry players or similar stakeholders, which seek only to advance their own interests primarily through lobbying activity. It has been argued that although territorial interests have the advantage of the formal political mechanisms such as the Committee of the Regions to advance their policy interests, both territorial and functional actors use a wide array of techniques, including lobbying and participation in policy networks to influence the EU policymaking process (Knodt 2011; Trobbiani 2016). The evidence that we have accumulated suggests that the English offices may well be a good example of territorial interests (in the form of local authorities) coming together with functional interests (such as the stakeholders who are often involved in financing and influencing the policy priorities of the offices) to represent their collective interests. It may be that the comparatively weak constitutional position of English local authorities and the limited resources that they enjoy have in some respects limited the democratic input into the priorities of each office, but has encouraged the interpenetration of territorial and functional interests in a way that is developing more slowly in other EU Member States (Trobbiani 2016). It may well be that Brexit, combined

with the need for continued cost savings in the current context of financial austerity will accelerate this development in coming years.

References

- Allen, David. 2010. "The Structural Funds and Cohesion Policy" in *Policy-Making in the European Union* edited by Helen Wallace, Mark Pollack and Alasdair R. Young, 229-252. Oxford: Oxford University Press.
- Benz, Arthur. 2010. "The European Union as a loosely coupled multi-level system" in *Handbook on Multi-level Governance* edited by Henrik Enderlein, Sonja Wälti and Michael Zürn, 214-226. Cheltenham, UK and Northampton, MA: 2010.
- Bristol City Council. 2015. *Our Resilient Future: A Framework for Climate and Energy Security* Bristol: Bristol City Council.
<http://www.bristol.gov.uk/documents/20182/33423/Our+Resilient+Future+A+Framework+for+Climate+and+Energy+Security/2ee3fe3d-efa5-425a-b271-14dca33517e6>. Accessed November 2016.
- Burch, Martin and Ricardo Gomez. 2002. "The English Regions and the European Union" *Regional Studies* 36: 767-778.
- Committee of the Regions. 2009. *White Paper on Multilevel Governance*, CdR 89/2009, 17-18 June 2009.
- Cygan, Adam. 2013. "Regional Governance, Subsidiarity and Accountability within the EU's Multi-Level Polity" *European Public Law* 19: 161-188.
- DeBardeleben, Joan and Achim Hurrelmann. 2007. "Conclusion" in *Democratic Dilemmas of Multilevel Governance* edited by Joan DeBardeleben and Achim Hurrelmann, 240-243. New York: Palgrave MacMillan.
- East of England European Partnership. 2015. *East of England European Partnership Business Plan 2015 – 2016*. Brussels: East of England European Partnership.
http://www.east-of-england.eu/documents/business%20plan/15-03-26_european_partnership_business_plan_2015-16_v4_final.pdf. Accessed November 2016.
- EU Commission. 2001. *European Governance – A White Paper*, COM (2001) 428, 25 July 2001.
- European Parliament. 2003. *Resolution on the role of regional and local authorities in European integration*, 14 January 2003, 2002/2141(INI).
- Ferguson, George. 2015. *A Vision for Bristol*. Bristol: Mayor of Bristol.
<http://www.bristol.gov.uk/documents/20182/34880/vision-full-document-18-11-2013.pdf/485d6b4c-86e0-41e5-8f3e-70bde5c46>. Accessed November 2016.
- Greater Manchester Combined Authority. 2013. *Stronger Together: Greater Manchester Strategy* Manchester: Greater Manchester Combined Authority.
http://www.greatermanchester-ca.gov.uk/downloads/file/8/stronger_together_-_greater_manchester_strategy. Accessed November 2016.
- Greater Manchester LEP. 2016. "About the Board". <http://www.gmlep.com/about/the-board/>. Accessed November 2016.
- Greenwood, Justin. 2011. "Actors of the Common Interest? The Brussels Offices of the Regions" *Journal of European Integration* 33: 437-451
- Greenwood, Justin. 2014. "The regional offices in Brussels. From 'push and pull' to 'people and place'" *Regions and Cohesion* 4(3): 1-16.
- Guderjan, Marius. 2015. "Theorising European Integration of Local Government – Insights from the Fusion Approach" *Local Government Studies* 41: 937-955.
- Hooghe, Liesbet and Gary Marks. 2001. *Multi-Level Governance and European Integration*. Lanham: Rowman & Littlefield.
- Independent Commission on Local Government Finance. 2014. *Financing English Devolution* London: Independent Commission on Local Government Finance.

- Jeffery, Charlie. 1997. "Regional Information Offices in Brussels and Multi-Level Governance in the EU: A UK-German Comparison" in *The Regional Dimension of the European Union* edited by Charlie Jeffery, 183-203. London: Frank Cass.
- John, Peter. 1994. "UK Sub-national Offices in Brussels: Diversification or Regionalisation?" *Regional Studies* 28: 739-759.
- John, Peter. 1997. "Europeanization in a Centralising State: Multi-Level Governance in the UK" in *The Regional Dimension of the European Union* edited by Charlie Jeffery, 131-145. London: Frank Cass.
- Knodt, Michèle. 2011. "Strategies of Territorial and Functional Interests: Towards a Model of European Interest Intermediation?" *Journal of European Integration*, 33: 419-435
- Liverpool City Region Brussels Office. 2016. "Forum Meeting Papers".
<http://www.lcrbrussels.eu/pageinfo.asp?Forum-Meeting-Papers-i16.html>. Accessed November 2016.
- Liverpool City Region Combined Authority. 2015. "Minutes of Meeting, 19 June 2015".
<http://councillors.knowsley.gov.uk/ieListDocuments.aspx?CId=890&MId=6358&Ver=4&StyleType=standard&StyleSize=none>. Accessed November 2016.
- Macneill, Stewart, Charlie Jeffery and John Gibney. 2007. "Changing Dynamics of Regional Representation in Brussels: A Case Study of Birmingham and the West Midlands" *Regional Studies* 41: 403-414.
- Mangiameli, Stelio. 2006. "The Role of Regional and Local Government in European Governance" in *Governing Europe under a Constitution* edited by Hermann-Josef Blanke and Stelio Mangiameli, 457-482. Berlin: Springer.
- Marks, Gary, Liesbet Hooghe and Kermit Blank. 1996. "European Integration from the 1980s: State-centric v. Multi-level Governance" *Journal of Common Market Studies* 34: 341-78.
- Panara, Carlo. 2015. *The Sub-national Dimension of the EU: A Legal Study of Multilevel Governance* Berlin: Springer.
- Panara, Carlo. 2016. "The Contribution of Local and Regional Authorities to a 'Good' System of Governance within the EU" *Maastricht Journal of European and Comparative Law* 23: forthcoming.
- Pernice, Ingolf. 2002. "Multilevel Constitutionalism in the European Union": Walter Hallstein-Institut Paper 5. <http://www.whi-berlin.de/documents/whi-paper0502.pdf>. Accessed August 2016.
- Peters, B. Guy and Jon Pierre. 2004. "Multi-level Governance and Democracy: A Faustian Bargain?" in *Multi-level Governance* edited by Ian Bache and Matthew Flinders, 75-90. Oxford: Oxford University Press.
- Piattoni, Simona. 2009. *The Theory of Multi-level Governance. Conceptual, Empirical and Normative Challenges*. Oxford, Oxford University Press.
- Rowe, Caroline. 2011. *Regional Representations in the EU: Between Diplomacy and Interest Mediation*. New York, Palgrave-MacMillan.
- Sykes, Oliver and Alexander Lord. 2011. "Whither a Europe of the (English) regions? Reflections on the prospects for the representation of the English territorial interests in Europe" *Local Economy* 26: 486-499.
- Trobbiani, Riccardo. 2016. "European Regions in Brussels: Towards Functional Interest Representation?" *Bruges Political Research Papers* No. 53.
https://www.coleurope.eu/system/files_force/research-paper/wp53_trobbiani.pdf?download=1. Accessed November 2016.
- Varney, Mike. 2013. "Local Government in England: Localism Delivered?" in *Local Government in Europe: The 'Fourth Level' in the EU Multilayered System of Governance* edited by Carlo Panara and Mike Varney, 330-369. London: Routledge.

* Reader in EU Law and Comparative Public Law, Liverpool John Moores University, UK.

* Senior Lecturer in Law and Deputy Director of the Institute of European Public Law, The University of Hull, UK.

