

Contracting out publicness: The private management of the urban public realm and its implications

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Abstract

In the UK, there has been a noticeable increase in public space management arrangements based on transfer and contracting-out of managerial responsibilities to organisations outside the public sector, whether in the shape of community or private trusts, tenants organisations, Business Improvement Districts, private companies or voluntary sector organisations. Recent cuts in local authority budgets have accelerated this process. Underpinning it there is an underlying assumption that publicness, however defined, can be guaranteed by means other than public ownership, funding and management, and that public sector ownership and direct control might not be in themselves essential features of spaces that are public. This paper reports on a case study research that investigates the impact on public spaces of the transfer of management away from the public sector. Based on nine case studies of public spaces in London under a variety of different management arrangements, the paper discusses how publicness is affected by the various contractual forms of transfer and what the main implications of this process are for different stakeholders and for the public realm as a whole. The paper suggests that contracted-out management of public space might not necessarily affect publicness negatively. However, it requires judiciously designed accountability mechanisms and clear decisions by all key stakeholders, including local authorities, about whose aspirations will be privileged and how other aspirations should be protected. In a climate of austerity and spending cuts, this requires a different kind of public management and of policy.

Key words:

Public space management; Privatisation of public space; Publicness; Contractual governance; London

1.0 Introduction

It has become almost commonplace in writings about public space to bemoan the decline in its quality, the loss of its character and its gradual replacement by private or quasi-private simulacra. Whether or not this is factually correct, it is undeniable that the basic mechanisms for the provision and management of public spaces have changed. Moreover, that change seems to have followed a clear direction, away from direct state involvement and towards a larger role for other social agents in the private and community/voluntary sectors. Although most of the literature concentrates on how this process has taken shape in the United States, there is plenty of evidence to confirm that to variable degree this has been a more widespread phenomenon (see e.g. Law 2002, Minton 2006, 2009, London Assembly 2011, Németh and Schmidt 2011, Langstraat and van Melik 2013).

There is enough research demonstrating how alternative forms of public space provision and management had gained ground in the UK (De Magalhães and Carmona 2009, De Magalhães 2010). Concern with their impact has been reflected in recent UK policy debates: the creation of BIDs less than 10 years ago and the debates about their role (see De Magalhães 2012); the Greater London Authority's 2010 investigation into the management of publicly accessible space in London which concluded with the need to secure that access to public space is as unrestricted and unambiguous as possible; the House of Commons All Party Parliamentary Group on Land Maintenance 2009, which looked at the impact of the transfer to private management of green areas in new housing estates in Scotland; the Portas Report (Portas 2011) on the health of town centres and its proposal for 'super BIDs' taking over a large part of the responsibility for the management of town centres. To this should be added the on-going impact of cuts in local government budgets and the challenge these pose to the quality of many public services and the consequent need for their re-shaping.

All those alternative public space management forms are based on transfer and contracting-out of managerial responsibilities to organisations outside the public sector, whether in the shape of Business Improvement Districts, Town Centre Management schemes, land development trusts, community asset transfers or the contracting-out of managerial tasks to private companies or voluntary sector organisations under a variety of arrangements. This process rests on the implicit assumption that publicness, however defined, can be guaranteed by means other than public ownership, funding and management, and that state ownership and direct control might not be in themselves essential features of spaces that are public.

The emergence in the UK of public realm management arrangements such as those described above derives from a combination of factors. At their root is the gradual dominance of views of how to respond to relative economic decline which are based on a reduction of the role of the State and an increasing reliance on market mechanisms, which have been shared by governments of different political colours for the last 35 years. There is a vast literature on recent changes in British urban governance and the impacts of privatisation, 'neoliberalism', partnerships and inter-sector collaboration, from different perspectives, and discussing it in detail would fall outside the scope of this paper e.g. Sullivan and Skelcher 2002, Leach and Percy-Smith 2010; Swyngedouw 2011; Raco 2013).

Within broader changes in urban governance, two sets of factors, however, are especially relevant. The first were changes in the context in which public services provision operates. Policy efforts at national level to reduce the costs and size of government led to a curbing of powers and spending of local authorities and a redistribution of resources within public services, affecting some services much more than others. Public realm services have suffered a steady decline in funding from the early 1980s, partly halted by the end of the century (Audit Commission 2002). However, in the wake of the recent public sector spending cuts, funding for discretionary and non-statutory services like parks and open spaces is projected to fall by 60 per cent or more over the next decade (Neal 2013).

At the same time, the flowing of power to a plethora of subsidiary bodies within and outside the formal boundaries of the state, has given rise to forms of collaboration between different sectors and jurisdictions for the delivery of public goods and services, which applies equally to public space services (Sullivan & Skelcher 2002).

The second set of factors came from new demands that were put on the public realm by policy makers and society. The perceived need for cities to compete to attract the more footloose investment of the globalised economy led to an increasing concern with the vitality and viability of urban areas and the role in this of public realm quality (see e.g. Urban Task Force 1999; DETR 2000). At the same time, demographic and cultural changes have put new diversified and often conflicting demands on public spaces with corresponding new pressures on management systems (Roberts and Turner, 2005).

The cumulative results of these contextual demands on public realm have exacerbated the shortcomings of traditional management systems, centred around issues of levels of funding, lack of coordination among agencies, the lack of flexibility and fine-tuning ability of centralised management systems to respond to ever fragmented demands and increasing aspirations, the constraints on accountability at a very localised level by city-wide public organisations, etc. (De Magalhães and Carmona 2006, ODPM 2004). In this light, contractualised public realm management mechanisms have emerged as ways of reconfiguring rights, roles and responsibilities to create management models that rely on the direct involvement of a variety of stakeholders to define and implement solutions to public realm challenges that cut across specialised remits, respond more closely to localised variations in demand, are flexible to changes, and access resources wherever these might be available.

Whereas proponents of those alternative arrangements are to be found mostly among public space managers looking for immediate solutions for management challenges (see e.g. ATCM 2009), the academic literature has depicted these arrangements quite often in a negative light (for the exception, see Webster 2002, 2007). The transfer of control upon public space provision and management, especially from the state to the private sector, has often been linked to ideas about the reduction of the public sphere, death of public space, the emergence of the revanchist city, the intensification of processes of social exclusion and segregation, the inexorable expansion of market and commodity forms into the public realm, the retrenchment of the state vis-à-vis the market (see Low and Smith 2006, Kohn 2004, Minton 2006).

Whether or not those critiques are an accurate depiction of reality, they certainly touch upon important concerns associated with the reduction of the role of the state in the provision and management of public space, namely the potential for exclusion and a narrower definition of entitlement to use those spaces, the potential erosion of accountability for their running, and the risk of increasing inequality in access, reinforcing other inequalities present in society. If that is indeed what these emerging forms of public space management mean, 'privatisation' of public space would negatively affect the public realm by subtracting from public life spaces that are open to all and in which all individuals and social groups can come together to express their views, meet with one another and thus help secure the intermingling of social groups which is a necessary condition for an inclusive democratic society (see Low and Smith 2006, Watson 2006). Therefore, the key issue then is whether emerging forms of provision and management of public space represent by definition an erosion of its public character, and consequently a reduction of physical dimension of the public sphere, or whether they have the potential to deliver most of the attributes that make up the public character of those spaces without negatively affecting their essence, whilst meeting the aspirations stakeholders may have in relation to them. This is the discussion the research summarised in this paper engages with.

2.0 Background

2.1. What is publicness and how it is secured

The increase in number of public spaces managed by private interests, charities and user groups poses a number of important questions concerning what publicness is and how it can be secured; the effect on publicness of different governance arrangements combining a variety interests and aspirations; how societal aspirations in relation to public spaces can be incorporated in contracted-out governance strategies; and the broader implications of those arrangements for urban life and urban governance in general. Key to this discussion is an understanding of what it is that public

spaces provide that needs securing through whichever provision system is in place, as well as what would characterise those benefits as 'public'.

As the literature on public space testifies, public space as a concept can encompass a wide variety of notions. The concept can be extended to all communal and non-private arenas of social life, which do not necessarily imply physical space and include the media and the virtual spaces of the internet (see e.g. Ellin 1996, Taylor 1995, Watson 2006). It can be narrowed down to define all those physical spaces that are not strictly private, including not only publicly owned spaces but also all those spaces in which social and civic functions with a public character are performed, regardless of ownership (Ellin 1996). This includes the semi-public, liminal or 'third' spaces of cafes, bars, bookstores, etc. (Banerjee 2001, Oldenburg 1999). It can also be narrowed down even further, as in the remit for local government public-space services, to refer specifically to state-owned parks, civic spaces and most ordinary streets and squares.

Moreover, most of those definitions rely on an opposition between 'private' and 'public', which might refer strictly to ownership, or to the nature of the activities that take place in public space – whether they are part of the private or public life of individuals. Again, the potential for variation of what is public and what is private is considerable. In his study of public and private spaces, Madanipour (2003) demonstrates the complexity of the transition from public to private, with several overlapping levels of publicness and privateness between them. Moreover, as societies change, activities that once took place in the public realm might acquire a more private character and vice-versa, thus changing the public/private character of spaces over time. The very notion of public space as a distinct concept is itself a historical product, which came into being with the differentiation between the representative state, civil society and the market, and the consolidation of modern notions of private property (Habermas 2001)

This historical evolution is clearly illustrated in Arendt's discussion of the genesis of the concept of 'common good' (Arendt 1998). She sustains that the boundaries between the private and public realms were clear until the late middle age: the former was the domain of individual/family matters whereas the latter was the arena of political matters. However, the emergence of the concept of 'society' in the Modern Era put an end to the clear division between both realms. On the one hand, the idea of 'society' asserted the relevance of those matters that were once within the exclusive remit of the private realm (the individual/family) – e.g. health, education, economy. On the other hand, the operationalisation of the concept necessarily entailed the assumption that all its members had *one* common interest or *one* common opinion. For Arendt, it was precisely because of this apparent *one* common interest that 'society' became understood as the 'public realm', which is in reality a 'hybrid realm' that conflates public and private matters (Arendt 1998:59). This historical process underpins the emergence of the modern concept of 'common good', which in turn has shaped the way we have come to understand public spaces. In the medieval times, the 'common good' was the materialisation of different individual interests over one common thing, which necessarily led to a negotiation between the interested parties over the maintenance and enjoyment of that 'common good' (Arendt 1998:59). Accordingly, far from representing an assertion of the public realm, the 'common good' was an assertion of the private realm. This situation changed radically with the advent of the ideal 'society', when 'common goods' and 'common interests' were assimilated as part of the 'public realm'. As a consequence, the inherent private nature of 'common goods' was first overlooked and finally negated. Drawing on Arendt's work, it could be argued then that a discussion of public spaces should at least recognize the inherent tensions embedded in the concept. In so far as they are a 'common good', the framing of public spaces should acknowledge the legitimate conflicts between its private nature – the concrete individual interests over a concrete site – and its public nature – the societal concerns about the management of its resources.

Given the dual nature of the concept, this paper suggests that it is more relevant and accurate to look at those essential qualities of public spaces that give them their specificity, in order to assess the impact that different forms of management might have on the *publicness* of those spaces. This way, the dual nature of public space is not ignored in the discussion of its attributes, which would not be the case if the analysis had started from an absolute definition of what public space is, might be in contraposition to other types of space, or should ideally be.

Different authors have offered different lists of the attributes that shape publicness and therefore provide public spaces their specificity. Kohn (2004: 11) for instance, defines public spaces as places owned by the government, accessible to everyone without restrictions and fostering communication and interaction. The emphasis here is on the attributes of (public) ownership, accessibility and intersubjectivity. However, communication and interaction rarely happen as often as these authors suggest. The literature from the psychology field shows the existing different levels of interpersonal relations and how the depth and likelihood of these depend more on trust than on the qualities of the space where these happen. Low and Smith (2006: 3) emphasise the role of rules of access, the source and nature of control over entry, the nature of sanctioned collective and individual behaviour and the rules of use as the key differentiator between public and private space. Mitchell and Staeheli (2006) see this essence residing in rights of access, of *being there*, for all citizens. For some, publicness is related to the creation of spaces for encounters with difference, which are essential to a democratic polity. Watson (2006) emphasises public space as a space of protest and for the expression of minority interests. Worpole and Knox (2007:4) base their view on the value of public space on the opportunity those spaces create for shared use and activity, meeting and exchange, regardless of ownership. Others have sought publicness in the attributes of accessibility (to place, activities, information and resources), ownership and control and the nature of both the benefits it provides and who benefits from them (Benn and Gaus 1983, Akkar 2005). Madanipour: (2003: 112-13) defines public space in opposition to other kinds of space, mediating between private spaces and used for a variety of often overlapping functional and symbolic purposes. The key attributes here are access, agency and interest. Németh and Schmidt (2011) try to operationalise a definition of publicness based on ownership (public/private), management (inclusive & open/exclusive & closed), and the diversity of users and uses. Similarly, Varna (2014) emphasises ownership, modes of control, physical configuration, and degrees of animation and civility, with an ideal type of public space against which all others should be measured.

This varied set of elements defining publicness resonates with broader definitions of what is 'public' in public goods and services in general. These involve the extent of their distinction from private ones, the scope and composition of their recipients, the magnitude and intensity of their socio-economic roles, the degree of public accountability to which they are subjected, and the level of public trust in them (see Haque 2001).

Many of these formulations of publicness have a strong normative character and point towards an absolute ideal of public space, which would foster communication, civility or identity. Most people would agree that good public spaces should perhaps do all that, but actual public spaces, accepted by everyone as such, do not, or do not always do it. Amin (2008) suggests that some of the 'fostering civility and identity' attributes of public space are increasingly played out in non-spatial parts of the public sphere such as the Internet, and furthermore, for those attributes to be realised in any particular space a set of other conditions need to be present that go beyond the mere existence of that space. Moreover, many of the attributes of public space described above will only be present in degrees. Webster (2002) argues that very few urban public goods – public spaces included - are really public in the sense of absolute openness to consumption by everyone. A person's ability to benefit from many important attributes of a public space such as openness of access and use will depend on several factors, and in many respects those attributes will be consumed as club goods by those not excluded from them by e.g. access costs, property prices. This reinforces the idea that rather than an absolute concept, publicness should be seen as a conveyor of a relative set of qualities: for any public space, there will be attributes that are more public or less public, depending on the criteria used to define the limits between publicness and privateness, but also on the manner with which those attributes are consumed.

The idea of publicness as a relative concept, shaped by the particular negotiations that take place in each context does not represent an inherent anti-democratic process, as some may argue. If we agree with Arendt that plurality is the main condition for a political life (Arendt 1998), it could be argued that any attempt of reducing this plurality to a homogeneous abstraction – i.e. the people or the society – undermines the political dimension that is part and parcel of the notion of publicness. In this sense, the idea of public space as a space for everyone as an undifferentiated collective would actually be less democratic than the idea of a space in which individual stakes are recognised and negotiated among concrete individuals. Following this logic, it could be argued that publicness has

to do more with the way in which this negotiation process happens than with a pre-determined definition.

In a similar way, this differential appropriation of the space and its attributes would bring us closer to a truly “differential space” (Lefebvre 1991), in which the particularities of the context are recognised and placed at the forefront of the negotiations defining the use of the space and its publicness. Public Space as a normative ideal would represent an absolute concept, a totality. That totality would overrule the ‘lived space’ in which users negotiate and define the rules for the appropriation of the attributes of each individual space, in favour of a ‘conceived space’ in which those rules are externally fixed and contextless. In this regard, the idea of a public space in which all attributes are always accessible to all overlooks the particularities of each space – the particular set of social relations and physical attributes that produce that space. Consequently, the idealised, normative form of public space would be one that masks or suppresses the negotiation of rules of appropriation between stakeholders and therefore anti-democratic.

Therefore, and using the insights of the discussion above, if we discount the more normative elements contained in many notions of publicness – which focus on what it should aspire to be, not what it might be - and take into account its relative character, we are left with the basic attributes of rights of access, rights of use and control/ownership. We would expect of a public space that it should be provided and managed in a way that secures a relative openness of access to most members of society. We would also expect that people would be able to use that space without other restrictions than those dictated by broadly accepted social norms of behaviour, the context of the space and rights of other users. Finally, we would expect users to have some say over key decisions regarding the management and the future of the space, even if indirectly.

Rights of access encompass rules and mechanisms that regulate whatever restrictions there might be on how individuals access the attributes they value in a particular public space, be they physical access to the site, the use of a facility or the confirmation of a symbolic function. Rights of use refer to the rules and codes of behaviour, and enforcement mechanisms that regulate how individuals that have access to a public space can enjoy its attributes. Finally, rights of control and ownership do not necessarily refer to public ownership, but to the rules and mechanisms through which a variety of stakes in a particular public space are recognised in its governance, and through which conflicts and disputes between different stakes can be solved. Madanipour (2003) defines publicness as a function of being outside individual or small group control, and of being used collectively for a variety of overlapping functional and symbolic purposes. This implies a more diffuse control over a space, on which many people have a recognised stake and should have some form of say about what happens to it and how it is governed and managed. State ownership in this context is shorthand for a form of diffuse control in democratic societies, as well as a guarantee of open access and use.

Therefore, rather than a public space in the singular, following or aspiring to an ideal, cities have public spaces in the plural, with various forms of publicness depending on the nature and degree of the publicness attributes available and the ways those attributes can be appropriated.

The relationship between the mechanisms for provision of public spaces and the attributes that define those spaces might be rather complex, with an array of contextual variables contributing to shape it. Understanding those mechanisms, how they work and how they relate to their governance context is a key part in investigating the impact of emerging forms of public space governance. Therefore, whether or not forms of governance that deviate from the publicly-owned and managed model would reduce publicness, would depend on how these forms deal with publicness attributes and how they set the rules for their appropriation by the different stakeholders.

2.2. Understanding contracted-out publicness: the issues

The provision of public services and goods in the UK and elsewhere has become increasingly more reliant on contracts between a public sector client and a contractor capable of offering some form of advantage in the provision of those goods/services such as reduced costs, technical expertise, flexibility, sensitivity to localised demands, and so on. Accordingly, contractual relationships play an important part in emerging forms of public space provision. Contracts between business occupiers, and local government regulate the operation of BIDs; leasehold agreements with contractual

stipulations regulate the transfer of public space ownership to development trusts as well as the functioning of those trusts; contracts and local service agreements regulate the contracting out of public space management and maintenance. Whereas most of the above are translated into formalised agreements, there are also less formal contract-type relationships such as those between local government and public space friends and users' associations, which secure the role of the latter as consultees in public space management, as well as various kinds of semi-formal partnerships. From a public space governance perspective, the key research question is, therefore, whether contracts, contractual mechanisms and sanctions are adequate means of securing the attributes of publicness that are valued in the spaces to which they apply. Can contracts guarantee relatively open access and ensure that restrictions to access and use are broadly acceptable by most potential users and stakeholders? Are contractual sanctions adequate to discourage what Madanipour (2003) refers to as 'small control group'? Are contractual mechanisms capable of securing a say by all relevant stakeholders in how a public space is managed?

For an answer to these questions, we suggest that three interrelated sets of issues need to be considered. The first refers to the way contracts recognise rights and obligations and therefore, power in public space governance. The second addresses the contextual factors influencing which rights and obligations are relevant for any public space. The last deals with the substance of contracts in terms of which public space governance responsibilities they refer to, and how these are distributed between parties.

It has been argued that emergent public space governance practices involve a reallocation of rights over some of the attributes that constitute publicness, and specifically an allocation of rights that move away from the public domain towards private parties (Peel, Lloyd and Lord 2009). Contractual instruments shape this reallocation of rights by recognising interests. As an example, groups of citizens and organisations operating in a development trust managing a publicly owned park, will have secured the right to prioritise the attributes they value in that space (i.e. aesthetic, amenity, etc.) in relation to those valued by other people even if, as it is often the case, this is moderated by the client power of a local government department. They will have a right to have a say on how the park is used, on how restrictions to access and use are applied and on how money is spent in maintenance and upgrade by virtue of living or having their place of work in the vicinity of that park, or of some other recognised stake. In this sense, the contracting out of public space provision recognises the 'club-good' dimension of many public-space attributes, in the terms used by Webster (2002) of goods and attributes that can be consumed non-rivalrously by members of a group, but with exclusion rules applying to non-members.

The often implicit justification for recognising club-like interests in public space is that it allows for the relative strengths of claims over its attributes to be taken into account and transformed into a more effective and efficient management resource. The assumption is that, because the members of such a club have the strongest stake on a particular set of public space attributes, they will manage these more efficiently and to best effect, and this applies to businesses protecting the quality of a commercial district as well as to residents securing the amenity value a local park. However, by the very nature of public space there will be many divergent and often conflictive claims on it, and therefore a choice needs to be made on which of those will have the upper hand, which will be formally recognised, which will not. Whereas efficient resource allocation in its broadest sense might provide one set of criteria for assessing those claims and allocating rights, it is certainly not the only one possible or desirable. Whichever criteria prevail, it will determine whose claims are allocated the rights over particular attributes of public space, and this initial distribution of rights will largely determine the outcomes of any future negotiations over those attributes, such as the ability of other stakeholders' interests/claims to gain access to them.

Moreover, some claims that could be regarded as legitimate by society might not be immediately visible, they might be too diffuse or they might manifest themselves only occasionally and therefore are unlikely to make their way into formal contractual arrangements. Research demonstrates that particular social groups are less likely to use public parks and therefore less likely to get involved in their management (DTLR 2002). These groups will not be in a position to advance their interests in how a park is managed, even if it is socially desirable that they did so. Therefore, looking at the transformation of a wide range of stakes on a public space (including those less visible and obvious

ones) into rights over that space and efficient management tools, could shed some light on the potential impact that contractualised provision could have on the publicness of that space.

The second set of issues that needs to be considered is the role of context specific variables in determining publicness. Public spaces have particular locational, functional and morphological properties, which condition the kinds of publicness attributes these spaces might offer. Publicness attributes in a park or square in a prominent city centre location, an important commercial street or a small suburban residential street are bound to vary as these spaces will be used and valued differently by their users. In each of those public spaces, there will be a different range of stakes, interests and demands, with their own relative power and influence. As a result, the process of negotiation between different stakes around the key elements of publicness is likely to lead to different outcomes, depending on the nature of the space and the interests it creates. We should therefore expect that a Business Improvement District in a central retail area will address the key concerns of openness, accessibility and control/ownership differently from a voluntary user group made up of residents taking control of a small local park. Similarly, the manner in which these concerns will be translated into agreements between the main stakeholders will also vary. This suggests the potential for a landscape characterised by several forms of publicness, the outcome being a variety of agreements between different sets of stakeholders, with key publicness attributes assuming different forms in different places. It could be argued then that locally-specific public space governance arrangements lead to an unequal and differentiated sharing of publicness attributes. Whether this would ultimately mean a consistent reduction in the enjoyment of those attributes, in some types of places and for some people should be one of the key questions around this second set of issues.

Finally, the third set of issues relates to the substance of public space governance contracts. Contracts set roles for the involved parties as client and provider or principal and agent (Vincent-Jones 2000). In a typical contract, the client – usually a local government body – has the responsibility to specify and deliver the services associated with public space governance. The contract transfers in whole or in part, some or all of those responsibilities to a provider/agent who will reside outside the public sector. The services involved might be restricted to public space maintenance tasks, as is increasingly the case with the maintenance of parks and green areas in the UK, or might encompass a wide range of governance responsibilities including funding, and rule enforcing. In this sense, it could be argued that contracts are a formalisation of the social relations that are happening in space. These relations shape the way the contract is set up and in turn, the contract will reproduce that set of relations over time. Accordingly, the drafting of the contract becomes a key point in the discussion.

Public space governance can be defined as the sphere in which societal demands on and aspirations for public space are articulated and realised, and that this takes place through the intersection of four sets of processes (Carmona, De Magalhães and Hammond 2008, De Magalhães and Carmona 2009):

- The regulation of uses and conflicts between uses: the processes through which rules for using and accessing public spaces are set, the framework for solving conflicts between uses is defined, codes of behaviour are agreed and rule enforcement powers are distributed;
- The definition and deployment of maintenance routines: the setting and deploying of procedures and routines that ensure that public spaces are usable, uncluttered, clean and safe, that the surfaces of roads, street furniture, lighting, vegetation and facilities of all sorts are kept to desired standards;
- Investment and resourcing: the process of securing financial and material resources and utilising them in day-to-day management tasks and in capital funding as and when significant re-design and re-development is required;
- The coordination of interventions in public space: the practices through which the actions of the wide array of people and organisations involved in the previous three processes are brought together and coordinated, made all the more pressing by the fragmentation of the 'command and control' state and the emergence of 'enabling' forms of urban governance (Leach and Percy-Smith 2001).

All four processes are directly relevant to the key publicness attributes of openness of access and use and a degree of collective control. Consequently, which parts of those processes are transferred in emerging public space governance arrangements, the extent of the transfer and the manner in which it is done will all potentially shape the resulting nature and level of publicness for any given space. Therefore, in order to understand the impacts on publicness of contract-based government arrangements we need also explore the nature of these agreements and which governance processes they refer to, and whether or not the way they deal with those processes has positive or negative impacts on publicness attributes.

The conceptual framework discussed above is summarised in figure 1 below:

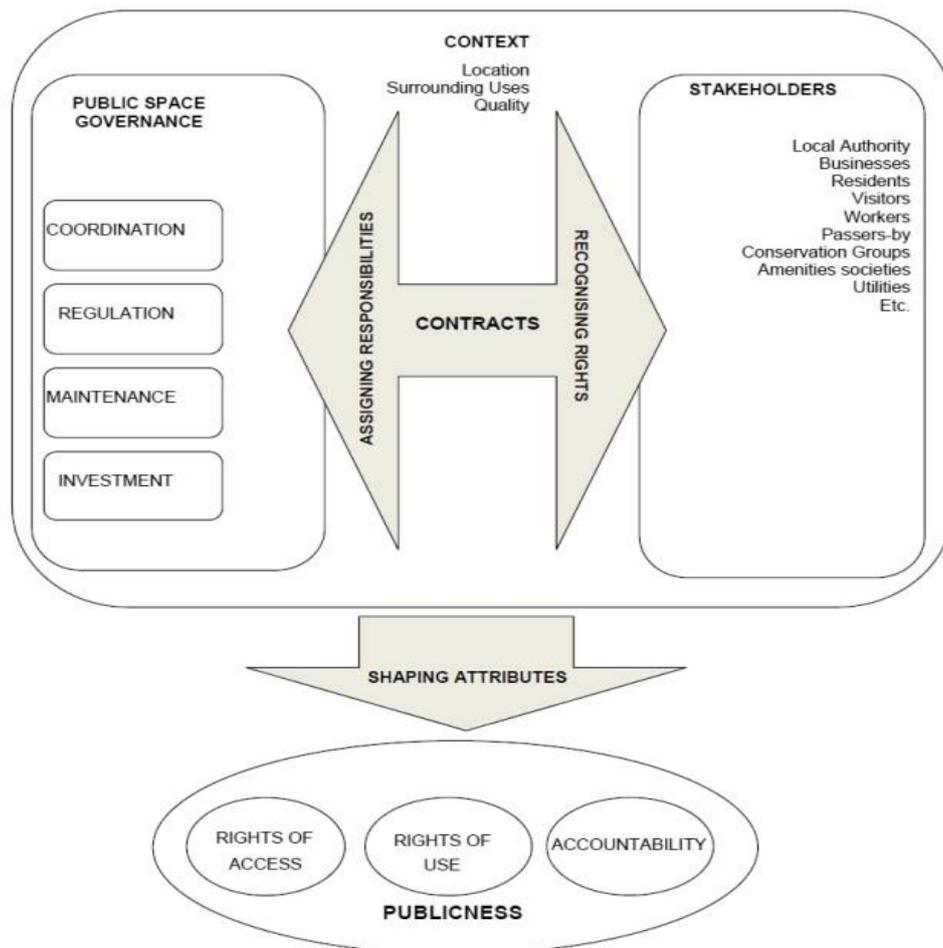


Figure 1: Conceptual framework

3.0 Methodology

The conceptual points above suggest, therefore, an operable definition of publicness conceived as a function of:

- **Openness and accessibility:** This refers to the extension of the rights of access and use, as well as the nature, degree and form of exclusions and limitations. As they can overlap to a significant extent, rights of access and rights of use were considered together for the purposes of the research.
- **Accountability:** This refers to the openness and responsiveness of management decision-making systems to users and other stakeholders, and to the sensitivity of those systems to users' and societal aspirations expressed in policy objectives.

Accordingly, the research reported in this paper examined how the ‘publicness’ of open, publicly-owned spaces – defined as a function of openness/accessibility and accountability, is affected by the various contractual forms of transfer of public space management tasks from the public sector to private and user-based organisations, and what are the main implications of this process.

In order to do so, the following questions were addressed:

- Q1. How are the key attributes of publicness (i.e. openness, access and accountability issues) dealt with in public realm management contracts and how are roles and responsibilities allocated?
- Q2. How are those attributes dealt in the day-to-day implementation of those contracts?
- Q3. Do these arrangements and their implementation affect those attributes and how do they do it?
- Q4. What are the implications of ‘contracted-out publicness’ for key stakeholders’ objectives and aspirations?

The nature of the research questions suggest the use of case studies, combining examples of different types of management transfer mechanisms, different types of organisation to which management responsibilities have been transferred, and a diversity of locational contexts with their own pressures on public space management.

The research relied on documentary evidence (legislation, contracts and agreements) and interviews with the key players in the management of the selected cases, namely the relevant departments of the local authority, the main management organisation for the case, and a user/stakeholder organisation where possible.

A total of 22 interviews were conducted between mid-May and early September 2014, lasting from 45 min to 1 hour and occasionally longer. Those interviews explored how management contracts and agreements dealt with openness and accessibility as well as how contracts/agreements had been implemented. They focused on ease of physical access; right of access and use; the nature, degree and form of exclusions and limitations; degree and openness of access to decisions about investment, layout, opening times, access rules and codes of behaviour; and sensitivity and responsiveness of management systems to user aspirations and local and national policy objectives (Appendix 1). The information obtained in the interviews provided direct answers to research questions Q1 and Q2.

Analysis and interpretation of the interview material provided the answers to Q3. Information from each of the cases regarding the distribution of power and responsibilities in all dimensions of management over issues of openness/accessibility and accountability provided a classification of the cases and generated a typology of publicness. This typology relates to the nature of management arrangements, to variations in the attributes of publicness and to the roles of the various stakeholders. This typology was used to explore how and to what extent the aspirations of key stakeholders are being met and thus provides an answer to Q4.

3.1 Selection of case studies:

Preliminary research was undertaken to identify potential case studies. This initial exercise yielded a set of about 55 potential case studies in England, from which 9 cases were selected. All the cases are located in South London. Although there were potential cases elsewhere in England, there was enough variety of potential cases in the three adjoining boroughs of Lambeth, Southwark and Lewisham to allow for diversity while simultaneously keeping the policy context relatively fixed to simplify the cross-case analysis. The cases, their basic characteristics and the nature of the interviewees is summarised in Table 1 below.

Table 1: Case studies

Cases	Type	Location (local authority)	Interviewees
Myatts Field North Estate	Private management of grounds of housing estate via PFI 25-year concession	London Borough of Lambeth	Regenter (PFI management) Local Authority
Leathermarket Area Estates	Tenant/leaseholder-led management of public spaces in social housing estates via a TMO (tenants' management organisation)	London Borough of Southwark	Leathermarket JMB (TMO) Residents liaison Local Authority
Potters Fields	Local authority park leased to private charitable trust	London Borough of Southwark	Potters Field Trust management GLA Local Authority
Waterloo Millennium Green	Local authority park leased to community organisation	London Borough of Lambeth	BOST (community trust) Waterloo Quarter (BID)
Bernie Spain Gardens	Park in public land leased to a housing development cooperative	London Borough of Lambeth	Coin Street Community Builders (development trust) Grounds manager
Spine Route	Street intervention and management coordinated by non-profit company South Bank Employers' Group (SBEG)	London Borough of Lambeth and London Borough of Southwark	Lambeth Council Southwark Council SBEG
Lower Marsh Market	Street market management contracted out to Business Improvement District	London Borough of Lambeth	Waterloo Quarter BID Local Authority
Jubilee Gardens	Park in public land in a secondary leased to a private charitable trust and redeveloped with S106 monies	London Borough of Lambeth	SBEG South Bank BID Coin Street Community Builders
Lewisham Parks	Contracted-out full management of all parks within Local Authority area to private contractor	London Borough of Lewisham	Glendale Lewisham (contractors) Local Authority Blackheath Society

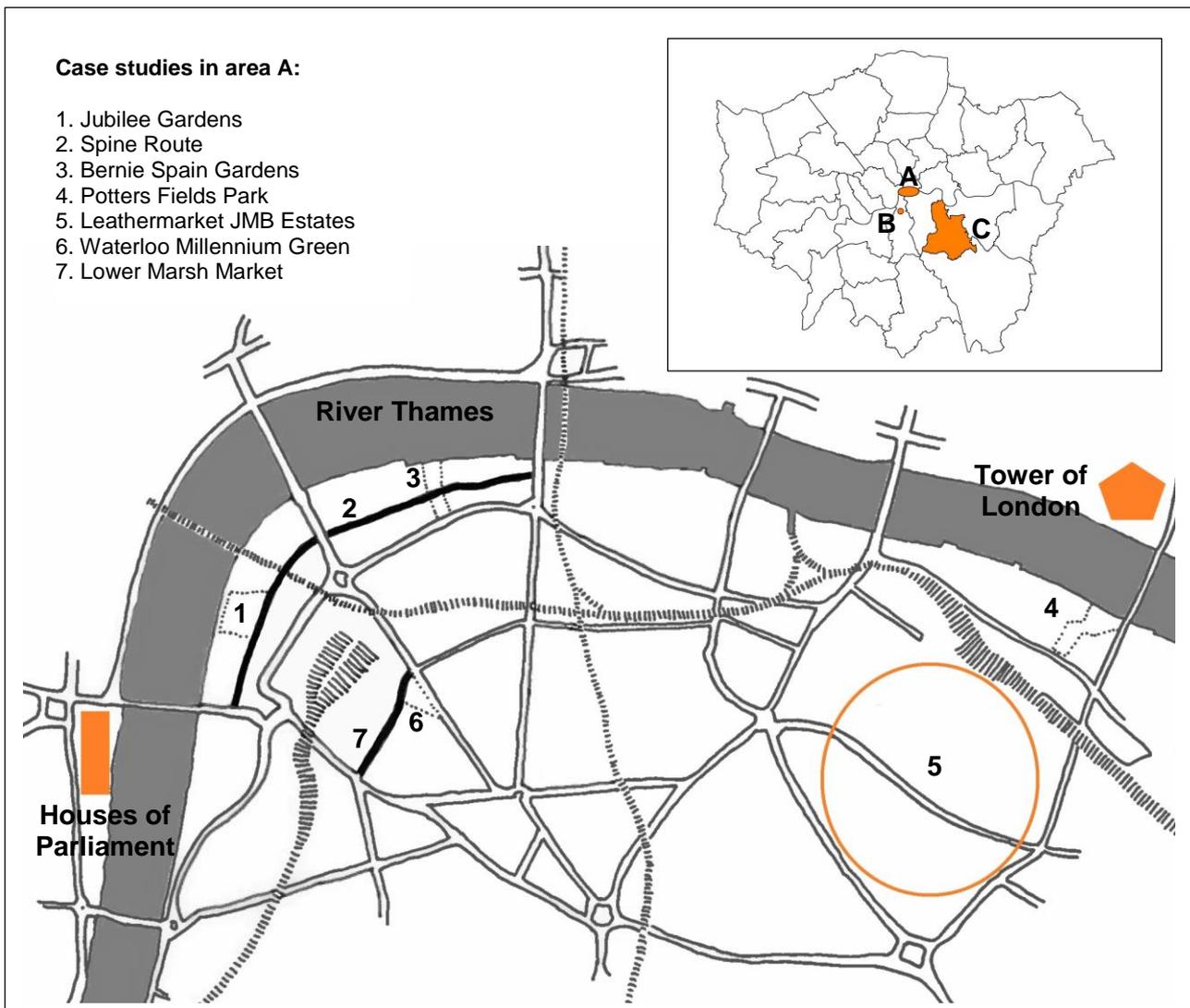


Figure 2. Location of the case studies: area A (river bank in Lambeth and Southwark boroughs, cases from 1 to 7); area B (Myatts Fields North, in Lambeth borough); and area C (the whole of Lewisham borough)

4.0 Case Study Analysis:

The research looked at the nine cases of alternative forms of public space management described above. Secondary data from websites, contracts and other documents and primary data from interviews were used to build a detailed profile of each case. Those profiles include a brief description of the space and its context. This is followed by a description of the management body and of the management contract, the latter examining what the contract covers and how it is implemented.

Those descriptive sections feed into a discussion of the nature of public space management in each case, looking at the four main dimensions of public space management described earlier (coordination, regulation, maintenance, investment). That discussion in turn underpins an examination of the openness and accessibility issues (rights of access and use, nature, degree and form of exclusions and limitations). This is followed by an examination accountability mechanisms (openness and responsiveness of decision making to users and sensitivity to users' aspirations). For more details on the cases and the operation of the research, see RICS (2015).

4.1. The context for public space management

Location in relation to town and city centres, residential areas, iconic places, transport hubs, etc., determine the range of interests and pressures in a particular public space. Similarly, the immediate surroundings of a public space determine how those interests and pressures relate to the attributes of that space. Table 2 summarizes the main attributes that characterize the different contexts for each case.

Two of the cases are small public spaces within predominantly residential neighbourhoods, whose main relevance is to those living in their immediate surroundings. Local residents are therefore those with the stronger stake in those spaces, and those whose interests are likely to be privileged in any management arrangement. The open spaces within the Leathermarket area estates and those within the Myatts Field North estate are in this category, although the former is located in the proximity of a major railway terminus, a large hospital and large office buildings, within an area which is fast changing its character.

At the opposite end of the spectrum are those parks in prominent locations, surrounded by a variety of uses, performing a variety of local and supra local functions and attracting different types of users who seek different attributes of those parks. Potters Fields, Jubilee Gardens and the northern part of Bernie Spain Gardens are in this category. Surrounding businesses, residents, occasional visitors, office workers, passing tourists, commercial landlords, all have an interest in how those spaces are used and managed, and those interests are not necessarily concurrent. Due to their prominent location, the role of these spaces as local parks for surrounding residents is in continuous tension with their position as waiting room for major touristic sites (the Tower of London and Tower Bridge, the London Eye, the South Bank complex and the Thames riverside walk). Management arrangements in this type of public spaces have to grapple with accommodating a diversity of interests, some direct and well articulate and some far more diffuse; establish hierarchies of importance between them; and create mechanisms to solve unavoidable conflicts.

Three of the remaining cases are in a category that lies between those spaces that provide both an essentially local service and a wider one. Waterloo Millennium Green, the Spine Route and Lower Marsh Market are all in centrally located mixed use neighbourhoods, with significant resident populations in the immediate surroundings, but also with significant commercial use around them that draw a large influx of visitors. The three spaces retain a strong significance for local residents, businesses and landlords who, as we will see later, are important clients and participants of the management mechanisms. However, these three spaces have also clear functions at a wider level (local park close to major railway terminus, bicycle corridor and street market) and therefore local interests have to be reconciled with those of other users in different ways.

The last case, Lewisham Parks, represents the only management arrangement which is not location specific and encompasses the full diversity of public open spaces within the London Borough of Lewisham, be they recreational or functional. As such, it has been designed to include and respond to the multiplicity of situations and interests that might be present in different types of open spaces within a local authority area, from the grounds of local authority housing estates, to small neighbourhood squares and parks, to a large park with London-wide significance such as Blackheath.

Table 2: The context of each case

Cases	Summary
Myatts Field North Estate	Park, squares and gardens within and around a redeveloped council housing estate in South London
Leathermarket Area Estates	Gardens and open spaces within a council housing estate close to Central London
Potters Fields	Medium size park and gardens in highly visible and prominent position by the river Thames and opposite to the Tower of London
Waterloo Millennium Green	Small park located in a traffic junction and near Waterloo Railway Station
Bernie Spain Gardens	Medium size park and gardens located within a cooperative housing area in a highly prominent location by the river Thames in Central London
Spine Route	Road space located behind the Southbank riverfront buildings from Westminster Bridge to Blackfriars Bridge
Lower Marsh Market	Small street market located south of Waterloo Railway Station, within a BID area and in the border between commercial spaces facing the Thames and housing estates to the south
Jubilee Gardens	Medium sized garden located in highly visible and prominent position by the Thames, next to the London Eye and the Southbank cultural centre
Lewisham Parks	All council-owned parks and open spaces within the London Borough of Lewisham

4.2. The contractual agreements

4.2.1. The nature and scope of the agreements

The selection of the cases was meant to include different types of contractual agreements. This allowed the research to observe the relationship between the types of contract, the nature of the interests they privilege and the way the deal with publicness attributes. The nature of the various contractual agreements and management organisations is summarised in Table 3 below.

The type of contract varies from long leases, which give the lessee substantial ownership rights over the public spaces including the right to manage and often the right to derive income from the space, to more focused service contracts for the delivery of specified management services for shorter periods, to a loose informal arrangement as in the Spine Route, contested and in the process of being redefined.

The scope of those agreements varies less: both the long leases and the service contracts tend to cover a wide range of management responsibilities. However, in three of the cases (Myatts Field North Estate, Leathermarket Area Estates and Lower Marsh Market) public space management is incidental to the main focus of the contract (the management of local authority housing estates in the former two, the management of the street market in the latter). Provisions for public space management in those cases are just part of a wider set of provisions, performance indicators and contractual targets.

Long leases are present in four of the cases. Potters Fields was leased by Southwark Council for 30 years to the Potters Field Management Trust in 2005, with a right to renew the lease. The trust was

responsible for overseeing the initial redevelopment of the park and has full autonomy for the management of all aspects, including minor works and maintenance. It is also allowed by the lease to raise income through hiring the park or parts of it for private events with restricted access. The lease has an accompanying Service Level Agreement, which includes detailed specifications on cleaning, health and safety, maintenance, gardening and hiring the park for events.

Waterloo Millennium Green was leased by Lambeth Council to Bankside Open Spaces Trust (BOST) in 2014, with an exceptionally long lease (999 years). This replaces a similar lease signed with Waterloo Green Trust in 2001 (WGT partnered with BOST in 2009 and was absorbed into the latter with the new lease). The contract requires BOST, the tenant, to keep the park in good condition. BOST is responsible for routine maintenance - from cleaning and waste collection to gardening and small improvements, as well as the management of the park on behalf of Lambeth Council, including securing revenue funding and empowering the community to take on greater responsibility for the park. Recognition of area as a 'local park' in contract makes it subject to the Council's Open Space Strategy and entitles BOST to some financial support from the Council towards management and enhancement. The Service Level Agreement that accompanies the lease contract sets out the works and maintenance programmes against which BOST's performance is measured and sets out the amount of annual funding BOST should receive.

The other two cases with leases involve properties that had belonged to the abolished Greater London Council (GLC), the former government for London disbanded in 1986. Jubilee Gardens was leased to the Jubilee Gardens Trust for 135 years by leaseholders Southbank Centre in 2012, in a sub-lease of the same duration of the lease they have from the freeholders the Arts Council England (which inherited the site from the GLC). There are however complex covenants and restrictions related to an underground lease on 1/3 of the site to nearby County Hall. As specified in the lease, the trust has to provide a park and facilities for the benefit of the public, promote the conservation, protection and improvement of the physical and natural environment, educate the public in the subject of the history of the area, and promote community participation in healthy recreation. This includes full responsibility for managing and maintaining the park, including enforcing rules and regulations about the use of the park and its facilities, but significantly not the power to raise income through hiring the park for events.

Bernie Spain Gardens was leased for 99 years, renewable for a further 99 years by the Coin Street Community Builders from the London Residuary Body, the entity set up to dispose of the GLC assets. The lease includes both the gardens and the adjacent Thames riverside walkway. The lease makes CSCB responsible for all the planting, repairing, renewing, and all day-to-day management tasks, and allow the leaseholders to promote events and festivals to raise income to re-invest in the park.

Four other cases involved straightforward albeit complex management contracts, put out to tender, with no transfer of ownership rights. In two of those cases public space management is one minor item in much broader housing estate management contracts. In Myatts Field North Estate, public space management is included in a 25-year Private Finance Initiative (PFI) contract between Lambeth Council and Regenter PFI Consortium, a complex build and operate contract signed in 2012 after 6 years of negotiations. Through that contract the consortium is responsible for the demolition of existing housing blocks, the construction and refurbishment of almost 1,000 housing units, a community centre, commercial units and a large park, housing and tenant management services once the development is completed and management and maintenance of the council housing stock and open spaces for 25 years. As is the case with PFI operations, the consortium makes the capital investment upfront (in housing and the open spaces) and recover its investment through sale of private housing, council transfers for housing and estate management services and capital investment repayment. The park and grounds management element has yet to be fully developed, but should be based on a full set of standards and performance indicators specifying the nature of the management and maintenance service the consortium will have to provide.

In the Leathermarket Area Estates, public space management is part of a transfer of managerial responsibility for Southwark Council-owned housing and grounds in the terms of the Right to Manage legislation, to Leathermarket Joint Management Board (JMB), a tenant and resident-led body. The transfer took place after a successful ballot by residents in 1996, reconfirmed every five years as required by law. According to the contract, JMB manages housing allocation and tenants for the

housing estates under their jurisdiction, and also, maintenance, minor and major works on the estates, including redevelopment. Public space management is a minor part of the agreement and it encompasses laying out and maintaining the grounds of the estates. Differently from typical Right to Manage contracts in which the tenant management body is paid a fee for their services, JMB is allowed to keep all the rent and service charges from leaseholders raised on their estates in return for a 30 year investment plan and the obligation to pay off the housing debt attributable to their property previously paid by Southwark Council. The contract is supervised directly by the local authority, the freeholders of the estates, with powers to intervene and revoke the agreement and take back management.



Figure 3. Resident-led space management inside one of the Leathermarket Area estates.

In the case of Lower Marsh Market, the contract centres on the management of the street market and transfer management responsibilities from Lambeth Council to Waterloo Quarter BID (WQB) and its subsidiary Lower Marsh Market Ltd (LMM), created specifically to manage the market. The contract was signed in 2012 and replaces a similar one signed in 2011 with Westminster Artisans, a social enterprise. The contract licenses WQB, through LMM to manage approximately 25 traders that make up the market and control all the vacant pitches, and transfers to LMM the management on behalf of the Council of another 5 traders operating under a different legal regime. LMM pays an annual license fee to operate the market and buy services from the local authority (waste collection and street cleaning), and in return they can manage the commodity mix, trading times, the physical appearance of the market, cleanliness of the street (service bought from the local authority). Income for LMM is raised through the fees charged to market traders and any surplus generated has to be reinvested in street improvements. LMM performance is monitored by a Service Level Agreement, with targets for the operation of the market. It includes a cap on the number of hot food stalls; targets for commodity mixing; market appearance, cleanliness; and complaints procedures by traders and members of the public. Strategic oversight of the market operation is done by a steering group chaired by Lambeth Council and made up of representatives of local businesses, market traders and local residents with quarterly meetings.

Lewisham Parks has an overarching public space management contract, conceived as a PFI-style 10-year agreement awarded to Glendale in 2000. It was renewed for another 10 years in 2010. The original contract was divided into two main parts: grounds maintenance for over 300 housing estates

and management for 48 parks and open spaces, including 200 enclosures (mostly highway enclosures). In 2010, the two elements were combined to form the Greenspace Maintenance and Management Contract, encompassing every part of the service: grounds maintenance and cleansing, security, liaison with parks user groups, events management, together with sports development. The contract also transferred liability for insurance claims to Glendale. The original agreement also included £1.5million up-front investment to upgrade parks and infrastructure over its first 3 years, payable back by the council over the duration of the contract. The renewed one does not have the investment element, but includes a 3% yearly efficiency saving component, derived from the need to face cuts in council budgets. To help achieve those savings, Glendale is allowed to generate income through events, and acting as a manager for grants obtained by the council or park friends' groups. Monitoring of the contract is done by Lewisham Council as the client. As part of the re-tender of the contract in 2010, the council required method statements as to how the contractors would perform their duties, including the efficiency savings element.

In the last case, the Spine Route, there are no formal transfer agreements at present. Previously (2002), there was an informal partnership between South Bank Employers Group (SBEG) and Lambeth and Southwark Councils (2002). SBEG funded the urban design strategy for the route and mobilised its members to fund its implementation. The two local authorities who were responsible for maintaining the road once the works were finished. There are ongoing negotiations to transfer management of the street to a newly created Business Improvement District, with the involvement of the developers and owners of surrounding properties, whose planning gain payments (Section 106) will provide the capital investment for the street.

4.2.2. Management bodies

In all but two cases, management bodies were not-for-profit entities incorporated as trusts, companies or social enterprises. The exceptions are Myatts Field North Estate and Lewisham Parks, where the management body is a private, for-profit company.

In Myatts Field North Estate, the main contractor is a consortium headed by Regenter and including Higgins Construction and Rydon (a construction, development, maintenance and management group). Regenter itself is a joint venture between Laing, an international infrastructure investor and asset manager, and Pinnacle Regeneration Group (PRG), the holding company for a group of businesses in urban regeneration and public services. However, the actual construction and management work is contracted out: Pinnacle PSG (a subsidiary of PRG) is responsible for housing and estate management; Higgins is responsible for the new build and Rydon undertakes refurbishment of existing property, grounds and open space maintenance and communal areas. The contract is overseen by a Project Liaison Group (PLG) made up of 3 representatives from Regenter, 3 from Lambeth Council and 3 residents.

For Lewisham Parks, the management body is Glendale, a commercial supplier of green spaces management and maintenance service with contracts with local authorities, housing associations and commercial clients all over the country. In its portfolio of services, Glendale offers grounds management, arboriculture, supply of plants and semi-mature trees, woodland management, estate management, vegetation control, landscaping, cleansing services and golf course management. The branch of Glendale that manages the Lewisham contract is a subsidiary of the national company.

In many of the cases, the management body is a not-for-profit trust. The Potters Fields Management Trust is a not-for-profit company constituted in 2005 to redevelop and manage the park. It is run by a Board of Directors made up of 2 representatives from the Council, 1 representative from each resident association – Fair Street Community Housing Services and the Shad Thames Residents Association - 1 representative from More London estate, 1 representative from the GLA and 1 from Team London Bridge Business Improvement District.

Waterloo Millennium Green is managed by the Bankside Open Spaces Trust (BOST). The trust is a charity specialist in horticulture, gardening and the management of urban open spaces, governed by a board with 12 trustees and with connections with several residents' groups in the area. It was set up in 2000 and it supports and services a network of parks, community managed green spaces and open spaces. It also helps to initiate and run community gardening clubs, awards small grants

for local horticulture projects and provides informal horticultural training, landscape maintenance, garden maintenance, grounds maintenance and gardening work experience.



Figure 4. Waterloo Millennium Green, an open space managed by a community trust (BOST)

Similarly, Jubilee Gardens is managed by the Jubilee Gardens Trust (JGT), a trust with charitable status setup in 2008 to take over the management of the gardens after redevelopment. The Trust is governed by a Board with up to 16 Trustees bringing together neighbouring landowners, local businesses and community representatives, and up to 4 co-opted members (Lambeth Council is one of them). It is chaired by the Chief Executive Officer of the South Bank Employers Group (SBEG), which managed the redevelopment of the gardens for the client the Southbank Centre. SBEG is a partnership of seventeen of the major organisations in South Bank, Waterloo and Blackfriars, which seeks to promote the area as a destination for leisure and business. It is also the contractor who carries out maintenance duties in the park through its Jubilee Gardens Ground Maintenance Team.

Three of the cases are managed by not-for-profit bodies whose remit is much wider than public space management. Bernie Spain Gardens is managed by Coin Street Community Builders (CSCB), a social enterprise that owns the land and the cooperative housing around the park. It is controlled by a Board elected by CSCB members, all local residents. Its remit includes the development of cooperative housing; shops, galleries, restaurants, cafes and bars; the development and management of the gardens and the riverside walkway; sports facilities; the organisation of festivals and events; the provision of childcare, family support, learning, and enterprise support programmes.

The open spaces in the Leathermarket Area Estates are managed by the Joint Management Board (JMB), Soutwark's largest resident-managed housing organisation, in charge of around 1500 homes and the grounds of the housing estates in which they are located. It is run by a board of directors comprising 2 residents nominated by five TRA (tenant and resident associations), who decide on how the estates and their grounds are managed, develop policy and oversee the day-to-day working of the JMB. An affiliate organisation, Leathermarket RSO (Resident Services Organisation) executes the gardening services for JMB and the provision of weekend cleaning service.

The third of these organisations with broader remit is Lower Marsh Market Limited (LMM), a not-for-profit subsidiary of Waterloo Quarter BID (WQBID), which manages the Lower Marsh street market.

Waterloo Quarter is the body that manages a business improvement district south of Waterloo Station. As with most BIDs, Waterloo Quarter is constituted as a not-for-profit company, with a management board comprising 14 levy-paying local businesses. Its subsidiary LMM has a board with two directors, one of whom is the chair of WQBID.

Finally, the Spine Route is formally managed by the two local authorities, Southwark and Lambeth Council, as a part of the local street network. However, the partnership arrangement that saw the implementation of the master plan gave a managerial role for SBEG (see the Jubilee Gardens above), which was active in coordinating the delivery of the initial round of capital improvements to the public realm along the Spine Route. Current negotiations are centred on transferring management of the route after a new round of capital investment to the new South Bank Business Improvement District, managed by SBEG.

Table 3: The nature of management agreements

Cases	Type of agreement	Scope of agreement	Management body
Myatts Field North Estate	25-year PFI contract between Lambeth Council and Regenter PFI Consortium, (2012)	Demolition of exiting housing blocks, construction and refurbishment of new housing, community centre, commercial units and park, tenant management services and management and maintenance of council housing and open spaces	PFI consortium head by Regenter + Higgins Construction and Rydon. Regenter is a joint venture between Laing and Pinnacle Regeneration Group. Management work subcontracted to Rydon. Contract overseen by Project Liaison Group (PLG) with representatives from Regenter, Lambeth Council and residents
Leathermarket Area Estates	5-year renewable management contract for housing and grounds between Southwark Council and Leathermarket Joint Management Board (1996, 2001, 2006, 2011)	Tenant management, housing and grounds maintenance, minor works and also major works on the estate, including redevelopment.	Leathermarket Joint Management Board (JMB), a resident-managed housing organisation, led by residents nominated by five tenant and residents associations.
Potters Fields	30-year lease from Southwark Council to Potters Fields Management Trust (2005)	Initial redevelopment of the park and full management of the park, including minor works and maintenance.	Potters Fields Management Trust, a not-for-profit company run by Board of Directors made up of representatives from the Council, resident associations, More London estates, the GLA and Team London Bridge BID
Waterloo Millennium Green	999-year lease from Lambeth Council to Bankside Open Spaces Trust – BOST (2014).	Full management and maintenance including empowering the community to take on greater responsibility for the maintenance of the park.	BOST, a charity specialist in horticulture, gardening and the management of urban open spaces, governed by a board with 12 trustees, and connected to residents' groups
Bernie Spain Gardens	99-year lease to Coin Street Community Builders from the London Residuary Body (1992), renewable for another 99 years.	Full management and maintenance including planting, repairing, renewing	Coin Street Community Builders (CSCB) is a social enterprise controlled by a Board elected by CSCB members, all local residents.
Spine Route	No formal transfer agreements at present. Previous partnership between South Bank Employers Group (SBEG) and Lambeth and Southwark Councils (2002). Ongoing negotiations to transfer management to BID	SBEG funded the urban design strategy and mobilised its members to fund its implementation. Southwark and Lambeth councils are still responsible for maintaining the road.	Road managed by Lambeth and Southwark councils. Partnership with SBEG secured capital investment for street improvements.
Lower Marsh Market	Street market management contract (2012), between Lambeth Council, Waterloo Quarter BID and its subsidiary Lower Marsh Market Ltd	Management of traders and control of vacant pitches, management of the commodity mix, trading times, the physical appearance of the market, cleanliness of the street	Lower Marsh Market Limited (LMM,) a not-for-profit subsidiary of Waterloo Quarter BID, with two directors, one of whom is the chair of the BID.
Jubilee Gardens	135-year sub lease from the Southbank Centre to the Jubilee Gardens Trust (2012), with complex covenants and restrictions related to an underground lease on 1/3 of the site to County Hall.	Provide a park and full responsibility for managing and maintaining the site, including enforcing rules and regulations	Jubilee Gardens Trust (JGT), a charity with board made up of landowners, local businesses and community representatives. Maintenance work subcontracted to SBEG's JG Ground Maintenance Team.
Lewisham Parks	PFI-style 10-year contract awarded to Glendale in 2000. Renewed for another 10-years in 2010.	Management and maintenance of grounds of public housing estates, cleansing, security, liaison with user groups, events management. Original contract included up-front capital investment, renewed contract has 3% yearly efficiency savings.	Glendale - commercial supplier of green spaces management and maintenance service. Lewisham contract managed by a subsidiary of the national company.

4.3. Contractual agreements and the rights and interests of stakeholders

The various kinds of contractual arrangements represented by the nine cases recognise and privilege the interests of groups of stakeholders in different ways, while attributing rights and obligations to them. The way those different stakeholders are represented in the relevant public space management body is the main indicator of how far their interests are recognised by the contractual agreement and how they are positioned in relation to other, potentially conflictive, interests.

Although the range of potential stakeholders can be large, for the purposes of this research the stakeholders represented in the 9 management agreements have been grouped in three basic categories:

- Residents: those living around or in the vicinity of the public space, whose interests over that public space are normally associated with those of the community, and are recognised in most management transfer agreements
- Businesses: businesses located around or in the vicinity of the public space, with an interest on how the space is run and on its uses because of impacts on the business, on its employees or on asset value. This group also includes local commercial landlords
- Users/General Public: general users and visitors to the public space and its facilities, including tourists and passers-by who are not local residents

There is no suggestion that those three categories are internally homogeneous, and there might be significant differences in interests within them, e.g. residents of existing council housing estates and residents of new private housing, or small businesses and large corporates. In some cases this is indeed relevant, and the text refers to the multiple way groups and subgroups are recognised and represented in the management agreements.

The first group is that of local residents, in the sense of those living in the immediate vicinity of the spaces. They are recognised as important stakeholders in all agreements and their interests and aspirations are directly represented in the majority of the management bodies, albeit with different degrees of strength. Residents have direct representation in the management board in four of the cases. In the Leathermarket Area Estates, they are naturally the main group of stakeholders, and representatives of the five tenants and residents' association make up the whole of JMB board of directors. In the charitable trust managing Potters Fields, residents have two of seven seats in the board, one for a representative from Fair Street Community Housing Service (the neighbouring council housing estate) and another from the Shad Thames Residents Association (a private housing estate). A third representative is likely to be included once the private residential development bordering the park is completed and occupied. At Bernie Spain Gardens, those local residents that are members of the Coin Street Community Builders co-operative (i.e. have lived in the area for at least three years) are represented in the CSCB Board, which they elect. In the case of Jubilee Gardens, the 16-strong board has one seat for residents of the neighbouring private estate County Hall through their residents' association; another for CSCB representing residents of the nearby cooperative housing; one for the Waterloo Community Development Group (a resident-based pressure group focusing on land use planning); and indirectly another one from BOST, with its connection to residents' groups (see below).

In three other cases, residents' interests are represented in steering groups with varying degrees of power over the operation of the public space management body. In Myatts Field North Estate, the residents' association for the Council housing estate have three of the nine seats of the Project Liaison Group, the steering group that oversees the PFI operation and decides on strategic matters related to it. Once the private housing component of the new development is completed and occupied, its residents will also have some kind of representation in the Liaison Group, although the precise form is still to be defined. In the Waterloo Millennium Green local residents are represented directly in a steering group that advises BOST. BOST also has formal links with residents' groups from the wider South Bank area (Blackfriars Settlement, Bankside Residents Forum and Waterloo Community Development Group), which influence the agenda of BOST beyond this specific public space. Finally, local residents are included in the Lower Marsh Market steering group, which has a strategic oversight of the market operation. In this case however, it is individuals that participate in the steering group, rather than organised representation of residents.

In the remaining two cases, residents have no formalised representation in management arrangements. In the case of Lewisham Parks, residents' groups such as the Blackheath Society around Blackheath Park do engage with the management body, Glendale. However, their input is more similar to that of a consultee or lobbying group mobilising their contacts inside the local council, rather than an input from a member formally recognised as part of the decision making or the operation management team. In the Spine Route, where arrangements have been less formal and are still being negotiated, some residents have had their interests represented through the lobbying role of residents' groups such as the County Hall residents' association or the Coin Street Community Builders; or residents-led community organisations such as the Waterloo Community Development Group; or more generally, in an indirect way through the two elected local authorities.

The second group of stakeholders are the local businesses. They were not relevant in the predominantly residential context of Leathermarket Area Estates, or Bernie Spain Gardens or the Myatt Field North Estate. The only type of business interests recognised directly in the latter are those of the PFI consortium Regenter itself, its members and subcontractors, whose interests, rights and obligations are set out in detail in the PFI contract. This is also the case with Lewisham Parks. Local businesses and employers' interests might be represented in friends' groups where relevant, but on a consultee or lobbying capacity, and the only business interests directly represented in the arrangement are those of contractors Glendale.

In three of the other cases, local businesses were directly represented in the board of the management body. In Potters Fields, two of the seven seats in the trust board are occupied by business representatives: one by private office estate More London, representing their own interests as landowners and those of the occupiers of their buildings, and one by Team London Bridge BID representing its business membership (the BID levy-payer occupier of commercial property in the area). In Jubilee Gardens, the board includes representatives of large businesses and landowners (the London Eye, the Shell Centre, the Southbank Centre), of small businesses (2 at the time of writing), and of local business association the South Bank Employers Group (SBEG), whose representative chairs the board. In the case of the Spine Route, local business and landowners' interests were represented by SBEG in the original partnership, and are still represented in the ongoing negotiations by SBEG, the new Southbank BID, the Coin Street Community Builders (as major landowners) and the developers and commercial landowners for the new developments along the route.



Figure 5. Lower Marsh market. Interests of market traders and street retailers accommodated in the Lower Marsh Market Steering Group. With permission from Waterloo Quarter

In the two remaining cases, business interests are represented in steering groups advising the main management body. Local businesses are represented in BOST Steering Group in the case of Waterloo Millennium Green, either directly and or indirectly through the presence in it of Waterloo Quarter BID representing its levy-paying members. The management arrangements for Lower Marsh Market are focused around the interests of market traders and retailers along the street. Both groups are members of the Lower Marsh Market Steering Group, where they can voice their interests directly. Additionally, some of the street retailers are also levy-paying members of the Waterloo Quarter BID, LMM Ltd parent company and therefore are also represented indirectly through the BID.

The third group of stakeholders comprises all other users and the general public. Some categories of users are indirectly represented in the management arrangements as their interests coincide with others that are directly represented. This is especially the case with local workers. This group of users is formed of people working for the businesses around the 9 public spaces and using these spaces at lunch time or walking past them to get to work. They do not have direct representation in any of the arrangements but their interests are explicitly protected by their employers, who are indeed represented in the agreements. This is the case in Potters Field, where the interests of local workers is mainly represented by More London estate and Team London Bridge BID, both in the board; or the case of Jubilee Gardens, through the presence of the Southbank Centre, the Shell Centre, SBEG and other employers in the board. Similarly, in the case of Lower Marsh Market workers are indirectly represented by their employers' membership of the Waterloo Quarter BID (WQB), the parent company of LMM. WQB plays the same role albeit less directly in the case of the Waterloo Millennium Green through its work with BOST, the managers.

Other users and especially the interests of non-local borough residents and businesses are represented indirectly by the elected local authority, in their role as protectors of the 'public interest', as freeholders of the spaces, or as main clients in the management contracts. This is a straightforward role in the Spine Route as it is an adopted road under the management of Southwark and Lambeth Councils.

In Potters Fields, Southwark Council was responsible for setting the terms of the lease in its role as freeholders of the land, and also have a sit in the board of the trust. In this particular case, given its location, the Greater London Authority has also a place in the board in its capacity both as both as policy maker for London and neighbouring 'resident/business'. In Jubilee Gardens, Lambeth Council also has a sit in the board, but as a co-opted member without full voting rights.

In most of the cases however, the local authority represents wider borough interests in their role as main client and monitoring body for the management agreement. In Waterloo Millennium Green, Lambeth Council does not sit on the management board, but as freeholder it set the terms of the lease – which included the position of park within the borough general open space policies, and it acts as monitoring body for the leaseholders and managers BOST. In Myatts Field North Estate, Lambeth Council is both the client defining the terms of the PFI contract and a member of the Project Liaison Team, which oversees the contract and monitors the performance of the contractors. In the Lower Marsh Market, Lambeth Council is the main client in the contract, and also has chairs the Lower Marsh Market Steering Group. A similar situation happens in the Leathermarket Area Estates and in Lewisham Parks: in the former, Southwark Council is the main client setting up the terms of the contract and with monitoring rights over the management body; in the latter, Lewisham Council is the client setting the terms of the quasi-PFI contract and monitoring the performance of contractors Glendale.

The only case without direct involvement of the local authority as representatives of borough-wide interests is Bernie Spain Gardens. The local authority is not the freeholder of the site and has no participation in the CSCB board. However, as member of several local partnerships and groupings (SBEG, the new BID, etc.), CSCB is responsive to local authority strategies on public spaces which represent the 'public interest'.

Table 4 summarises how the interests and rights of those key stakeholders are recognised and included in the contractual agreements.

Table 4: Interests and rights in management arrangements

Cases	Summary
Myatts Field North Estate	Residents interests are in principle the main driver of management – through involvement in the decision making body and through the Council’s role as the freeholder of the grounds. The Council plays a preeminent role in the allocation and negotiation of rights and obligations and represents the public interest
Leathermarket Area Estates	Residents’ interests are the main driver of management -through involvement in the decision making body General public interest represented by the Council in the lease contract but no direct representation at the decision making body
Potters Fields	A balanced representation of the different stakeholders’ interests in the decision making body. General Public interest represented both in the lease agreement and in the decision making body through representatives of the Council and the GLA
Waterloo Millennium Green	Residents’ and Businesses’ interests represented at the decision making body. General Public interest represented in the lease contract but no direct representation at the decision making body.
Bernie Spain Gardens	CSCB member interests are predominant. General Public interest is not directly represented.
Spine Route	General Public interest dominates, with different stakeholders negotiating the position of their interests in the potential new agreement.
Lower Marsh Market	A balanced representation of the different stakeholders’ interests in the decision making body. General Public interest represented both in the lease agreement and in the decision making body through the Council representative.
Jubilee Gardens	Trust’s interests encompass those of the more active user groups (some residents, landowners, surrounding institutions and businesses). General Public interest is represented indirectly by advisory presence of local authority in the board.
Lewisham Parks	No user group is predominant. General Public interest represented in the lease contract but no direct representation at the decision making body.

4.4. Contractual allocation of management responsibilities

The analytical framework suggested in section 2 assumes that publicness might be affected differently by the contracting out of public space management, depending on which type of management responsibility is transferred - i.e. coordination, regulation, maintenance and investment - and the extension to which this happens. Coordination includes strategic and operational decision-making about the space and its management; regulation covers the setting up of rules of behaviour, rules of access and opening times and their enforcement; maintenance comprises the organisation and operation of maintenance routines; investment includes capital and revenue investment, repairs and maintenance costs. The following paragraphs describe the similarities and differences in the allocation of management responsibilities for each case. Table 5 presents a summary of how management responsibilities are allocated.

4.4.1. Coordination

The cases show two different ways in which the transfer of coordination responsibilities has been done: full transfer and partial transfer. Most of the cases fall within the first category and they present a full transfer of strategic and operational decision-making responsibilities from the local authority to a management organisation. This is the case of Leathermarket Estates, Potters Fields, Waterloo Millennium Green, Bernie Spain Gardens and Jubilee Gardens. Full transfer means that the management organisations (JMB; BOST; CSCB; and JGT) have full autonomy to choose their contractors and run the services as they see fit. The local authority plays a monitoring role in the management of these spaces and its relationship with the management organisations is mediated through the contract that sets up the benchmarks and indicators to assess the organisations’ performance – i.e. a Right to Manage contract in the Leathermarket estates case and long-lease contract in the others.

The second group of cases is characterised by a partial transfer of responsibilities, where the strategic coordination is kept by local authorities and the operational level is allocated to the management organisations. This is clearly the case of Lewisham Parks and Lower Marsh Market. However, the scope for the operational coordination of Lower Marsh Market is narrower compared to that of Lewisham Parks. In the latter, Glendale is in charge of all the areas of operational management for Lewisham Parks, including funding and community involvement, whereas in the former, WQB is only responsible for the coordination of the market operation and related services and the liaison between the market, the shops and the residents. The contracts also reflect the differences in the allocation of operational responsibilities. Glendale relationship with Lewisham local authority is set in a management contract whereas in the case of Lower Marsh Market, the relationship is formalised in a managing license. Myatts Field North re-development also forms part of this second group although it presents a more complex allocation of coordination responsibilities than in the previous cases. Here, the strategic coordination has been allocated to the Liaison Group, which is formed of representatives from the local authority, the residents and the Consortium (Regenter). In addition, the operational coordination has been allocated to the Consortium, which employs a grounds management company (Rydon) to run the day-to-day services. In this case, the complex transfer of responsibilities between the local authority and the external organisation has been formalised in a 25-year PFI contract.

The Spine Route case presents a situation in which all the coordination responsibilities are still within the remit of the local authorities (Southwark and Lambeth). However, the local authorities are being challenged by the new Southbank BID, managed by SBEG, due to the poor maintenance of street. SBEG was involved in the delivery of the first round of capital improvements on the street some 12 years ago and has argued that the local authorities have not been able to keep its quality standards to a good condition. Accordingly, the BID is lobbying to become the management company for the local authorities in order to provide a better and more homogenised service in the area, including the Spine Route. They are currently in negotiations with both local authorities but no decision has yet been made in this regard at the time of writing, and it is not clear which form it would take in case there was a transfer of responsibilities.

4.4.2. Regulation



Figure 6. Use and access rules set out by managing Trust in Jubilee Gardens.

The wide variety of arrangements in the regulation of behaviour, access and opening times for the different cases confirms the relevance that the 'context' plays in their management. However, the process that leads to the different type of regulation arrangements is common to almost all the case studies. In general, local needs and demands represented by the management organisations are negotiated with the local authorities, who represent the wider needs and aspirations of the borough. There are only two cases, Jubilee Gardens and Bernie Spain Gardens, where the regulation of the space has been determined by the management organisations. Interestingly, in both cases the lease agreements give the management organisation virtual ownership of the land. Jubilee Gardens has been outside the control of an elected public body for some 30 years, when the ownership of the site was transferred from the defunct Greater London Council (GLC) to the Southbank Centre. Similarly, CSCB has full rights over Bernie Spain Gardens by virtue of their lease agreement with the London Residuary Body (LRB), managers of the estate of the GLC and freeholders of the land. Consequently, it could be argued that these two examples are *de facto* 'private spaces' open to the general public. The enforcement of rules in these two examples is carried out by private security teams, although criminal matters are dealt with by the police. As for the rest of the cases, enforcement powers are largely retained by the council, with warden services contributing to the surveillance of those areas and increasing the deterrent effect.

4.4.3. Maintenance

Operation and maintenance routines have been fully transferred to the management organisations in all cases but the Spine Route, where they still lie with the local authorities. However, each case has a slightly different way of managing the day-to-day upkeep of the spaces. In the case of Potters Field and Bernie Spain Gardens, the management organisations employ specialist contractors to carry out daily maintenance. The contractors' activity and performance in Bernie Spain Gardens is regulated in accordance to the standards set up by CSCB, whereas in Potters Fields these standards are set up by the Potter Fields Trust Management Plan and a Service Level Agreement (SLA) with the local authority.

Myatts Field North and Jubilee Gardens are slightly different from the previous two examples. In their case, the maintenance is also contracted out to a grounds management contractor, Rydon and JGGMT respectively, who are responsible for contracting the specialists needed and monitoring that their job is done to the required standards set up by Regenter and JGT.

JMB and BOST are carrying the maintenance of their spaces with their in-house teams but they also count with some support from charities and other voluntary groups. Groundwork and St Mungo's Broadway charities assist JMB with the gardening activities in Leathermarket Estates while BOST works alongside different voluntary groups in Waterloo Millennium Gardens to carry out different maintenance tasks (litter picking, for instance). In both cases, the maintenance standards are set out in their management plans. Myatts Field North could also be part of these group of 'collaborative maintenance' examples, since some parts of the park will be maintained by a community organisation, The Happenings, once re-developed. They are also expected to take over the management of the MUGA (multi-use games area) being developed on site, but the terms of their future relation with Rydon or the consortium is not yet known.

There is another group of cases in which the management organisations carry all the maintenance themselves, without any support from voluntary or community groups. This is the case of WQB in Lower Marsh Market, responsible for the maintenance of the market infrastructure, and Glendale in Lewisham Parks, responsible for all the maintenance tasks in the parks across the borough.

Finally, the maintenance of the Spine Route is still carried out by the two local authorities (Southwark and Lambeth) and by landlords County Hall in the privately-own stretch of land at the route's western end. As mentioned earlier, SBEG are lobbying to become the maintenance provider in the area but the outcome of the negotiations with the local authorities was not yet clear at the time of writing.

4.4.4. Investment

The cases illustrate three different forms of transfer of investment responsibilities: full transfer with payback payments by local authorities over a period of time; full transfer with no payback payments but with some sort of public support; and full transfer with no payback payments or any other type of public funding.

Myatts Fields North and Lewisham Parks are in the first group. In both cases, the initial capital investment came from the management organisation (the PFI consortium and Glendale) and should be paid back by the corresponding local authority as unitary charges, over a period of 25 years in Myatts Fields North and 10 years in Lewisham Parks. Maintenance costs are also paid back by the local authorities but in the Lewisham case, the renewed contract (2010) includes a 'savings clause', which transfers to Glendale the responsibility to find resources to make up for reduced maintenance payment transfers. Future capital investments are not included in any of the current contracts and will have to be negotiated in the future. In addition, some revenue-generating facilities in Myatts Fields North have been transferred to The Happenings while in the Lewisham case these facilities have been transferred to Glendale. The commercial income they get out from them is mostly employed to cover the 'saving clause' of their contract.



Figure 7. Section 106 monies cover capital investment in the Spine Route.

The second type of transfer applies to most of the cases, namely Waterloo Millennium Green, Bernie Spain Gardens, the Spine Route, Lower Marsh Market and Jubilee Gardens, although, public funding covers different items in each. For instance, most capital investment comes from Section 106 monies in Jubilee Gardens and the Spine Route, whereas in the other two cases, public funding is marginal and comes from grants and/or Section 106 monies. Capital investment for Waterloo Millennium Green and Bernie Spain Gardens is raised by management organisations from different sources: BOST has received money from the Government's Lottery Fund whereas CSCB combines loans, commercial income and fees from renting Bernie Spain Gardens for different public and private events. In all those cases routine maintenance is funded by the management organisations, with money raised variously from sponsorships and commercial activity with the exception of the Spine

Route (local authority-maintained) and Jubilee Gardens due to the nature of the lease agreement that forbids any commercial activity in the park. In this case, Section 106 monies and private donations are the main sources to fund maintenance.

Finally, the third type of transfer applies to Leathermarket Estates and Potters Fields cases. The context of each case has an impact on the number of funding sources available to cover the capital investments and maintenance costs. JMB currently obtains funding for capital investment and maintenance out of the rents and service charge revenues from residents of Leathermarket Estates. Although JMB received local authority payments for management services in the first years of the contract, it no longer has this support. Consequently, JMB is dependent on its ability to retain and manage the funding obtained from the tenants. The rest of the costs are covered with the money it gets from grants and sponsorship. In the case of Potters Field, the revenue raised from events and fees for commercial uses is currently the only source of funding available to the Trust, although it did receive some Section 106 monies for capital investment in the early years of operation.

Table 5: Allocation of management responsibilities

Cases	Summary
Myatts Field North Estate	Highly detailed transfer of full range of responsibilities in complex PFI contract. Clear client-contractor relationship between Council and Regenter and its subcontractors, with highly formalised monitoring mechanisms and with transfer of operational responsibilities in coordination, maintenance and investment, but not regulation.
Leathermarket Area Estates	Transfer of full range of responsibilities by Right to Manage contract. Clear client-contractor relationship between Council and JMB, with formalised monitoring mechanisms, but tempered by the community sector nature of JMB. Transfer of all management responsibilities, but with Council oversight.
Potters Fields	Transfer of full range of responsibilities by lease agreement. Lessor – lessee relationship between Council and Trust, framed and monitored by an approved plan and Service Level Agreement, and council presence in Trust. Transfer of all management responsibilities within the terms of the lease.
Waterloo Millennium Green	Transfer of most responsibilities by lease agreement. Lessor-lessee relationship between Council and BOST, framed and restrained by works programme and maintenance schedule included in Service Level Agreement and inclusion of park in local authority open spaces strategies.
Bernie Spain Gardens	Full transfer of rights and responsibilities in long lease. Local authority – private landowner relationship between Council and CSCB.
Spine Route	Undefined distribution of responsibilities, with SBEG already involved in some coordination and investment and pushing for involvement in maintenance.
Lower Marsh Market	Transfer of specific, street market-related responsibilities through managing license, with relationship client-contractors between council and WQB within an environment managed by the council and some overlap of responsibilities
Jubilee Gardens	Transfer of rights and responsibilities by lease agreement, with lessor and lessee relationship between the Southbank Centre and JGT, and one of client-contractor between JGT and SBEG, within the terms of a complex and prescriptive lease arrangement.
Lewisham Parks	Highly detailed transfer of mostly maintenance and investment responsibilities through a quasi-PFI contract. Clear client-contractor relationship between council and Glendale with highly formalised specifications and monitoring mechanisms.

4.5. Openness/accessibility and accountability

Section 2 defined publicness as a function of openness and accessibility, which comprise the rights of access and of use of a space, and of accountability, which comprises how stakes over a space are recognised and given a voice in the governance of that space. The following section describes the arrangements to determine rights access and use (i.e. openness and accessibility) and the mechanisms for incorporating and responding to the aspirations of key stakeholders (i.e. accountability) in each case. Table 6 summarises the section, setting out the key players in each of the two dimensions of publicness and the key processes determining openness, accessibility and accountability.

4.5.1. Openness and Accessibility

All of the nine cases are open to the general public without significant restrictions, including the virtually privately owned Bernie Spain Gardens and Jubilee Gardens, and all allow for a great variety of different activities to happen in them. However, the extension of ownership rights over the land in those two cases does seem to have a relevant impact on the regulation of openness and accessibility rights, since these are not subject to negotiation with a wider range of stakeholders. CSCB and the Jubilee Gardens Trust are the sole responsible for setting up the regulations of openness and accessibility in Bernie Spain Gardens and Jubilee Gardens, and they have done it according to their own ethos and their member's interests. By contrast, the rest of the cases show a more complex arrangement of actors negotiating regulations of openness and accessibility. More importantly, local authorities play a relevant part in the drafting of these rules, be it through their contractual agreements with the management organisation - as in Myatts Fields North, Potters Fields and Lewisham Parks - or through the by-laws adopted as a default for the guiding set of rules - as in Leathermarket Estates, Potters Fields, Waterloo Millennium Gardens, Lower Marsh Market and the Spine Route.

In spite of any differences in the regulation of the rights of use and access, in all the nine cases, 'neighbours' (namely surrounding residents, landowners and businesses) tend to have a greater impact in the way openness and accessibility are regulated than any other stakeholder - i.e. the general public. This is especially clear in the Leathermarket Estate case, where access and the regulation of activities in the open spaces - e.g. ball games or dog walking - are mainly decided by the residents' associations. Similarly, openness and accessibility to Bernie Spain Gardens are regulated to provide a well maintained family friendly environment, in tune with the desires of CCSB cooperative housing residents living around the space. Consequently, it could be argued that physical proximity to the site defines the dominant interests in the regulation of the rights of access and use.



Figure 8. Area of Bernie Spain Gardens rented out for an event.

Revenue-raising events that close off some parts of public space for fee-paying customers do affect openness and accessibility of the places where they happen. They also have the potential of being contentious and create distinction in access and use between fee payers and others. Indeed, this

has been contentious in a number of occasions. Management organisations have been challenged by surrounding residents on the nature of those events, especially when they generate noise or an excessive number of visitors, but not often on the restrictions to access and use that come with those events. Because of this potential for conflicts, all the cases in which the hiring of the space for events is allowed (Potters Field, Bernie Spain Gardens, Lewisham Parks, Lower Marsh Market) have complex mechanisms for deciding the number, character and size of the events and the restriction to public access they can cope with, which normally incorporates the 'neighbours' and in some cases the local authority.

4.5.2. Accountability

The accountability variable comprises the ways in which stakeholders are recognised and given a voice in the governance of a particular space. The analysis of the cases shows that accountability varies according to two main factors: lines of accountability– i.e. who is accountable to whom and how clear this relation is - and nature of the decisions– i.e. the type of decisions stakeholders are accountable to, namely strategic or operational decisions.

Boards, Steering and Liaison groups are the main mechanisms of internal accountability, providing a forum for those stakeholders recognised in the agreements to voice their aspirations. However, although members of the Board (or Steering or Liaison group) are directly accountable to the group of stakeholders they represent, there is no direct accountability to other interests. This is the case with Potters Fields, Jubilee Gardens, Lower Marsh Market and Waterloo Millennium Gardens, whose governing boards include a wide variety of voices – from residents to businesses, local authorities and the GLA – but accountability to the general public for the decisions taken is less clear and depends on the mediating role of the local authority. The cases of Myatts Field North Estate, Bernie Spain Gardens and Leathermarket Area Estates are more extreme in that they show exclusive lines of accountability between the managing organisation and one group of stakeholders (residents of particular housing estates). The aspirations of other stakeholders, be they the general public or other residents, are only indirectly represented either by the local authority or by partnerships between the managing organisation and local organisations.

All cases show clear lines of accountability between the management organisations and the local authorities, which represent the general public and borough-wide interests. These lines are set out in the transfer agreement, which in turn determines the nature of the relationship between both bodies. In the cases in which this relationship is of a client-contractor nature (Myatts Field North, Leathermarket Area Estate, Lower Marsh Market, Lewisham Parks and possibly the Spine Route), accountability is quite direct and is structured through detailed performance indicators, service specifications, monitoring targets and sanctions for non-compliance embedded in the contract. In two other cases, in which that relationship is of a lessor-lessee nature (Potters Field and, Waterloo Millennium Gardens), accountability between the management organisation and the local authority is more of a strategic nature and is defined through the structure and terms of the lease, which specifies its purpose, expected outcomes and sanctions for deviating from those. The same applies albeit indirectly to the cases of Bernie Spain Gardens and Jubilee Gardens. The lessor in those cases are other public bodies (the London Residuary Body and the Southbank Centre), but the leases include similar terms as the two previous cases. However, as the local authority is not the main part in the leases, it has only indirect powers to ensure compliance with those terms, mostly through negotiation and pressure.

The system of accountability described above cover both strategic decisions (e.g. the role of the space, the facilities it should have, its place in wider public space strategies, basic accessibility and openness principles) and operational ones (e.g. maintenance regimes, daily implementation of access and use rules). Most of those strategic decisions are already embedded in the contracts and leases, which specify the nature of the space, its purpose and uses, and how these should be secured. Moreover, it is worth noting that local authorities are directly involved in the strategic decisions in all but one case, which makes the latter accountable to a wider constituency than that directly represented in the transfer agreements. In Bernie Spain Gardens the involvement is indirect, through the participation of the management body in local partnerships with the local authority.

The picture is different as regards operational decisions. In general, local authorities tend to have a reduced presence in the decision making process of operational decisions – i.e. day-to-day management issues such as dog access, ball games or litter picking. These are generally negotiated between space managers and the key stakeholders and formalised via the clear internal accountability mechanisms of trust boards, steering groups or liaison groups discussed earlier. In addition, the regular presence of wardens, gardeners and other staff on site allows for direct and informal interaction between the stakeholders and the management organisation, increasing people’s engagement with the management of the spaces. .

There is however some accountability of operational decisions to the local authority and therefore to wider interests beyond the key stakeholders. In some cases, this is more significant and relates to specifications and performance indicators included in transfer contracts or leases, as in Lewisham Parks, Myatts Field North, Lower Marsh Market and Potters Fields. In most cases, this is a result of local authority presence in the management organisation through seats in the board, or contractual monitoring powers which happens in all the cases but Bernie Spain Gardens. What might vary from one case to the other is the relative power the local authority has on the decision making process for operational matters. This depends amongst other things on the number of stakeholders in the boards of the managing organisation, or on the nature of the engagement of the local authority with it. In this sense, number of stakes acknowledged over a space in the management organisation is the key factor affecting local authorities’ hold over the process. In other words, the greater the number of local stakes over a space, the smaller the scope for the aspirations of ‘the general public’ to be taken into account at the level of operational decisions.



Figure 9. The GLA building in Potters Fields.

As a neighbour, the GLA is one of the stakeholders sitting at the Trust management board. Copyright Daviddje
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Table 6: The dimensions of publicness

Cases	Summary of Key Determinants of Publicness
Myatts Field North Estate	Openness and accessibility set out by local authority and hinging on contract compliance monitoring. Accountability lines client-contractor set out in PFI contract; hinging on contract monitoring and effectiveness/power of Liaison Group.
Leathermarket Area Estates	Openness and accessibility set out and delivered by residents' association. Openness and accessibility hinging on commitment to openness from JMB, framed by the terms of the contract with the local authority Accountability lines client-contractor set out in transfer contract; hinging on contract monitoring and effectiveness of relationship residents' association – JMB – local authority
Potters Fields	Openness and accessibility set out by local authority hinging on commitment to openness from groups represented in the Trust's Board of Directors, framed by terms of the lease. Accountability hinging on the functioning of the Board and its relationship with local authority
Waterloo Millennium Green	Openness and accessibility set out by local authority and hinging on commitment to openness from contractor, framed by terms of the lease. Accountability hinging on contract monitoring and effectiveness of relationship client - contractor.
Bernie Spain Gardens	Openness and accessibility set out by CSCB, framed by their own regulations. Hinging on commitment to 'family friendly' environment. Accountability hinging on board of resident's interests.
Spine Route	Openness and accessibility for most of the route as for any adopted road, excluding private tract set out by landlords County Hall. Openness and accessibility hinging on council representativeness and future role of SBEG/BID. Accountability through local authority. It might hinge on balance of responsibilities/power of any future arrangement.
Lower Marsh Market	Openness and accessibility for street set out by local authority, hinging on the monitoring and negotiation of contract and of market operation. Accountability hinging on effectiveness of overseeing role by Council and relationship market managers - traders
Jubilee Gardens	Openness and accessibility set out by Trust, hinging on commitment to openness from groups represented in Trust, framed by terms of the lease. Accountability hinging on the functioning of the Trust and its overseeing role over contractors.
Lewisham Parks	Openness and accessibility set out by local and hinging on contract compliance monitoring. Accountability hinging on contract monitoring and effectiveness of relationship client - contractor.

4.6 Typologies of publicness

The previous sections looked at the different issues that can influence publicness in contracted out management agreements: the context of each case in terms of location in the wider city, the nature of the surrounding area and the range of interests each space is likely to attract; how the interests of three types of key stakeholders were treated in the management transfer agreements; the allocation of the four key management responsibilities among the parties in the agreement; how openness, accessibility and accountability are shaped by the transfer agreements. This section tries to condense the findings for each case, to allow for commonalities among the cases to emerge.

The variable *context* sets the range of potential interests around a public space and defines which are more likely to be involved in management. Some of the spaces are in central locations with a wide range of stakeholders with multiple objectives pressing for a say in how those spaces are managed and thus requiring arrangements capable of incorporating that complexity. Other spaces have only local interest, with one or a few clearly defined stakeholders. The main differences among the cases are therefore centred on the range of interests and stakeholders, whether just local interest with few and clearly defined stakeholders, or wider and more complex sets of interests, stakeholders and degrees of 'definability'.

Rights and obligations define the relative power in management arrangements and whose interests the arrangements respond to. Dominant interests are those incorporated into contracts, in some cases mediated by the local authority as a main party retaining important controlling rights; in others without mediation, with local residents/businesses/landlords acting directly as dominant players. The main differences in the cases lie around the roles of the local authority, local residents/business or other stakeholders, whose interests are paramount in the contractual arrangement and how they are balanced.

Allocation of management responsibilities specifies the type of relationship between the management and the public body owning the space, and the amount and type of power/control transferred through the management agreement. In some of the cases there is a transfer of a full range of responsibilities, including strategic management and funding whereas others are more restrictive and maintain some strategic functions with the local authority/public body; some are highly prescriptive in their description of responsibilities, and others are more flexible allowing managers a greater discretion. What differentiates the cases is the nature of the relationship between the management body and the space owner (lessor/lessee, client/contractor), how prescriptive and/or wide ranging the agreement is (full management, operational only), and how management should be funded (self-funded or transfers/payment from public bodies)

Finally, *publicness* defines how openness/accessibility and accountability are interpreted in the arrangements. Some arrangements make the space open and accessible as any other public space, whereas others assume a degree of self-regulation by the stakeholders, with some additional restrictions. Accountability mechanisms in some cases are clear and direct in their lines of communication between stakeholders and managers, but in others are more complex and mediated. Some cases are directly inclusive of all main potential stakeholders while others are exclusive to one or two main stakeholders (with only indirect accountability to others through the local authority). All in all, the cases differ in the degree of openness and accessibility compared to other public spaces; their degree of self-regulation; the level of clarity and complexity of the accountability mechanisms for the recognised stakeholders; and whether each case is inclusive of all main stakeholders or restricted to one dominant set of interests.

Looking at the nine cases and common features amongst them it is possible to distinguish three basic types of 'publicness', defined by the array of stakeholders involved in management, the extent to which they can define and regulate basic rules of access and use and their ability to influence and control management strategies. The first type encompasses those cases with a largely self-regulated type of publicness, directly shaped and controlled by surrounding residents, business and landowners and their interests and aspirations. The second type represents a fully contractualised form of publicness, in which rules for use and access and management responsibilities and control over it are defined in contract specifications, with clear and separate roles for the public body that owns the space (the client) and the management body (the contractor) that mediates between the interests of clearly defined stakeholders. Finally, the third type refers to a more restricted contractual arrangement, which applies to only some dimensions of the space and its management and therefore only allows for partial intervention of stakeholders in shaping rules of access, use and space management. The three types are explained in more detail below and their implications for public space publicness are discussed in the concluding section.

First type: Stakeholder-shaped publicness

These are spaces whose management incorporates a wide range of interests, with strong representation of stakeholders. They are seeking to secure the fullest possible transfer of management responsibilities (including funding), ownership rights and a more equal relationship with local authority/public body. In this case, the transfer leads to some form of self-regulated openness/accessibility and accountability mechanisms that are complex but inclusive to the recognised stakeholders. Other interests are represented by the local authority.

This type includes spaces managed by trusts and social enterprises with clear and legally defined lines of accountability to its members, all of them organisations with a clear and direct stake in the public space. Transfer of management involves a long lease with its own conditions, creating a lessee-lessor relationship with the public body that owns the freehold of the land, and giving the lessee almost full ownership rights, including in some cases the right to raise revenues from rental of the space and facilities. The transfer of responsibilities tends to be extensive although within the parameters set by the lease. Whether a trustee and/or freeholder of the land, the local authority is a part of the arrangement, albeit occasionally a minor one, setting and securing compliance with policies and acting as representative of dispersed interests in the borough.

Second type: Full contracted-out publicness

This type comprises spaces in which the management is taken over by one key stakeholder, with the local authority in a strong position to retain strategic overseeing role while delegating management. These are spaces under council by-laws, with some self-regulating openness and accessibility but within a very tight framework set out in detailed contractual agreements. Accountability mechanisms are clear but complex, securing an exclusive say by the main stakeholders in each arrangement. As in the first type, there is weak and diffuse accountability for other stakeholders, many of which are indirectly represented by the local authority’s presence in the management body.

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Figure 10. All open spaces in Lewisham are managed by one private contractor, under complex contractual rules.

Transfer of management involves mostly complex contractual transfers monitored by performance indicators and backed-up by sanctions, creating a client-contractor relationship between the management body and the local authority. The transfer of responsibilities can be extensive and its nature and expected outcomes are detailed in contractual documents. It can include the right to raise funds to finance management, but it also involves service payments from the local authority to the contractors. The local authority plays a key role as client, monitoring body and enforcer of contractual obligations. It sets the terms of the contract and the general policy framework within which the contract operates and ensures the representation of dispersed interests in the borough.

Third type: Restricted contracted-out publicness

This last type includes spaces in which localised interests, clearly defined, take over some aspects/functions of the public space. The council has a strong client position and retains a strategic overseeing role of all aspect/functions of the space while delegating some relevant management duties through contracts with high degree of monitoring. This type leads to forms of openness/accessibility that mirror those in other public spaces and accountability mechanisms, linking directly or indirectly those localised interests to management and from them to the local authority.

There is a partial transfer of managerial responsibilities over particular attributes of the public space (as the location of particular activities such as a street market or a movement corridor). Other attributes of that space remain under local authority management. There might be restrictions on openness and accessibility for those aspects of the space managed through contract, but they are very specific and do not influence significantly the openness and accessibility of the space as a whole. Normal accountability mechanisms (through the local authority) apply to the space, with specific clear and formalised mechanisms applying for the transferred attributes, which secure an exclusive say from all the relevant stakeholders.

Transfer of management in this type involves a management contract transferring a specific set of management obligations from the local authority to a contractor, with clear outcomes and performance indicators embedded in the contract. The contractor has operational autonomy, but this happens within a detailed framework of obligations set by the client. As the client, the local authority is the main part in the arrangement, setting the terms under which the contractors are monitored and ensuring those are in line with its own policies.

Table 7: Typologies of contracted-out publicness

Cases	Context	Rights and Obligations	Allocation of Management Responsibilities	Publicness	Typology
Potters Fields	Iconic and visible location Wide range of users	Board of trustees' Balance of trustees' interests	Prescriptive lessor/lessee relation Full management Self-funded	Self-regulated openness Complex and inclusive accountability	First type: Stakeholder- shaped publicness
Waterloo Millennium Green	Local park in central area Local + wider interest	Balance between Council and BOST Balance of all main stakeholders' interests	Prescriptive, mixed client/contractor and lessor/lessee relation Operational management Part self-funded	Self-regulated openness Complex and inclusive accountability	First type: Stakeholder- shaped publicness
Bernie Spain Gardens	Local park in iconic location Wide range of users	CSCB preeminent role CSCB members' interests	Lessor/lessee relation Full management Self-funded	Self-regulated openness Clear and exclusive accountability	First type: Stakeholder- shaped publicness
Jubilee Gardens	Iconic and visible location Wide range of users	Trust's preeminent role Balance of trustees' interests	Flexible client/contractor & prescriptive lessor/lessee relation Full management Part self-funded	Self-Regulated openness Clear and inclusive accountability	First type: Stakeholder- shaped publicness
Myatts Field North	Housing grounds Local interest	Council's preeminent role Resident's interests	Highly prescriptive Client/contractor relation Operational management Publicly funded	Entirely open, with some self-regulation Clear and exclusive accountability	Second type: Full contracted-out publicness
Leathermarket Area Estates	Housing grounds Local interest	JMB preeminent role Resident's interests	Flexible client/contractor relation (public spaces) Full management Part self-funded	Self-regulated openness Clear and exclusive accountability	Second type: Full contracted-out publicness
Lewisham Parks	Varied contexts Varied interests	Council's preeminent role Council's interests	Highly prescriptive Client/contractor relation Full management Part self-funded	Generally entirely open Complex and exclusive accountability	Second type: Full contracted-out publicness
Spine Route	Local street in central area Wide range of users but local interest	Council's preeminent role Conflicting interests	Limited informal relation No formal management transfer (potentially prescriptive client/contractor relation) Publicly-funded	Entirely open Clear and exclusive accountability (but in dispute)	Third type: Restricted contracted-out publicness
Lower Marsh Market	Local street in central area Local interest	Balance between Council and WQB Businesses' interests	Prescriptive client/contractor relation Operational management Part self-funded	Entirely open Clear, complex and exclusive accountability	Third type: Restricted contracted-out publicness

5. Findings: what the cases suggest

This research examined the impacts on publicness of the transfer of management of public spaces away from the local authority, and posited a relationship between publicness and context, the rights recognised in the transfer and the nature of the transferred management functions. It posed four research questions and tried to find answers to them through the examination of nine case studies. This section tries to answer those questions with reference to the findings presented previously, and derive general conclusions about the implications of contracted-out publicness.

Q1. How are the key attributes of publicness (i.e. openness, access and accountability) dealt with in public realm management contracts and how are roles and responsibilities allocated?

The cases show that the terms of management transfer contracts or terms of leases set the guidelines within which managers/contractors/lessees can determine rules of behaviour, rights of access and use, opening regimes, etc. The cases in the first type (stakeholder-shaped publicness) had typically more latitude to set their own rules of access and codes of behaviour and adapt them over time, because of the ownership rights transferred to the management bodies through long leases. In both the second and third types (full and restricted contracted-out publicness) contract specifications set those rules and codes in advance and monitor compliance. However, in most of our cases the general rules of openness and accessibility tend to mirror council-by laws and regulations in place in other public spaces. Only in a few cases in the first type a number of additional restrictions were imposed by specific lease terms (e.g. restrictions to cycling, dog access and rough sleeping, limited adult access to children's play area and restrictions to political and religious gatherings) and where these apply they seem to have the consensus of the main constituency for each place.

Accountability mechanisms are also set out in the terms of the contract or lease, between the contractor/lessee and the public body acting as client/lessor. The nature of many of the management bodies (community enterprises, private trusts, charitable trusts, tenants' management bodies, BIDs) means that lines of accountability between managers and the membership of those organisations – the main stakeholders in those public spaces - are also clear. In the cases in which the managers are private contractors (Myatts Field North and Lewisham Parks), accountability to local interests (residents, etc.) is secured by the local authority through contract steering groups with direct resident/business participation. This is the same for all 3 types of arrangements discussed in the previous section: they all present very clearly defined accountability systems for those stakeholders represented in the arrangements, and they recognise the interests of the local authority as representative of borough-wide interests.

In general, the allocation of responsibilities in each case reflects the reasons that led to the setting up of the management arrangements (e.g. conflicts with market management in Lower Marsh, need to improve quality at lower costs in Lewisham Parks, desire for a direct say in management by residents in the Leathermarket Area estates, poor state of management in Jubilee Gardens and the Spine Route, etc.) and the interests of the various stakeholders in those arrangements.

In almost all the cases, the strategic coordinating role remains with the local authority formally or otherwise. This is secured in the terms of contracts and leases or in a local authority presence in the board of trusts. In the only case in which the local authority is not part of the management set-up, Bernie Spain Gardens, this role was 'locked in' through partnership arrangements between managers, council and communities. Operational management and maintenance is the element invariably transferred to the management body in full, with a few contractual restrictions related to procurement (of cleaning, waste management) in only a handful of cases. This is the same across all the three types of contracted-out publicness.

As regards regulation, only in the first type, characterised by long-lease arrangements, management bodies have full regulating responsibilities but only rarely they have full enforcement powers and many have relied on existing warden services (from the local authority, from a BID). Responsibility for investment and funding has also been transferred to a variety of degrees in most of the cases

and across the three types. The possibility of accessing a funding source not normally available to local government was indeed one of the main reasons for management transfers. Especially in the second type of contracted-out publicness, extra funding complements a transfer of funding by local authorities to management bodies through complex formulas. Those cases also involved a contractual commitment of upfront capital investment by the management bodies (repaid by the local authority over a long period as in Myatts Field North, Lewisham Parks and Leathermarket Area Estates. For those cases under the first type, the transfer of the responsibility for funding and investment to the management body has meant the search for income generating activities in the public space (events, space rentals, etc) as in Potters Fields, Bernie Spain Gardens where lease terms allow for that, or through the hypothecation of Section 106 contributions from nearby developments to management trusts as in Jubilee Gardens and to a lesser extent in Potters Fields.

Q2. How are those attributes dealt in the day-to-day implementation of those contracts?

In all the cases the main rules about openness and accessibility and systems of accountability are specified either in transfer contracts, lease documents or as sets of rules issued by trusts or other management bodies. Some of those rules comprise quite detailed codes of behaviour and lists of activities that are or are not allowed (e.g. Jubilee Gardens, Potters Fields), whereas others are much less so (e.g. Bernie Spain Gardens) or just implicitly replicate council by-laws for public space (e.g. Leathermarket Area Estates). However, it does not follow that all those rules are always enforced, and in the same way everywhere. Here the picture is less clear. As mentioned earlier, only a few of the management bodies have full enforcement powers or capabilities, and most rely on pre-existing enforcement systems (council-run warden service, the police, park keepers). A couple of the cases rely on BID-run, area wide warden services to deal with the enforcement of more serious restrictions such as illegal trading (e.g. Jubilee Gardens). The cases in the first type (stakeholder-shaped publicness) are more likely to abide more closely by their own rules because of the legal liabilities associated with not doing so.

However, even in those cases, implementation of openness and accessibility restrictions and of codes of behaviour is mostly done through persuasion or through mobilising the community (e.g. issues of dog access, littering and rough sleeping). Therefore, there is in practice much more tolerance of 'deviant' behaviour across all three types. When and how to enforce a particular rule is often left to operatives on the ground, who can better assess the implications of enforcing the rules (and restrictions) against the implications of not doing so. Even when formally banned by rules of behaviour, restrictions to access and use that are bound to be unpopular with the management constituency (local residents, local businesses) are in many cases discussed with that constituency before action is actually taken.

Accountability systems and mechanisms seem to work as prescribed in the transfer agreements. In principle, all the cases across the three types have clear mechanisms for all relevant stakeholders to have a say in decision making related to public space management. However, the power of different stakeholders in the decision making process depends on the way their interests are organised and the dynamics of their representation in trust boards, steering groups, committees, etc. Local residents are represented directly or indirectly in all arrangements, but the effectiveness of this representation varies from case to case. It is central to the arrangement in Leathermarket Area Estates and done through the various Tenants and Residents Associations in the area, with their own accountability mechanisms, and similarly in Bernie Spain Gardens. It is done through voluntary individual participation in the PFI Project Liaison Group, in Myatts Field North, or the steering group for Lower Marsh market, which might be more or less effective depending on the issue being examined. It is restricted to a fixed number of board representatives of specific residents' constituencies in Potters Field and Jubilee Gardens. The same applies for representation of local businesses, more effective when part of a more articulated grouping like a BID in Lower Marsh market and Waterloo Millennium Green, or SBEG in Jubilee Gardens and the Spine Route. Alternatively, it is potentially less effective when reliant upon individuals.

The local authority is still an integral component of all accountability systems examined in this research, representing borough-wide interests and in some cases local residents/businesses that might not be part of management arrangement or might not understand them. However, how

effectively that role is played can vary and it is not itself a risk-proof guarantee that those interests are protected.

Q3. Do these arrangements and their implementation affect those attributes and how do they do it?

The attributes of openness and accessibility are clearly shaped by the management transfer arrangements, since these arrangements set out the parameters defining and detailing those attributes in practice. However, the management arrangements stay close to or replicate council by-laws in most of the cases. This is especially so for the spaces in the second and third types of our typology (full and restricted contracted-out publicness). The strong position of the local authority as the client of the public space managers' contractor, and the nature of the contracts, ensure those spaces are open and accessible in ways similar to council-managed public space.

The spaces in the first typology, which have acquired a state of virtual private property because of the nature of the long leases, are more likely to divert substantially from usual by-laws and regulations. They are also more likely to be more restrictive in their rules of openness and accessibility. Although this issue has emerged in some cases, the existing local authority open space strategies in which these spaces are locked in, as well as the involvement of a wide range of stakeholders, ensures that the spaces within the first typology are still open and accessible to all potential user groups. In any case, whenever openness and accessibility are more restricted than in a council-run public space, those restrictions have been agreed by a wide range of stakeholders, and in that sense they might still represent the local consensus about how a space should be used.

Accountability attributes (i.e. the ability of the main stakeholders to have a say in decision-making related to the public spaces) are also largely shaped by management transfer arrangements. They set the relationship between client and contractor (the council and the management body) or the lessor and lessee (the council or other public bodies and the management body), in terms of outcomes and performance and spheres and levels of decision making. In this sense, these arrangements replace informal channels of communication between space users and the corresponding council and its public space management department, with more formalised and clearer forms of participation for those stakeholders recognised in the transfer agreements. Accordingly, the transfer agreements tend to include most of the local interests of those expected to want a voice in the management of a particular public space. In many cases, these voices have already been active as pressure groups before the transfer. In Leathermarket Area Estates and Myatts Field North, the council housing residents' interest is the paramount one, and this is recognised in the agreements (with the Liaison Group overseeing the PFI contract). This is also the case with Bernie Spain Gardens and the cooperative housing residents living there. The other cases have a more mixed set of recognised interests (local residents, local businesses, local park friends, local landlords, local authority, GLA), and they are variously represented in trust boards (Potters Field, Jubilee Gardens, Waterloo Millennium Green), or in contractual guarantees (actually in Lower Marsh Market, potentially in the Spine Route). Lewisham Parks covers a wide range of situations but the involvement of residents, voluntary groups, etc., is secured through their participation in working groups such as the Joint Working Group for Blackheath.

For the first type of contracted-out publicness, the lines of accountability between all recognised key stakeholders and the management organisation is embedded in the management structures, which in turn is reflected in the composition of the respective trusts. For the second type, the lines of accountability are more indirect. They tend to be external to the management bodies and rely on the overseeing role of the local authority or steering groups. For the third type, the nature of management contracts lead to different accountability mechanisms co-existing side by side. For instance, Lower Marsh market presents some direct links between stakeholders and the management organisation (e.g. market traders and market management), and some indirect links (e.g. residents and shopkeepers).

However, in all three types the management arrangements replace a vaguer but potentially more inclusive relationship between users and space management with a more structured, better defined, more responsive, but potentially more restrictive relationship between recognised key stakeholders

and management. In other words, the lines of accountability become clearer and direct but with potential risk of becoming less inclusive at the same time.

Q4. What are the implications of 'contracted-out publicness' for key stakeholders' objectives and aspirations?

This question seeks to understand whether there are important stakeholders whose aspirations are being systematically undermined or left out in management transfer arrangements, or at least whether their aspirations are more undermined by the transfer arrangements than they would have been by a local authority-run management regime.

Residents in the immediate vicinity of the cases are well represented in management arrangements: directly as members of boards, steering groups or partnerships in most cases, and indirectly through the local authority in the rest. As discussed earlier, this representation can vary in quality. In some cases this is done through active residents' associations, with clear and effective accountability systems, while in others it is based on voluntary individual involvement, which can be variable and not accountable to a wider constituency. It should be noted, however, that resident representation often only encompasses those living immediately around the public space, or those living in public or private housing estates in the vicinity. Other residents in the area might not have a direct representation and might have to rely on the mediation of the local authority.

Park friends and other community groups are represented in a few of the arrangements where relevant, and where they are not, the local authority provides a channel of participation. However, it should be noted that the lack of approachability of most local authority's open space management was mentioned in a few cases, even as a justification for alternative arrangements more responsive to users. Therefore, there is a risk that those voices might find difficulties in being heard.

In the more centrally located cases (Potters Field, Jubilee Gardens, Lower Marsh Market and the Spine Route), management arrangements have also recognised the interests of surrounding businesses and employers in the quality of public spaces. Most of the times, this was because locally-based businesses were among the pressure groups that played important roles in setting out the management arrangement. It is therefore reasonable to say that businesses have found in the transfer agreements a better and more direct way of realising their objectives and aspirations, by taking over management responsibilities that would have otherwise remained with the local authority. The current controversy about the management of the Spine Route is a good example of that. Local businesses are a diverse category and the cases suggest that large businesses are more actively represented in the management arrangements. Although there is specific representation for small business in the trust board of Jubilee Gardens, as well as in the Lower Marsh Market steering group for obvious reasons, it is not clear whether there is pressure for more representation by a more diverse group of businesses that could have been better met in the transfer agreements.

Some of the contractual arrangements have explicitly recognised the role of surrounding landowners, either as such or as employers or residents, presumably because of the impact the management of the space can have on their property. This is particularly so in the case of large landowners, such as More London, County Hall or the Shell Centre, who have seats in the board of trustees in Potters Field and Jubilee Gardens. It is also the case of CSCB, which manages Bernie Spain Gardens as the open space for the cooperative properties they own. In this sense, transfer arrangements recognise formally a stake that would otherwise be exercised informally through partnership arrangements with the local authority, participation in pressure groups, lobbying, etc. The arrangements do, therefore, provide a more direct route through which to put forward and implement the objectives and aspirations of the stakeholders.

Predictably, none of the arrangements addresses the stakes and aspirations of occasional users and visitors. Some of these might be employees of the businesses surrounding the public spaces and some of their aspirations and objectives might be secured indirectly through the participation of those businesses in management arrangements. Other users will have their interests indirectly protected through local authority public space strategies and the overall legal framework regulating freedom of movement, expression, etc. In this regard the position of those stakeholders is not

different from what it was under direct local authority management. The main difference is that the transfer arrangements explicitly recognise other interests as more relevant (relevant enough to have a direct say in management) and by doing so, formalise a difference in degree or relevance that might have existed before but was implicit. This is especially the case with the public spaces within housing estates, as the arrangements clearly privilege residents over any other user.

There are some other particular groups of users whose aspirations have been explicitly excluded in some of those transfer arrangements, such as cyclists, rough sleepers, demonstrators, etc., groups that have often been used in the literature to equate the contracting out of publicness to a process of privatisation of public space. This would suggest a much more restrictive type of publicness implicit in the transfer mechanisms.

However, a more detailed look reveals that the restrictions to access and use imposed on those groups are not very different from those already in existence in many local authority-run public spaces. There are restrictions on cycling in the four cases under the first type of contracted-out publicness, with the justification based on potential conflicts with, and danger to, pedestrians and (especially) children in confined and heavily used spaces. Whether or not this is justified in practice, it mirrors restrictions that have been in place in many public parks, pedestrianised town centre streets and other publicly-managed public space where there is potential for conflict between cyclists and pedestrians. Similar although more controversial are the restrictions to rough sleeping. There are restrictions to rough sleeping in all the second and third types of contracted-out publicness, all operating under council by-laws. These restrictions are the same that apply to other public spaces in the area and incorporate long standing restrictions to rough sleeping in parks and public spaces - including highways - embedded in local and national legislation (e.g. the Vagrancy Act 1824). The evidence from the cases suggest that the difference is that the sense of ownership the management arrangements give to particular groups, be they residents or local businesses, is more likely to lead to more effective enforcement of those dispositions, even if this is done through soft means rather than blunt application of the rules. In the first type cases where lease terms allowed management body to set their own rules of access, use and behaviour, these tend to replicate council by-laws or are based on those in force in the Royal Parks (as in the Jubilee Gardens) to the same effect.

Two of the cases in the first type had specific regulations to deal with political or religious events and demonstrations. These are Potters Fields and Jubilee Gardens, the two spaces situated in highly visible locations and close to seats of power (the GLA and the Houses of Parliament respectively). In both cases, bans on political and religious events were inscribed in the terms of the leases for multiple reasons: the need to accommodate varied and conflicting interests of residents, businesses and landowners; responsibilities and liabilities that come with the lease; costs of insurance; etc. However, there has been no major conflict involving the right to demonstrate in those places so far, and the restrictions remain largely notional.

6. Conclusions

In section 4.6 we presented a suggestion of a typology of publicness emanating from the different nature of the management transfer arrangements examined. We propose that this typology can help explain the overall effect of those arrangements on what publicness might mean for the key stakeholders in each case, but also for society as a whole and for how people experience the public spaces of the city.

The evidence from the cases suggests that management transfer agreements privilege the interests and aspirations of those with a direct stake in a public space, and who are organised enough to make that stake count. Moreover, this has been done in one of three ways:

- (i) through transferring a wide range of management and decision-making rights to an organised body of stakeholders as a long-term transfer of ownership rights;
- (ii) through transferring a wider range of those rights through a contract with a stakeholder-based or private body, accompanied by detailed targets and monitoring procedures;

(iii) through transferring specific obligations and rights linked to particular attributes and functions of the public space and not others, to a contractor, again accompanied by targets and monitoring procedures.

The first type represents a transfer of a wide range of responsibilities to trusts and similar bodies, and a wider scope for stakeholders' interests and aspirations to affirm themselves. Through the transfer arrangements those stakeholders are in a better position to shape the space they have a stake in, especially as they can also raise finance. There is a clear trade off as even with seats on trusts, the local authority gives away considerable power over the space. In return, stakeholders assume a lot more responsibilities, relieving the local authority of them and securing a much more focused and often more effective management. In principle, other more diffuse or less organised interests, which are legitimate but have not been directly included in the arrangements, are safeguarded by the local authority through its participation in trust boards or through the terms of the lease. The effectiveness of this protection will depend on how the lease was conceived, what the sanctions are, and what actual role the local authority has on the arrangement. The challenge to wider publicness represented by this type of arrangement is how to avoid a natural narrowing of management objectives around the core interests of the key stakeholders involved, at the exclusion of everything else. This would represent a 'balkanisation' of public spaces, with a well-managed sequence of spaces but with narrowly defined publicness attributes. Apart from the moderating power of the local authority or other representative public bodies, publicness depends also on the ethos of the management body. In this sense, a community trust might have a greater compromise with social policy and a wider degree of openness than a private trust, which might find more difficult to balance the objective of a well-maintained space with that of keeping it open and inviting. So far only minor disagreements have been reported between trusts of all kinds and local authorities. There is nevertheless potential for conflict as the number of spaces in that situation multiplies and real powers of control have to be tested.

The second type presents less scope for stakeholders' interests to be realised, although it secures them enough influence on all operational matters related to a public space. Ultimately, that scope depends on the latitude given to it by the transfer contracts. However, differently from the first type of arrangement, there is a strong and constant presence of the local authority as the client setting that latitude, monitoring procedures and outcomes, and imposing sanctions for non-compliance. Stakeholders' aspirations might be represented directly as part of the management body or indirectly through the local authority as the main client. The trade off in this arrangement is again the transfer of management responsibilities and costs to someone who can do it cheaper and more effectively, but the cost is the monitoring and enforcing, far more pronounced than in the first case. Some of these arrangements are extremely complex because of the amount and detail of outcomes that need specifying in contracts, the pricing for each service, and the way money is transferred to contractors to pay for units of service. There is a much smaller risk of 'balkanisation' of public spaces because the power of the council in the arrangement is more pronounced. Moreover, stakeholders have to operate within the framework of council by-laws and council policy. However, there is more potential for internal conflicts as the working of the arrangement depends on effective communication channels between stakeholders (residents), management and the client (the council). Ultimately, the effectiveness of the arrangement and of publicness outcomes hinge on the quality of the contract, which requires considerable expertise and resources in drafting, monitoring and enforcing. Once again, the quality and nature of the management organisation might be influential in shaping the relationship between stakeholders and management: presumably easier for community focused organisations, with a direct relationship with its constituents, than for private ones. Nevertheless, the professionalism of the latter might be more important in determining an effective relationship between client and management.

The third type embodies a much more focused contractual relationship, which involves only those interests related to the management of the attributes/functions contracted out, without necessarily affecting other stakes in the public space. In the cases that fit this category, the local authority plays the role of the client to the managers' contractor, and is in charge of setting the terms of the contract, its expected outcomes, the monitoring system and the enforcement mechanisms. The contractors and the interests they represent have only operational autonomy within the functions contracted out. In many ways, this arrangement replicates existing discrete contracts for street cleaning, waste

removal, building repairs, etc., which are part and parcel of the day-to-day working of the local authority. Publicness outcomes in this case depend on how the narrow focus of the arrangements relate to the broader range of aspirations and interests that might be relevant to that space.



Figure 11. Jubilee Gardens. The 'publicness' of the spaces is not visibly affected by contracted-out management.

In conclusion, the evidence suggests that the contracting out/transfer of public space management responsibilities may not represent a radical change in the composition of the stakeholders whose interests and aspirations inform the management of a space. The arrangements, however, formalise which stakeholders have the right of a say in decisions about access and openness. The arrangements also give stakeholders clear and structured access to decision-making, whilst potentially leaving others with more diffuse and much vaguer ways of making their interests and aspirations heard. On the one hand, the arrangements seem to privilege the interests of organised groups of local residents, organised or large local businesses and significant local landowners, with slight variations in that composition depending on location and context. This is done through transferring to them ownership rights in some cases while in others it is done through contracting out responsibilities. On the other hand, more fragmented and diffuse (but equally valid) interests tend to be left out of the arrangements and continue to rely on the elected local authority to safeguard their interests. The singling-out and formalisation of particular interests in detriment of others depends substantially on context: it may be inevitable as regards the grounds of a housing estate, but potentially more conflictive in a central and highly visited location. It also depends on the strength of the local authority's presence in the management arrangements and its effectiveness in representing those diffuse interests. The cumulative impact of that process on the city is, however, another question that requires more extensive research. It will depend on which type of management transfer will dominate and the relative position of those public spaces within the public realm as a whole.

Overall, the research indicates that contracted-out management of public space does not necessarily affect publicness negatively. However, it requires judiciously designed accountability mechanisms and clear decisions by all key stakeholders, including local authorities, about whose aspirations will be privileged and how other aspirations should be protected. In a climate of austerity and spending cuts, expertise in those types of decisions will be increasingly important if public spaces are to remain 'public', whilst relying on the resources of those with an interest in their quality to maintain them.

In any case, the contracting out of the management of public spaces should be seen as something intrinsically different from the so-called 'privatisation' of public space. In fact, this on-going process has the potential – even if so far unrealised – to bring about a form of genuine common space, more representative of the negotiation and accommodation between stakeholders in each specific context, which would eventually allow for the emergence of differential spaces in opposition to the abstract spaces embodied in the category 'public space'. However for that 'commoning' to realise its full potential it would require new kinds of institutions that allowed for the kind of accountability mentioned above, with the identification but also protection of sets of different aspirations.

This is where the debate should be placed: the creation of these new institutions and the threats/opportunities they bring about. The analogy here is with the move from centralism to localism in urban governance in the UK. As Wills (2015) points out, the move could be positive as long as there are institutions at the local level ready to take up the tasks that are being handed down to them. The cases in this research illustrate the forming of these institutions and how the different skills and expertise available in each case can determine the type of publicness resulting from management contracting-out episodes.

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