Changes in the way public space is provided and managed:

Away from direct state involvement, larger role for private and voluntary/community agents

• Direct private provision (private public spaces)

• Contracting-out of provision and management
  – Business Improvement Districts
  – Town centre management schemes
  – Land development trusts
  – Tenants management organisations
  – Maintenance/management contracts
Depiction of changes in public space governance:

- Reduction of public sphere
- Expansion of market and commodity imperatives into public realm
- Social exclusion and segregation
- Narrower entitlement
- Threat to inclusive, democratic society
Changes in public space provision and governance:

Is that really the case?
  • How/what type of publicness can exist through contracting out governance
  • Can publicness be secured in contractual agreements?

Are changes intrinsically negative?
What the research is about:

• how/what type of publicness can exist through contracting out public space governance to outside-government organisations?

• What are the implications for cities/urban life?
Definition of Publicness:

- **Contested!**
- Idealistic, normative and absolute: idealised conceptualisation of public space and relationships taking place in it
- Assumption of intrinsic ethical attributes in public ownership: essential antagonism between market/private and civic/collective, consumption and civic spirit
- Ignoring history: de-contextualising regimes of public space provision
Governance arrangements & publicness:

- **Rights of access** (rules and mechanisms regulating restrictions to space and its attributes)

- **Rights of use** (rules, codes of behaviour, enforcement mechanisms regulating enjoyment of space and its attributes)

- **Rights of control/accountability** (rules and mechanisms through which stakeholders are heard and conflicts solved)
# The cases:

<table>
<thead>
<tr>
<th>Location</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>MYATTS FIELD NORTH ESTATE</strong></td>
<td>PFI management of grounds of social housing estate (25-year contract)</td>
</tr>
<tr>
<td><strong>LEATHERMARKET AREA ESTATES</strong></td>
<td>TMO (tenants’ management organisation) management of public spaces in social housing estates</td>
</tr>
<tr>
<td></td>
<td>(5-year renewable contract)</td>
</tr>
<tr>
<td><strong>POTTERS FIELDS</strong></td>
<td>Local authority park leased to private charitable trust (30-year lease)</td>
</tr>
<tr>
<td><strong>WATERLOO MILLENIUM GREEN</strong></td>
<td>Local authority leased to community organisation (999-year lease)</td>
</tr>
<tr>
<td><strong>BERNIE SPAIN GARDENS</strong></td>
<td>Park in public land leased to a housing development cooperative (99-year lease)</td>
</tr>
<tr>
<td><strong>SPINE ROUTE</strong></td>
<td>Street intervention and management coordinated by non-profit company South Bank Employers’ Group (SBEG)</td>
</tr>
<tr>
<td><strong>LOWER MARSH MARKET</strong></td>
<td>Street market management contracted out to Business Improvement District</td>
</tr>
<tr>
<td><strong>JUBILEE GARDENS</strong></td>
<td>Park in public land in a secondary leased to a private charitable trust (135-year lease)</td>
</tr>
<tr>
<td><strong>LEWISHAM PARKS</strong></td>
<td>Contracted-out full management of all parks within Local Authority area to private contractor (10-year</td>
</tr>
<tr>
<td></td>
<td>renewable contract)</td>
</tr>
</tbody>
</table>
Case studies in area A:

1. Jubilee Gardens
2. Spine Route
3. Bernie Spain Gardens
4. Potters Fields Park
5. Leathermarket JMB Estates
6. Waterloo Millennium Green
7. Lower Marsh Market
## Context

<table>
<thead>
<tr>
<th>Cases</th>
<th>Location</th>
<th>Surroundings</th>
<th>Use/Function</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leathermarket Area Estates</td>
<td>Gardens and open spaces within a council housing estate close to Central London</td>
<td>Large concentration of council estates in fast gentrifying area and at close proximity to large prestigious commercial developments</td>
<td>Gardens serve primarily the surrounding housing blocks and complement public parks nearby, with some through pedestrian traffic</td>
</tr>
<tr>
<td>Potters Fields</td>
<td>Medium size park and gardens in highly visible and prominent position by the river Thames and opposite to the Tower of London</td>
<td>Mixed use area, with large commercial developments, institutional buildings, private housing, retail and council housing estates</td>
<td>Park and gardens serving a wide range of functions: background to tourist attractions, leisure area for nearby office workers, local park, events venue</td>
</tr>
<tr>
<td>Lower Marsh Market</td>
<td>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</td>
<td>Street itself occupied by small independent retailers, mostly food outlets. To the north, several large commercial uses and Waterloo Station, council and private housing estates to the south and theatres, cafés and restaurants to the east</td>
<td>Small street market with mostly local custom base (residents and local workers) sharing the space with similar type of small retail (food and crafts).</td>
</tr>
</tbody>
</table>

## Rights and interests

<table>
<thead>
<tr>
<th>Cases</th>
<th>Users / General Public</th>
<th>Residents</th>
<th>Businesses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leathermarket Area Estates</td>
<td>Represented by Southwark Council – monitoring of Leathermarket Joint Management Board (JMB) activity and acting as main client, setting up general public space strategy</td>
<td>TRAs represented at Leathermarket JMB Board of Directors and deciding on operational matters</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Potters Fields</td>
<td>Represented by freeholder Southwark Council, who set the terms of the lease and sits at Trust’s Board of Directors which decides on the Management Plan GLA also sitting at Board of Directors, both as policy maker for London and neighbouring ‘resident/business’ Local workers also represented by their employers (More London and Team London Bridge both in the Board)</td>
<td>Represented by Residents’ Associations – sitting at Board of Directors (Fair Street Community Housing Service and Shad Thames Residents Association. It is likely that the new residential development will also be represented at the Board)</td>
<td>More London and Team London Bridge BID – sitting at the Board of Directors and representing neighbouring employers and landlords (More London directly, Team London Bridge indirectly and mostly BID levy payers)</td>
</tr>
<tr>
<td>Lower Marsh Market</td>
<td>Represented through Lambeth Council – Chair of the Lower Marsh Market (LMM) Steering Group. (LMM Ltd is the dedicated management team for the area, within WQB structure). Local employees’ interests represented indirectly through employers membership of WQB</td>
<td>Representatives sitting at the LMM Steering Group which decides</td>
<td>Representatives of market stallholders sitting at the LMM Steering Group; Representatives of shops sitting at LMM Steering Group and most of them WQB members</td>
</tr>
</tbody>
</table>
## Governance responsibilities

<table>
<thead>
<tr>
<th>Cases</th>
<th>Coordination</th>
<th>Regulation</th>
<th>Maintenance</th>
<th>Investment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Leathermarket Area Estates</strong></td>
<td>Transferred in Right to Manage contract: JMB has full autonomy as overall managers of the estates, contractors to the Council, subject to contractual targets</td>
<td>JMB has regulatory powers over use and access of estate grounds as executive body for the tenants and residents’ associations. For enforcement, JMB has no police powers and subscribe to the Council’s warden service</td>
<td>Responsibility fully allocated to JMB, to decide and deploy maintenance routines. Community ethos of JMB led to allocation of some maintenance duties to charities Groundwork and St, Mungo’s, for community gardening</td>
<td>30-year investment plan transfer capital investment responsibility to JMB out of its rents and service charge revenues. JMB has freedom to apply for grants and sponsorship for garden improvements Maintenance funding transferred to JMB by the contract</td>
</tr>
<tr>
<td><strong>Potters Fields</strong></td>
<td>Fully transferred to the Trust by the terms in lease contract and SLA. Trust has autonomy to produce management and maintenance plans, procure its own suppliers and organise events as long as these comply with contract and SLA.</td>
<td>Power to regulate use and access transferred to Trust, which has power to close parts of the park for events. Enforcement of by-laws retained by council through is warden services, but in practice done by BID wardens and in the future Trust will have its own wardens</td>
<td>Responsibility fully allocated to Trust, which subcontracts specialist company. Management Plan and SLA with Council establishes maintenance standards</td>
<td>Lease contract transferred investment responsibilities to Trust, which depend on revenues raised from events and fees for commercial uses of the park for investment and maintenance capital</td>
</tr>
<tr>
<td><strong>Lower Marsh Market</strong></td>
<td>As licensed manager, WQB has no regulatory powers over market. Those are set by the Council and operated by WQB under the terms of the license. WQB only regulates trader activity. Regulatory powers over public realm with the Council.</td>
<td>Maintenance of market infrastructure transferred to WQB, including street cleaning and waste collection. General maintenance of the street still the responsibility of the council</td>
<td>Initial capital investment in market from a council grant, but ongoing investment responsibilities transferred to WQB through market income. Capital investment in the street funded through S106, managed by council with input from WQB and SBEG. Street maintenance funded by council</td>
<td></td>
</tr>
</tbody>
</table>

## Publicness attributes

<table>
<thead>
<tr>
<th>Cases</th>
<th>Openness/Accessibility</th>
<th>Accountability</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Leathermarket Area Estates</strong></td>
<td>Public ownership (grounds part of council owned housing estates). Open to the public. In the case of regulated access, opening times are mainly decided by TRA. This also goes for the regulation of activities in them – e.g. ball games or dog walking. JMB would only play a mediation role if negotiations among residents got stuck.</td>
<td>Complex and well-scrutinised accountability system between Council, JMB and residents for strategic and big spending decisions. More organic and accountability mechanisms for operational decisions between JMB and residents with direct resident engagement</td>
</tr>
<tr>
<td><strong>Potters Fields</strong></td>
<td>Public ownership. Open to the public 24 hours a day, as required in the lease contract. Council by-laws apply as well as limitations to access during events, when parts of the park would be closed off to fee-paying costumers.</td>
<td>Accountability to stakeholders represented in the Trust (local residents, local businesses/landlords – local interests, council, GLA – wider interests) through elected Board, with main decisions included in Management Plan. Operational decisions by CE, accountable to Board</td>
</tr>
<tr>
<td><strong>Lower Marsh Market</strong></td>
<td>Public ownership. Public street is open to the public 24 hours a day and council by-laws apply. There are limits to vehicular access. Trading activity is regulated by market management body except for a few traders that are still under London Local Authorities Act. Occasional events – i.e. night openings and promotional events - are negotiated by the trader management body with residents on a case-by-case basis.</td>
<td>Different accountability mechanisms for different stakeholders: WQB accountable to market traders as market managers, through contractual obligation linked to fee payment. WQB also accountable to local authority in contractor-client relationship. WQB accountable directly and clearly to levy-paying local shops as BID members in respect to BID business plan. Local residents have indirect line of accountability to WQB through market Steering Group, chaired by the council and with trader and local business representatives Indirect relationship between Southbank businesses and the market management through SBEG and BID participation</td>
</tr>
</tbody>
</table>
The findings

• Rules about access and use often *more restrictive* in contract, but implementation through compromise and persuasion

• Accountability systems; *more structured, responsive, but potentially more restrictive* relationship between stakeholders and management replacing vaguer but potentially more more inclusive

• No generalised erosion of publicness
• No perceptible difference
• Rather than privatisation, club formation …
The findings

• Local authority still important component of all accountability systems *formally* representing dispersed, and borough-wide interests

• Communities (residents, local businesses) *well represented* in arrangements. Occasional users and visitors not so.

• Some groups whose aspirations are *excluded* (rough-sleepers, demonstrators) but restrictions not too different from those applying to many publicly managed spaces
## A typology

<table>
<thead>
<tr>
<th>Cases</th>
<th>Typology of contracted-out publicness</th>
</tr>
</thead>
</table>
| **First type: Stakeholder-shaped publicness** | - Transfer of wide range of responsibilities  
- Scope for full affirmation of stakeholders’ interests  
- Trade-off local authority control for focused and more effective management by those with a higher stake |
| Potters Fields               |                                                                                                       |
| Waterloo Millennium Green    |                                                                                                       |
| Bernie Spain Gardens         |                                                                                                       |
| Jubilee Gardens              |                                                                                                       |
| **Second type: Full contracted-out publicness** | - Transfer of wide range of responsibilities  
- Large influence of stakeholders’ interests, but with significant client and monitoring role of local authority  
- Stakeholders operating within detailed contractual specifications and performance indicators |
| Myatts Field North           |                                                                                                       |
| Leathermarket Area Estates   |                                                                                                       |
| Lewisham Parks               |                                                                                                       |
| Spine Route                  |                                                                                                       |
| Lower Marsh Market           |                                                                                                       |
| **Third type: Restricted contracted-out publicness** | - Limited transfer of responsibilities  
- Narrow range of stakeholders  
- Predominantly client-contractor relationships |


The challenges

- The first type: transfer of a wide range of responsibilities to trusts and similar bodies, wider scope for stakeholders’ interests and aspirations to affirm themselves.

  - The challenge: how to avoid a natural narrowing of management objectives around the core interests of the key stakeholders involved, at the exclusion of everything else.
The challenges

- Family space
- Restrictions on uses/behaviours that clash with that
- Residents with children exerting their influence through board
- Other needs with lower priority
The challenges

- The second type: less scope for stakeholders’ interests to be realised, although secures them enough influence on all operational matters related to a public space. Strong presence of the local authority as client and monitoring body.

  – The challenge: 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.
The challenges

• Performance indicators for various management activity

• Contract enforcement mechanisms

• Dealing with the unpredictable

• The larger social and political implications of management

• Managing unavoidable conflicting aspirations through contracts

• Responsiveness to citizens
The challenges

• The third type: a much more focused contractual relationship involving only those interests related to the attributes whose management is being contracted out.

  – The challenge: 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.
The challenges

- Managing conflicting activities and their associated interests
- Integrating conflicting management objectives
- Bringing it all together as one public space
Conclusions

• This is not privatisation – rather a process of club formation or ‘commonisation’ + professional outsourcing
• By and large efficient management, responsive to needs of key stakeholders
• ‘devolution’: allowing better expression of local interests

• On the whole: potentially allowing for emergence of variety of public spaces and ‘publicnesses’ better suited to the many contexts and interests in the city
The challenges

Better quality/management through recognising some stakes as ‘more deserving’ than others and giving them freer hand…

• Which rights and aspirations should count?
• How should rights be prioritised?
• How should other legitimate interests be recognised and secured?
• Where are the tools, skills and authority for doing so?
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 trusts, tenant organisations, business improvement districts, private companies or voluntary sector organisations. Recent cuts in local authority budgets have accelerated this process. Unpacking it is an underlying assumption that publicness, however defined, can be quarantined by means other than public ownership, funding and management, and that public (or the management of public) space can be in themselves moralised through the space of what we mean by public. This paper reports on an on-going research that investigated the impact on public spaces in London under a variety of different management arrangements, the paper discusses how publicness is affected by the various contractual forms of transfers and what the implications of urban processes are for different spatialisations and for the public realm as a whole. The paper suggests that the management of public space might not necessarily be inherently private or public. However, it requires specifically designed accountability mechanisms and the clear division for key stakeholders, including local authorities, about whose aspirations will be prioritised and how other aspirations should be prioritised. A clear narrative of the existing piecemeal arrangements is also necessary, this requires a different kind of public management until policy.

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1. Introduction

There is enough research demonstrating how alternative forms of public space provision and management had gained ground in the UK (De Magalhães & Leonard, 2009; De Magalhães, 2012). Concerns 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 spaces in London which concluded with the need to ensure access to public space is unrestricted and unmonetised as possible the House of Commons All Party Parliamentary Group on Land Management 2005, which looked at the impact of the transfer to private management of green areas in new housing estates (in Scotland, the Perth Report (Perth... (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 ongoing impact of local governance and the challenges these pose in the quality of many public services and the consequent need for their re-shaping.

All these alternative public space management forms are based on transfer and contracting out of managerial responsibilities to

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