



University  
of Glasgow

McKee, K. (2009) *Regulating Scotland's social landlords: localised resistance to technologies of performance management*. *Housing Studies*, 24 (2). pp. 155-171. ISSN 1466-1810

<http://eprints.gla.ac.uk/6097/>

Deposited on: 17 June 2009

# **Regulating Scotland's Social Landlords: localised resistance to technologies of performance management**

## **Abstract**

Influenced by Foucault's (2003a) later work on governmentality, this paper explores the regulation of social landlords as a 'technology of performance' (Dean 1999) concerned with governing the conduct of dispersed welfare agencies and the professionals within them. This is a mode of power that is both voluntary and coercive; it seeks to realise its ambitions not through direct acts of intervention, but by promoting the responsible self-governance of autonomous subjects (Rose 1999; Miller and Rose 2008).

Through an analysis of the regulatory framework for social landlords in Scotland, this paper highlights the creation of a performance culture that seeks to mobilise housing organisations to reconcile their local management systems and service provision to external standards, whilst simultaneously wielding punitive interventions for non-compliance. Housing professionals are not however passive in all of this, and indeed, actively challenged and resisted these top-down attempts to govern them at arms-length.

*Key Words: Foucault, governmentality, housing governance, power, social housing*

## **Introduction**

The reconstruction of UK public services in recent years has resulted in the emergence of technologies of power concerned with scrutinising, evaluating and managing public sector performance (Rose and Miller 19992; Rose 1996, 1999; Dean 1999; Miller and Rose 2008). A response to the increasing fragmentation of service providers as privatisation, quasi-market reforms and contracting out have gathered pace since the 1980s, these techniques have been central to governing the activities of dispersed and autonomous welfare providers at arms-length. Linked to managerialism, these new strategies and techniques aim to activate subjects' sense of agency, and instead of direct line management, are characterised by a subtle interplay between self-regulation and external oversight (Clarke *et al* 2000; Newman 2001; Clarke 2005).

Social housing provides an ideal opportunity to explore these governance shifts. Since the 1980s its ownership and management has been transformed (Jacobs and Manzi 2000; Walker 2000; Casey and Allen 2004). New Public Management reforms designed to introduce a business ethos into the public sector have “externalised” the state’s provider role (Walker 2000: 286), resulting in the growth of the not-for-profit housing association sector, and simultaneous decline of publicly provided housing<sup>1</sup> (Wilcox 2007). As the proportion of social housing under direct state control has decreased and the sector become increasingly diverse and complex, the need for new governing solutions has grown. Drawing on the key concepts of governmentality this paper seeks to examine the arms-length regulation of social landlords in Scotland, with a particular focus on emergent ‘technologies of performance’ and sites of localised resistance. The paper begins by outlining recent commentaries on advanced (or neo) liberal technologies

of governance, influenced by Foucault's (2003a) governmentality. This is followed by a consideration of the research methods used, and then a discussion of the policy background which links these governmental strategies and techniques to contemporary developments in the governance of UK social housing. The substantive empirical section of the paper concludes that 'technologies of performance' management concerned with activating the responsible, self-governing properties of social landlords, have simultaneously resulted in the deployment of punitive interventions for organisations who fail to modify their performance accordingly; a situation that has been actively challenged, contested and resisted by front-line housing practitioners.

### **Advanced Liberal Governance and the Regulation of Expertise**

Governmentality, a perspective on power and rule derived from the later work of Michel Foucault, has gained increasing popularity within housing studies in the last decade (see for example, Flint 2002, 2003; Flint and Rowlands 2003; Cowan and McDermont 2006; McKee 2008; McKee and Cooper 2008; McIntyre and McKee, In Press). Applied by different authors in different ways, in its broadest sense governmentality draws attention to how we think about the nature and practice of government. Foucault defines governing as the "conduct of conduct" (2003b: 138), which incorporates any calculated attempt to direct human behaviour towards particular ends. By adopting such a broad meaning he emphasises that individuals are subject not only to domination by external actors, but are also active in their own government. This older, more comprehensive meaning of government enables him to trace multiple sites of governing beyond the traditional boundaries of the state.

Governmentality has however been subject to critique. The tendency of its proponents to draw on discursive as opposed to material practice for their evidence base has resulted in accusations that it is too abstract and detached from empirical reality (Clarke *et al* 2007; McKee, In Press). Second, and related to the previous point, by focusing overwhelmingly on ‘mentalities’ of rule, governmentality studies have been guilty of neglecting the effects of power and the lived experience of subjection, as well as under-theorising localised resistance (Clarke *et al* 2007; McKee, In Press). It has further been criticised for downplaying the role of the state, which continues to remain a powerful actor in shaping and regulating the social policies that govern all our lives (McKee 2008, In Press). These limitations are not however insurmountable, and indeed, would be more accurately directed at secondary commentators who have interpreted Foucault’s ideas as opposed to fundamental failings with this perspective per se.

In advanced liberal democracies, including the UK, post-Foucauldian commentators have highlighted the emergence of technologies of power which seek to construct a world of ‘free subjects’ by devolving both autonomy and responsibility from the state to a plethora of agents within civil society itself (Rose 1999). Such freedom is however ambivalent, for whilst these technologies of power seek to mobilise and activate governable subjects, they also seek to cultivate and act upon the very operation of that freedom (Rose 1999; Flint 2003). This is more akin to a form of regulated freedom than a reduction in government per se (Rose and Miller 1992).

Within UK welfare reform this emphasis on freedom and liberation has manifest itself in the emergence of ‘technologies of agency’ (Dean 1999) which seek to empower individuals to act in their own-self interest, whether as informed consumers, active

citizens, or both. The desire to combat powerlessness and passive dependency on the state has further manifested itself in a critique of welfare bureaucracies and professional expertise. Here emergent ‘technologies of performance’ (Dean 1999) offer a means to open up these enclaves of expertise to external scrutiny, with audit emerging as a particularly powerful technique for evaluating performance and holding service providers to account (Rose and Miller 1992). In general terms, audit refers to the evaluative processes concerned with inspecting and judging the performance of organisations. It has been central to New Labour’s modernisation of public services post-1997, and has been posited as a solution to both addressing anxieties about producer capture and restoring public trust (Newman 2001; Power 2003; Clarke 2005).

These ‘technologies of performance’ are not however dependent on direct acts of intervention; rather they realise their objectives through acting on the conduct of autonomous individuals (Dean 1999; see also, Foucault 2003b). As Rose and Miller assert, these technologies of power have as their goal “influencing, allying with or co-opting resources that they [authorities] do not directly control” (1992: 189). This represents an important departure from traditional vertical command-and-control functions. It is a strategy of government that operates at arms-length, and is both respectful of organisational autonomy and seeks to promote voluntary adherence to shared norms. Whilst such developments seemingly devolve more power to front-line workers, they have also exposed welfare professionals to greater degrees of political interference (Rose 1999). Not only have ‘technologies of performance’ rendered the conduct of professionals governable in new ways, but they have transformed the way in

which professionals themselves frame their judgements and decisions, a process which is increasingly constructed in terms of “goals, targets and measurements” (Rose 1996: 349).

Yet governable subjects are not always “faithful relays” (Rose and Miller 1992: 190). Indeed, the ability of ‘the governed’ to contest top-down machinations is central to Foucauldian theories of power:

The power relationship and freedom’s refusal to submit cannot therefore be separated. The crucial problem of power is not that of voluntary servitude (how could we seek to be slaves?). At the very heart of the power relationship, and constantly provoking it, are the recalcitrance of the will and the intransigence of freedom. Rather than speaking of an essential antagonism, it would be better to speak of ‘agonism’ of a relationship that is at the same time mutual incitement and struggle; less of a face-to-face confrontation that paralyzes both sides than a permanent provocation (Foucault 2003b: 139).

The potential disjuncture between governmental ambitions and material reality is particularly significant within an applied policy context, where a key concern is the extent to which specific strategies and techniques have realised their political objectives (Clarke *et al* 2007; McKee, In Press). It requires the analysis of discursive strategies be complemented with more ethnographic methods, and a strong focus given to the voices of those subject to governing practices – ambitions that are central to this paper.

In order to achieve this goal, and address a noted gap in the governmentality literature, the research develops an ‘ethnography of government’ (Li 2007). In doing so, it reasserts Foucault’s commitment to understanding the unevenness of power’s effectivity, and the way in which subjects sometimes ‘refuse to know their place’ (Clarke 2004). The empirical data on which this paper is based is drawn from a broader study concerned with how housing governance has changed in Glasgow following its 2003 housing stock transfer. Fieldwork was undertaken between August 2005 and April 2006

and involved ethnographic case study research. Selected case studies were drawn from Glasgow's Local Housing Organisation (LHO)<sup>2</sup> community, and for comparison purposes also included a housing association operating outwith the Glasgow stock transfer context. This neighbourhood-level phase was complemented by interviews with key-actors, including representatives from the Scottish Federation of Housing Associations, the housing regulator: Communities Scotland, Glasgow City Council and the Scottish Parliament.

Across both phases of the research 54 semi-structured interviews were held; 5 tenant focus groups conducted with 36 participants; and a range of relevant meetings/events observed and key documents analysed. The empirical data presented in this paper is primarily taken from interviews with housing practitioners at the local, citywide and national (Scotland) level, combined with analysis of key documents pertaining to regulation and inspection. All case studies and individual participants have been anonymised for confidentiality purposes; this was essential given the political nature of the research topic. Given the ethnographic focus of the research commitments have also been made to preserve local dialects, with the interviewer's comments distinguished by italics (for further discussion of the research project, see McKee 2007).

### **The Governance of Social Housing: managing performance**

Influenced by both new institutional economics and private-sector managerialism, consecutive UK governments since the 1980s have sought to address the perceived 'failings' of public services through organisational and managerial restructuring – changes loosely referred to as the New Public Management (Hood 1991). Paradoxically,



whilst this has involved the dispersal of state functions via market mechanisms it has also strengthened government control via performance management; the effect of which, has been a fundamental transformation in the regulatory relationship between the state and local welfare providers (Newman 2001; Clarke *et al* 2000; Clarke 2005).

These governance shifts have impacted on the practices within housing organisations. UK social housing has always been regulated housing (Cowan and McDermont 2006). However, recent state led-led managerial reforms including Best Value (DETR 1998), have had a significant effect on the regulation of the sector. Paralleling trends in other welfare services, private sector principles have been imported into housing management. The aim here has been to promote the 3 'E's of economy, efficiency and effectiveness through regulatory tools such as performance indicators, benchmarking, best practice, competition and audit (Cowan and McDermont 2006). Whilst performance has been central to the governance of social landlords in the UK since the introduction of Compulsory Competitive Tendering in the 1980s (Walker 2000), it has taken on a renewed focus as the distance between service providers and the bureaucracy of the welfare state has grown (Jacobs and Manzi 2000).

Although the situation for local authority landlords varies across the UK, the current regulatory space for housing associations can be characterised as allowing for a significant degree of organisational autonomy, whilst having a strong enforcement arm in the form of cyclical inspections. In this context, performance management operates through mechanisms of self-regulation as opposed to top-down prescription (Clarke *et al* 2000; Clarke 2005). Meeting external standards has now become a matter of local responsibility, with housing professionals expected to reconcile their service delivery and

management systems to shared norms, or else face the wrath of the housing regulator and potential withdrawal of financial support. As Cowan and McDermont conclude:

It is in the use of league tables, star ratings, and ‘naming and shaming’ that performance audit can be viewed as a tool for shaping public perceptions of what a service is about, as well as for hierarchical, disciplinary control (2006: 112).

Whilst these regulatory techniques have been interpreted by housing officers as ‘strategies of control’ that facilitate the top-down imposition of management values, research illuminates the inventiveness of front-line workers in circumventing these agendas for their own personal purposes (Jacobs and Manzi 2000). The work of Casey and Allen (2004) further highlights how performance management can itself be appropriated by front-line workers, and in doing so, offer new opportunities to behave in a ‘professional’ manner. Nonetheless the unintended consequences cannot be ignored: homogeneity, standardisation and the stifling of innovation. As Jacobs and Manzi assert:

A central paradox of the performance culture is that, whilst ostensibly seeking to enhance effectiveness, the implementation of PIs [performance indicators] in practice destabilizes managerial legitimacy (2000:100).

By drawing on the key concepts of governmentality this paper seeks to advance the existing housing studies literature on regulation and performance management.

Whilst this theoretical perspective undoubtedly has points of connection with the ‘decentred regulation’ literature rooted in socio-legal studies and public policy (see for example, Ayres and Braithwaite 1992; Power 2003), there are also important points of departure. In particular, governmentality’s central focus on power, rule and resistance gives it a more critical and theoretical edge, whilst its broader definition of governing

facilitates an analysis of relations of power beyond the state, as well as the active role of the subject in their own self-governance. The remainder of the paper uses empirical data about the regulation of social housing in Scotland to advance this theoretical perspective into new terrain.

### **Regulating Performance: voluntary and coercive technologies of power**

The 2001 Housing (Scotland) Act introduced both a single regulatory framework and regulatory body: Communities Scotland, for all housing associations and local authority landlords in Scotland. Since 2008, this function has been undertaken by the newly established and independent Scottish Housing Regulator.<sup>3</sup>

Whilst the regulatory framework is comprised of a number of distinct elements its cornerstone is the creation and establishment of a performance culture within social housing provision. Here, the *Performance Standards for Social Landlords and Homelessness Functions* (hereafter referred to as The Standards), which was published jointly by Communities Scotland, the Convention of Scottish Local Authorities (COSLA), and the Scottish Federation of Housing Associations (SFHA) in 2006, is pivotal. As Table 1 summarises, The Standards are organised into 20 Guiding Standards and 33 Activity Standards. Whilst the former are “underpinning principles” for the way in which social landlords should conduct their business, the latter focus on the main housing service activities that will be regulated and inspected (2006: 6).

**Table 1 Performance Standards for Social Landlords and Homelessness Functions**

GUIDING STANDARDS (Underpinning principles)		ACTIVITY STANDARDS (Outcomes to be inspected)	
<i>Planning &amp; Managing Performance</i>	<ul style="list-style-type: none"> <li>• Planning and performance</li> <li>• Policies and procedures</li> <li>• Continuous improvement</li> <li>• Resource management</li> <li>• Procurement</li> </ul>	<i>Housing Management</i>	<ul style="list-style-type: none"> <li>• Access to housing</li> <li>• Lettings</li> <li>• Tenancies</li> <li>• Housing support needs</li> <li>• Void management</li> <li>• Rents</li> <li>• Service charges</li> <li>• Arrears</li> <li>• Antisocial behaviour</li> <li>• Estate management</li> </ul>
<i>Social Inclusion</i>	<ul style="list-style-type: none"> <li>• Equal opportunities</li> <li>• Tenant participation</li> <li>• Sustainability</li> </ul>	<i>Property Management</i>	<ul style="list-style-type: none"> <li>• Repairs</li> <li>• Stock management</li> <li>• Lifetime maintenance</li> <li>• Adaptations</li> </ul>
<i>Service Delivery &amp; Communication</i>	<ul style="list-style-type: none"> <li>• Responsiveness to service users</li> <li>• Information and advice</li> <li>• Complaints and appeals</li> <li>• Performance reporting</li> <li>• Openness and confidentiality</li> </ul>	<i>Property Development (Development Organisations)</i>	<ul style="list-style-type: none"> <li>• Development strategy</li> <li>• Risk and value for money</li> <li>• Physical quality</li> </ul>
<i>RSL Governance &amp; Financial Management (RSLs)</i>	<ul style="list-style-type: none"> <li>• Independence and accountability</li> <li>• RSLs in group structures</li> <li>• Leadership and capability</li> <li>• Risk management</li> <li>• Ethical standards</li> <li>• Financial viability</li> <li>• Financial management</li> </ul>	<i>Homelessness (Dependent on housing strategy)</i>	<ul style="list-style-type: none"> <li>• Strategy</li> <li>• Partnership working</li> <li>• Access</li> <li>• Prevention</li> <li>• Assessment process</li> <li>• Information and advice</li> <li>• Appeals</li> <li>• Quality of accommodation</li> <li>• Contract compliance</li> <li>• Accommodation provision</li> </ul>
		<i>Services for Owners</i>	<ul style="list-style-type: none"> <li>• Sales</li> <li>• Factoring</li> <li>• Care and repair</li> </ul>
		<i>Services for Gypsies/ Travellers (Local Authority)</i>	<ul style="list-style-type: none"> <li>• Sites</li> </ul>
		<i>Wider Role (RSLs)</i>	<ul style="list-style-type: none"> <li>• Wider role involvement</li> <li>• Wider role outcomes</li> </ul>

Source: adapted from Communities Scotland, COSLA, SFHA (2006) "Performance Standards for Social Landlords and Homelessness Functions".

By setting out joint expectations in this way, The Standards provide both a baseline for evaluating performance and framework for self-assessment. The expectation is that social landlords, and by default housing professionals, will self-critically reflect upon their own strengths and weaknesses and modify their internal management targets, policies and practices in order to comply with these criteria. It is a mode of governance that seeks to promote the self-governing properties of autonomous agents; not obstruct them (Dean 1999; Rose 1999). There are no rules governing how The Standards are to be achieved: they simply represent a reference point and spur to continual improvement in service provision:

The Standards recognise that RSLs are independent, non-profit-distributing social businesses and that local authorities have their own democratic mandate and operating context [...] [they] offer the opportunity to design and deliver services and manage their organisations as they think best while knowing clearly what they need to achieve. The Standards are set out at a high level and do not prescribe how landlords should go about their business. That is for each social landlord to consider and decide with its tenants and governing body or elected members (Communities Scotland *et al* 2006: 6).

Instead of dictating to social landlords the detail of how they should be operating, organisations are encouraged to become self-aware about their own performance and to experiment locally with their service delivery. Here benchmarking, the dissemination of good practice and joint working by learning from other agencies becomes important. In this context it is difficult to separate the regulator from ‘the regulatees’, for all parties are involved in the joint development of norms of performance. Regulation is therefore not solely a negative, repressive act: something ‘done to’ housing organisations. Rather RSLs are intimately involved in the governance of social housing through their own capacity for critical self-assessment. The ‘obscurity’ (Cowan and McDermont 2006) of

The Standards is crucial here, for their vagueness both enables a diversity of interests to coalesce around them and makes it more difficult to contest them.

The ability of social landlords to deliver these performance standards is not however to be left to chance. Rather it is to be ensured through a process of external audit, which in the Scottish housing context manifests itself in the cyclical inspection programme. Coupled with The Standards, the inspection process comprises the other key arm of the housing regulatory regime. As outlined by Communities Scotland (2007) *Guide to Inspection*, the Regulator is committed to inspecting every Scottish social landlord at least once in a five-year period. The purpose of inspection is to comprehensively assess the achievement of individual social landlords in relation to The Standards and ensure compliance. As one Inspector commented this was akin to “shining a mirror back on the organisation”, for it provides an external check and independent review of the organisation’s strengths and weaknesses. A means of reassuring not only that public money is being well spent, but that customers are receiving good quality services.

It [inspection] is a double edged sword in some ways for associations, it can be painful, it is a lot of work but it can tell them the areas they have maybe fallen down on and again does provide an external badge of approval (Policy Officer, SFHA).

Under the ever watchful gaze of the Regulator those organisations that fail to reconcile their internal targets to The Standards quickly become visible, and for those agencies that fail, or indeed refuse, to embrace the philosophy of responsible self-government by reconciling their performance to external norms then more coercive measures are deployed. As Table 2 highlights, the Regulator’s statutory powers of

intervention are significant and range from altering the personnel within the organisation’s governing body and senior staff, to compelling the organisation to transfer its assets to another social landlord. Crucially, these powers of intervention differ according to whether the provider of services is an RSL or local authority. The fragmentation of social housing provision and simultaneous growth of the housing association sector therefore subjects housing agencies to greater degrees of external scrutiny and intervention.

**Table 2 Type of Statutory Intervention**

<b>REGISTERED SOCIAL LANDLORD</b>	<b>LOCAL AUTHORITY</b>
<ul style="list-style-type: none"> <li>Remove a member of the governing body</li> </ul>	<ul style="list-style-type: none"> <li>Instruct local authority to prepare remedial plan following inspection</li> </ul>
<ul style="list-style-type: none"> <li>Appoint a new governing body member or director</li> </ul>	<ul style="list-style-type: none"> <li>Appoint a manager to a local authority to exercise specified functions</li> </ul>
<ul style="list-style-type: none"> <li>Appoint a manager to an RSL to ensure appropriate management of affairs</li> </ul>	
<ul style="list-style-type: none"> <li>Appointment of a person to conduct an inquiry into an RSL’s affairs</li> </ul>	
<ul style="list-style-type: none"> <li>Instruct an extraordinary audit for purpose of an inquiry</li> </ul>	
<ul style="list-style-type: none"> <li>Following an enquiry can direct an RSL to transfer its land to another RSL, and also declare a moratorium on creditor’s rights of 56 days in case of insolvency</li> </ul>	

Source: Communities Scotland (2004) “Intervention Strategy”.

Despite the existence of these statutory powers of intervention, the Regulator concedes in its *Intervention Strategy* that it does not routinely expect to use them. Instead The Standards are to be achieved by promoting the full and active involvement of ‘the governed’ through an emphasis on organisations themselves identifying and acting upon issues which may negatively affect their performance. Indeed, the strategy states that no

statutory interventions will be sanctioned unless the organisation in question has first been given the opportunity to remedy its own failings:

We will use our statutory intervention powers only where absolutely necessary, to tackle specific, serious performance issues. The most efficient way of addressing performance issues is for housing service providers to identify and act upon any such issues themselves (Communities Scotland 2004: 13).

Direct intervention then, is to be reserved only for those organisations that will not or cannot adopt this active role. It is therefore not mismanagement or underperformance per se that is problematised by the Regulator rather the unwillingness or inactivity of an organisation in addressing its shortcomings. Devolving autonomy to local agents is essential to this mode of power, for it cannot realise its objectives without the consent and co-operation of 'the governed' (Dean 1999; Rose 1999). As Foucault asserts (2003b), the exercise of power in this context is not the antithesis of freedom; rather it presupposes it. In doing so, he illuminates both the active participation of subjugated populations in their own government and the limits of a solely state-centred analysis of regulation. The aim here is not however to downplay the role of the state in housing governance, but to highlight that it is only one form of government amongst many.

### **Responsible Subjects and the Micro-Organisation of Audit**

This emphasis on local autonomy and self-governance has been paralleled by the responsabilisation of housing agencies. It is no longer elected politicians, either at the local or national, who are solely responsible for service provision. Accountability is now to be devolved to the local level and housing agencies must thrive or fail by the local decisions that they make. This twin movement of autonomisation and responsabilisation



is central to advanced liberal technologies of governance (Rose 1999), and in the context of social housing, has resulted in a greater emphasis on public accountability and customer satisfaction. The cyclical inspection of individual social landlords, which was discussed in the previous section, is central here. As previously outlined it is a form of statutory action devised to evaluate and grade the performance of housing agencies through intensive, on-site visits. It is through this process of external audit that professional expertise is to be opened up to independent scrutiny and held to account.

When on-site, Inspection Teams can deploy a range of techniques in order to enable them to get a rounded picture of what each organisation is doing. These focus on providing the Inspection team with first hand experience of how services are being delivered through ‘reality checks’, which include: estate and other site visits; area office visits; reviews of individual histories; observation; focus groups; and mystery shopping (Communities Scotland 2007). The emphasis on experiencing services and talking to front-line workers to understand how they implement procedures represents a significant evolution in the regulation of social housing towards a more explicit customer focus.

Whilst the formal monitoring process has been well-documented, the side-effects of the audit process and the perspective of ‘the auditee’ have often been neglected (Power 2003). A more grounded analysis focused on the voices of those subject to governing practices, highlights that the prospect of being job shadowed was a source of much stress and anxiety amongst front-line workers who described it as both “intense” and “intimidating”. In contrast to the message emanating from the Regulator, shadowing was perceived as both an individual appraisal and scrutiny of their professionalism, with

many front-line workers expressing concern that they might do something wrong which would result in the organisation being given a bad grade:

You worry a wee bit when they [the Inspectors] are coming ‘god, what if I say something wrong and I don’t mean to’ (RSL Housing Officer).

I think staff do things as well that they just don’t realise they do and there’s that worry I might be the person. Might say the wrong thing, might do the wrong thing. You know what it’s like yourself when you’re doing something and someone’s sitting over you (LHO Policy Officer, GHA).

Anxiety about the relative performance of the organisation also extended to the outcome of the grading process in terms of the final report and recommendations produced by the Inspectors. As Table 3 illustrates, inspection grades are awarded for both housing management and property maintenance (and for local authorities only homelessness) with the grade awarded ranging on a scale from D (poor) to A (excellent). Important here is the extent to which RSLs are achieving The Standards, and demonstrating continuous improvement, legislative compliance and good practice in the services they deliver to tenants.

**Table 3 Inspection Grade Descriptions**

<b>GRADE</b>	<b>RATING</b>	<b>DESCRIPTION</b>
A	Excellent	A service comprised of overall strengths, with a proven track record for continuous improvement. May be weaknesses but these do not detract from service users’ experience or undermine the services ability to improve.
B	Good	A service whereby the strengths outweigh the areas for improvement. Weaknesses do not significantly impact on the service users’ experience or undermine the services ability to improve.
C	Fair	A service characterised by some strengths but with important weaknesses that undermine the service users’ experience or the service’s ability to improve. Need for structured action to remedy the situation.
D	Poor	A service characterised by major weaknesses, so that whatever the strengths they nonetheless undermine the service user’s experience or management of the service. Need for immediate remedial action.

Source: adapted from Communities Scotland (2007) “Guide to Inspection”.

Grades C and D were perceived by housing professionals as “poor” and discussed overwhelmingly in negative terms. They described how a low grade was a “stigma” and threat to the organisation’s reputation. Not only because inspection reports were publicly available to tenants and other stakeholders, but as the Regulator would also require an action plan to remedy the situation. More importantly, a low grade also had the added affect of damaging staff morale by exacerbating the feeling that the organisation was ‘failing’:

Well it can have a major impact because if you’ve got a bad grade you could get an appointee on your board. That’s a real insult; you can’t run your own business. And private funders are looking at these things, other associations, wider action money as well (Member of RSL Management Team).

It does have a damaging effect on morale [...]. Somebody comes along and tells you actually you’re not doing this terribly well and you’ve been doing all this work and it’s not greatly appreciated. Well that’s how it comes across. It is quite damaging (Policy Officer, SFHA).

Discussions about the grading process were also littered with references to the possibility of the organisation being “shut down” or having appointees to its board, thus reflecting the extreme prospect of statutory intervention. Although this is a relatively rare phenomenon in the Scottish housing context it emphasises that the way in which the housing regulatory framework is constructed does has a very real impact on how housing associations are managed. As highlighted in the classic work of Ayres and Braithwaite (1992), the availability of touch sanctions is crucial to the effectiveness of the regulatory system. Yet it cannot succeed on the basis of threats alone. Audit requires the consent and participation of regulated organisations, for they must render themselves auditable by collecting and presenting evidence about their performance. The act of making

organisations collect such comparable information is central to the way in which norms of performance become internalised in housing management. As Rose and Miller (1992) emphasise, making people ‘write things down’ is itself a means of governing them because it compels them to consider and take note of certain aspects of their activities according to particular norms of conduct. The effect of which, is the displacement of expertise by measurable targets that render the decisions of professionals “visible, calculable and amenable to evaluation” (Rose 1996: 351).

Yet as Power (2003) highlights, compliance comes at a cost to the audited organisation. Local housing staff described the inspection process as both demanding and onerous in terms of the workload involved. From beginning to end inspection can last up to twenty-six weeks dependent on the size and complexity of the organisation, with the submission document itself, as one Inspector commented, involving a “significant effort” to put together. As outlined in the *Guide to Inspection* it comprises three main parts (Communities Scotland 2007). First, a profile of the organisation, including stock type and geographical distribution, governance and user involvement structures, and its main activities and services. Second, key documents which can range to 42 in total. Third, the organisation’s self-assessment of its own performance.

The number of regulatory bodies that housing agencies have to answer to, and as such the sheer volume and repetitive nature of the submissions required was also identified as a burden. For example, those organisations involved in providing additional care and support to their tenants or who had charitable status were also answerable to the Care Commission and the Office of the Scottish Charity Regulator.<sup>4</sup> For small

associations in particular, the staff time involved in putting together the necessary material for these different bodies is considerable:

We came up with a very crude piece of work just trying to list the number of regulators [...] we came up with about seventeen or eighteen at the end of the day. Some of those are more intense than others I mean obviously you've got Communities Scotland and the Care Commission at one end [...] that's the kind of intense end but you can say in a rural area you can be dealing with the Crofting Commission [...]. And people like Revenue and Customs somewhere in the middle and the Tax people, and so on (Policy Officer, SFHA).

Whilst interviews with members of the Regulation and Inspection team from Communities Scotland illustrated that they were aware of such grassroots concerns (see also, Communities Scotland and Accounts Commission 2001), there remains a gap between strategic aspirations for partnership working and protocol agreements between regulatory bodies, and the reality of the situation as experienced by housing practitioners.

### **Recalcitrant 'Subjects' and Localised Resistance**

The role of the Regulator in evaluating performance was not however accepted unquestionably. Practitioners (both front-line and external actors) were highly critical of the housing regulatory framework, which they described as "too intrusive" and "heavy handed". Echoing previous research by Clapham and Kintrea (2000), front-line workers criticised the Regulator's focus on the "minute details" of their activities, and also its "obsession" with having a documented audit-trail. One housing manager likened Inspection to the "fraud squad" coming in; whilst another officer ridiculed the fact their organisation now had over one-hundred policies and procedures in place, even for activities they did not engage in:

Things like for talking sake, where we have very sheltered housing you might have a policy on lifting and handling, but we don't allow our wardens to lift and handle so we've got to have a policy to say you do not lift and handle [...]. It's crazy and it's just brought in a hell of a lot of work (RSL Housing Officer).

Front-line workers perceived this emphasis on creating an auditable paper trail as a very narrow indicator of success, and believed that performance should be judged in terms of the service provided and the tangible benefits achieved for the area:

They [Communities Scotland] have asked for several new policies and procedures to be in place and it's a lot more paper and it's far too much [...] the proof of the pudding is out there. Have a look at our area. Look what's going on, look at the ideas we are putting in place, look at the exciting innovations that we're bringing in. So we say that's far better, although you have to try and strike a balance (Member of RSL Management Team).

This highlights how the agendas of individual social landlords and the Regulator may not necessarily be in concurrence, and although outwith the scope of this paper, identifies a potential site of central-local tensions (for further discussion see, McKee 2008).

Practitioners also described front-line housing management as a pressured job, and asserted that it was difficult to always achieve the high standards the Inspectors were looking for, particularly the strict adherence to organisational policies and procedures:

I think the pressure is on the staff just now to try and do everything one hundred percent. *A paper trail that kind of thing?* Yeh, uh huh they are [...]. Which is fine for them, but they are no in here doing it, you know that's their job [...]. You could be sitting doing three or four things at the one time and answering a phone and trying to you know, so there are a lot of different aspects [to this job] (LHO Housing Officer, GHA).

Furthermore, such a standardised approach was deemed to undermine the autonomy and discretion identified as central to the professional identity of front-line workers (for

further discussion of professionalism, see Casey and Allen 2004). As one housing officer articulated, the top-down emphasis on creating an audit-trail ran the risk of transforming officers into “stupid bureaucrats” motivated only by policies and procedures, and as such liable to make “stupid decisions” that undermined standards of service. This underlines that whilst performance management may squeeze out the worst performers, it may also lead to dull conformity and homogeneity:

There always has been a level of discretion. I think staff are frightened now to use that discretion [...]. I think they are frightened to skip these wee steps in case it comes back [to them] (LHO Policy Officer, GHA).

Housing professionals are not however passive in this regulatory regime, and their discontent manifested itself in an array of subversive strategies to circumvent what they interpreted as attempts to regulate their performance. For example, one housing manager described how instead of “jump(ing) through the hoops” set by the Regulator and devising hundreds of policies from scratch, he instead obtained copies of policies from other associations he was on good terms with and adapted them to suit their particular local situation. Plagiarism was not unique to this case study.

She [the Inspector] says ‘I want your policies on A, B, C and D you’ve not got them’. It’s not because it was intentional we didn’t have them in place, we didn’t know or weren’t aware we had to have these things. I said to her you tell us who’s got these policies and we’ll phone them up. [She said] ‘no I want you to do a wee bit of leg work for this’ [...]. We got the policies and we sent them off to her. And to be fair we plagiarised a lot of the stuff because everybody is doing the same thing [...]. We didn’t tell her where we got them from it was a wee bit deceitful I suppose (Member of RSL Management Team).

In another incident, practitioners described how it was difficult to carry out their job as normal when the ‘Inspectors were in’ because of the perception they should

minimise discretion and adhere rigidly to the organisation's policies and procedures. In response, they engaged in what one officer described as "putting on a show" for the purposes of the Inspectors – a show that was not necessarily in concurrence with the actual daily practices of the organisation or the professionals within it. For example, one officer described how she did not believe in a standardised approach to tackling rent arrears as per the association's policy because every tenant's circumstances are different and so the approach taken also needs to be tailored:

It's not a blanket approach you can have with every tenant when it comes to rent and how you talk to them about it. I think of a particular tenant who has a drink problem and who comes in and jokes with me and I'll go 'look you need to pay your rent' and that's the way I speak to him 'you're going to end up losing your house' and I kind of laugh and he goes 'I don't care I'll sleep in the closes hen' [...]. And I said to [another housing officer] how would I speak to that [tenant during the Inspection]? Because [the Inspector] doesn't have that background, that knowledge. I said to her I'd maybe tone it down a wee bit, it's no a bad thing I'm doing. He likes the way I speak to him (RSL Housing Officer).

The ability to build a rapport with clients and adapt the rules to provide a personal service is central to the professional identity of front-line workers (Casey and Allen 2004). Yet this commitment to a personalised local service was hidden during the on-site visit, where the emphasis was very much on demonstrating that policies and procedures were being routinely implemented in practice.

The Regulator's efforts to shape the performance of housing agencies, and therefore the professionals within them, was therefore not accepted unquestionably but actively resisted and contested. In this context, resistance is not understood as liberation from oppression, rather as an alternative political strategy that challenges and adapts current governing practices. As Foucault (2003b) emphasises 'subjects' are not passive



and on the receiving end of power; rather they are autonomous actors capable of thinking and acting otherwise. Consequently, power's effects cannot be guaranteed. When power calls people may "ignore it, refuse to listen, or tune in to alternative hailings that speak of different selves, imagined collectivities and futures" (Clarke 2004: 12). Yet these "subjects of doubt" have too often been neglected in governmentality studies where the dominant tendency has been to focus on political rationalities or 'mentalities' of rule (Clarke 2004: 1; see also McKee, In Press). Whilst this paper has endeavoured to give greater attention to the experiences of subjugated populations, in this instance housing practitioners, it nonetheless remains a field of study that requires further exploration.<sup>5</sup>

## **Conclusion**

The emergence of 'technologies of performance' within UK social housing management reflects wider shifts in the reconstruction of public services (Dean 1999; Rose 1999; Miller and Rose 2008). As the empirical data on housing governance in Scotland highlights, there has been a departure from top-down hierarchical control towards an emphasis on the critical self-assessment and responsible self-governance of social landlords. Evaluation, comparison and punitive interventions for 'failing' organisations are however simultaneously key components of these 'technologies of performance', for it is through external audit that professional expertise is to be opened up to independent scrutiny and held to account. Here, governmentality opens up a critical space to explore the subtle interplay between these voluntary and coercive modes of power. In doing so, it transcends the limits of a solely state-based analysis of regulation by illuminating the active role of 'subjects' in their own governance.

In addition, the empirical data emphasises the costs of compliance for regulated organisations and the frustration of housing practitioners with the regulatory system. Front-line workers are however not passive in all of this. Indeed, they devised a number of strategies to undermine the Regulator’s attempts to govern their performance. This ranged from the housing manager who attempted to satisfy the Regulator’s desire for written policies by plagiarising them from other associations, to the housing officer who “put on a show” for the Inspector to mask the flexible and adaptive nature of her practice. These examples underline the centrality of ‘recalcitrance of will’ to a Foucauldian analysis, and also caution against conceptualising liberation and domination in diametric opposition. Resistance in this context is not understood as liberation from oppression; rather a means of illuminating the varied ways in which subjugated populations have contested, challenged and adapted governing strategies aimed at regulating their conduct.

In conclusion, governmentality has much to offer the housing studies tradition. By drawing attention to governing beyond the state, especially the way in which ‘governable subjects’ are intimately involved in their own government it offers a sophisticated and nuanced analysis of power and rule at the micro-level. Further research on localised resistance is however needed in order to fully exploit the intellectual apparatus that we, as critical scholars, have inherited from Foucault.<sup>5</sup>

### **Acknowledgements**

The study upon which this paper is based was a doctoral research project funded by the Economic and Social Research Council. Thanks are owed to all individuals and organisations who willingly gave their time to participate in this research; to the editors

and three anonymous referees from *Housing Studies*; and to Sophie Bond, John Flint, Keith Kintrea and Claudia MacDonald for their helpful comments. Responsibility for interpretation as ever lies with the author.

## **End Notes**

<sup>1</sup> In the 25 years between 1981 and 2006, public sector housing fell from 29 to 10 percent of all dwellings in the UK. During the same period the housing association sector grew from 2 to 8 percent (Wilcox 2000: 103).

<sup>2</sup> Local Housing Organisations (LHO) are unique to the Glasgow stock transfer context. Whilst Glasgow Housing Association is the transfer association, since its inception in 2003 it has devolved day-to-day housing management activities to the city's LHO network. These organisations are community based, small in scale and governed by a management committee comprising a majority of local tenants (McKee 2007).

<sup>3</sup> It is too early to tell whether the regulatory regime will change significantly under the new Regular, but early indicators suggest similar governmental strategies and techniques will be pursued (Scottish Housing Regulator 2008).

<sup>4</sup> The Scottish Commission for the Regulation of Care regulates those organisations that provide care services, such as sheltered and very sheltered housing, whilst the Office of the Scottish Charity Regulator regulates the activities of charitable organisations including some housing associations or co-operatives within the voluntary sector.

<sup>5</sup> The issue of front-line resistance was not the explicit focus of this research; rather it emerged as an interesting and somewhat unexpected side-issue.

## References

Ayres, I. And Braithwaite, J. (1992) “Responsive Regulation: transcending the regulation debate”. New York and London: Oxford University Press.

Casey, R. and Allen, C. (2004) “Social Housing Managers and the Performance Ethos: towards a ‘professional project of the self’ ” *Work, Employment and Society* 18 (2): 395-412.

Clapham, D. and Kintrea, K. (2000) “Community-Based Housing Organisations and the Local Governance Debate”. *Housing Studies* 15 (4): 533-559.

Clarke, J. (2004) “Subjects of Doubt: in search of the unsettled and unfinished”, paper presented at the *CASCA Conference*, Ontario, 5-9 May 2004.

Clarke, J. (2005) “Performing for the Public: doubt, desire, and the evaluation of public services”, in P. du Gay (ed.) *The Values of Bureaucracy*. Oxford: Oxford University Press.

Clarke, J; Gewirtz, S; Hughes, G; and Humphrey, J. (2000) “Guarding the Public Interest? Auditing Public Services”, in J. Clarke; S. Gewirtz, S; and E. McLaughlin (eds) *New Managerialism, New Welfare*. London: Sage and The Open University.

Clarke, J; Newan, J; Smith, N; Vidler, E; and Westmarland, L. (2007) “Creating Citizen-Consumers: changing publics and changing public services”. London: Sage.

Communities Scotland (2004) “Intervention Strategy”. Edinburgh: Scottish Executive.

Communities Scotland (2007) “Guide to Inspection”. Edinburgh: Scottish Government.

Communities Scotland and Accounts Commission (2001) “Memorandum of Understanding”. Edinburgh: Communities Scotland.

Communities Scotland, Convention of Scottish Local Authorities and Scottish Federation of Housing Associations (2006) “Performance Standards for all Social Landlords and Homelessness Functions”. Edinburgh: Communities Scotland.

Cowan, D. and McDermont, M. (2006) “Regulating Social Housing: governing decline”. London: Routledge-Cavendish.

Dean, M. (1999) “Governmentality: power and rule in modern society”. London: Sage.

Department of the Environment, Transport and the Regions (DETR) (1998) “Modern Local Government: in touch with the people”. London: HMSO.

Flint, J. (2002) "Social Housing Agencies and the Governance of Anti-social Behaviour" *Housing Studies* 17 (4): 619-638.

Flint, J. (2003) "Housing and Ethopolitics: constructing identities of active consumption and responsible community" *Economy and Society* 32 (3): 611-629.

Flint, J. and Rowlands, R. (2003) "Commodification, Normalisation and Intervention: cultural, social and symbolic capital in housing consumption and governance" *Journal of Housing and the Built Environment* 18 (3): 213-232.

Foucault, M. (2003a) "Governmentality", in P. Rabinow and N. Rose (eds) *The Essential Foucault: selections from Essential Work of Foucault, 1954-1984*. London and New York: The New Press.

Foucault, M. (2003b) "The Subject and Power", in P. Rabinow and N. Rose (eds) *The Essential Foucault: selections from Essential Work of Foucault, 1954-1984*. London and New York: The New Press.

Hood, C. (1991) "A Public Management for all Seasons", *Public Administration* 69: 3-19.

Jacobs, K. and Manzi, T. (2000) "Performance Indicators and Social Constructivism: conflict and control in housing management" *Critical Social Policy* 20 (1): 85-103.

Li, T. M. (2007) "The Will to Improve: governmentality, development politics, and the practice of politics". Durham and London: Duke University Press.

McKee, K. (2007) "Community Ownership in Glasgow: the devolution of ownership and control, or a centralizing process?" *European Journal of Housing Policy* 7 (3): 319-336.

McKee, K. (2008) "Transforming Scotland's Public Sector Housing through Community Ownership: the reterritorialisation of housing governance" *Space and Polity* 12 (2): 183-196.

McKee, K. (In Press) "Post-Foucauldian Governmentality: what does it offer critical social policy analysis?" *Critical Social Policy*.

McKee, K. and Cooper, V. (2008) "The Paradox of Tenant Empowerment: regulatory and liberatory possibilities" *Housing, Theory and Society* 25 (2): 132-146.

McIntyre, Z. and McKee, K. (In Press) "Governance and Sustainability in Glasgow: connecting symbolic capital and housing consumption to regeneration" *Area*.

Newman, J. (2001) "Modernising Governance: New Labour, policy and society". London: Sage.

Power, M. (2003) "Evaluating the Audit Explosion", *Law and Policy* 25 (3): 185-202.

Rose, N. (1996) "The Death of the Social? Re-figuring the Territory of Government".  
*Economy and Society* 25 (3): 327-356.

Rose, N. (1999) "Powers of Freedom: reframing political thought". Cambridge:  
Cambridge University Press.

Rose, N. and Miller, P. (1992) "Political Power Beyond the State: problematics of  
government". *The British Journal of Sociology* 43 (2): 173-205.

Scottish Housing Regulator (2008) "Guide to Inspection". Glasgow: The Scottish  
Housing Regulator.

Walker, R. (2000) "The Changing Management of Social Housing: the Impact of  
Externalisation and Managerialisation" *Housing Studies* 15 (2): 281-299.

Wilcox, S. (2007) "UK Housing Review 2007/08". Coventry and London: Chartered  
Institute of Housing and the Building Societies Association.