

## PEER REVIEW HISTORY

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### ARTICLE DETAILS

<b>TITLE (PROVISIONAL)</b>	Does accountability for reasonableness work? A protocol for a mixed methods study using an audit tool to evaluate the decision-making of clinical commissioning groups in England
<b>AUTHORS</b>	Kieslich, Katharina; Littlejohns, Peter

### VERSION 1 - REVIEW

<b>REVIEWER</b>	Emmanouil Gkeredakis University of Warwick, UK
<b>REVIEW RETURNED</b>	26-Mar-2015

<b>GENERAL COMMENTS</b>	<p>With immense interest I read this study protocol. I am personally very fascinated by the topic of fairness in healthcare resource allocation, which I have empirically examined intensively. It is particularly encouraging that this research is explicitly focused on issues of legitimacy in healthcare, especially as the NHS is put under increasing pressure to use “independent providers” and faces unprecedented budgetary constraints. I have three main comments to make under three headings: (a) theoretical, (b) methodological, and (c) ethical.</p> <p>Theoretical comments The study protocol is very well informed by the relevant literature on healthcare priority setting and A4R. I would also encourage the authors to go beyond this literature and engage with organizational research, esp. research focusing on organizational legitimacy. There is an extensive literature on how organizations gain legitimacy, the various legitimization strategies they may put in place, etc. The focus of this study is on organisations (CCGs), hence I cannot see how you can ignore this literature. Seminal academic papers in top organisational journals include (Ruef and Scott 1998; Suchman 1995). As you will see, legitimacy is a multi-dimensional concept and studying the “achievement” of legitimacy empirically needs to account for such multi-dimensionality (see Suchman for an excellent review of legitimacy research). Second, it seems that, decision making in the CCG context is inseparable from the quest for legitimacy. Yet, for analytical purposes, one needs to distinguish the two processes and explore the relationship between decision making process/skills and capability to achieve legitimacy. To put it differently, what is the relationship between quality of decision making and legitimacy seeking? From our own research (Gkeredakis et al. 2014) on “exceptional” commissioning decision making in the NHS, we have found that decision making depends on many “hard” competencies (e.g., assembling the right experts, gathering and scrutinizing evidence) and “soft skills” (situated interpretation and narrative construction, attentiveness to detail, openness to explore alternative hypotheses, rejection of “quick”</p>
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conclusions). We have found that hard and soft skills matter and have an impact on the way commissioners make decisions and demonstrate fairness. I would strongly encourage the researchers to account for the real WORK that goes into decision making and the skills, which makes such work possible, in order to understand legitimacy dynamics in the CCG context.

#### Methodological comments

The protocol focuses on a very important area where issues of legitimacy are likely to emerge more and more often. It would be great if the researchers sharpened their focus on specific CCG decisions, and consider the impact of different kinds of decisions on the processes of achieving legitimacy. Decisions to decommission services, award a contract to any willing provider, fund exceptional cases constitute different kinds of contexts for studying the processes by which decisions may or may not be legitimated and how various tools are used. You need to contextualize your research further and create boundaries vis-à-vis your contribution and applicability/generalizability of your findings (the rubric “CCG decision making” is too broad). In addition, this research pays particular attention to the role of the public in understanding legitimation dynamics. However, the concept of the “Public” is not parsimoniously defined and hence it would seem more appropriate if the researchers simply used different language. Beyond semantics, there is an important issue here: the study cannot claim that it studies how the “public” at large sees and perceives CCG decisions, because the public in this case literally includes hundreds of thousands of people. So, it might be more prudent to use the language of “audiences”, “key stakeholders”, and so on, rather than the “public”. Having said that, it is important for your research to examine whether the decision makers themselves think that they are trying to render their decisions legitimate in the eyes of the public and explore what “the eyes of the public” mean for decision makers while making decisions. Do they think, for example, that by going through certain steps, the “public” enters the deliberation?

#### Comments related to ethics

This research has an important ethical component in that it aims to advance understanding of how CCGs might achieve fairer decisions. It seems reasonable to assume that, when CCG decision makers are reminded of issues of fairness and of their responsibility to produce fair outcomes, they are more likely to produce such outcomes. This research undoubtedly contributes to raising awareness with respect to the significance of transparency and accountability. However, there are important issues that may need to be taken into account. First, transparency of the process is not always desirable both from a decision makers’ point of view and from a decision recipient perspective. A recent review synthesises findings from a number of studies and questions myopic persistence on procedural fairness (Brockner et al. 2009). For example, the pressure to meet transparency requirements may create anxiety for decision makers, who may, as a result of anxiety, make suboptimal (and less rational – broadly understood) decisions. Second, the researchers need to be aware of the implicit assumption they make that: legitimacy is reducible to DEMONSTRATION of fairness. Demonstration (in the form of showing adherence to the audit tool, for example) inevitably relies on some sort of evidence or explication of the deliberation process. Hence, a decision, which relies on human judgement, may not “count” as legitimate (if not demonstrated) even if the judgement is made by a good citizen or an

	<p>expert. To put it differently, you need to be open and sceptical about the relationship between transparency/demonstration and fairness/legitimacy in decision making, because it is not necessarily exceptional that decision makers arrive at “bad” (and possibly unfair) decisions because they need to be transparent (transparency becomes an obstacle for good decision making), or that decision makers demonstrate fair decisions by sticking to a “tick box” exercise to conceal “hidden” and potentially illegitimate reasons for making a decision. You need to be mindful of the possibility that decision makers may use an audit tool to AVOID their responsibility to make fair decisions (see another insightful study by (Brunsson 1990).</p> <p>Overall, the research protocol is very well designed and I hope that the authors will take into account the above comments, while conducting the proposed research.</p> <p>Brockner, J., B.M. Wiesenfeld, K.A. Diekmann. 2009. 4 Towards a “Fairer” Conception of Process Fairness: Why, When and How More may not Always be Better than Less. <i>The Academy of Management Annals</i> 3(1) 183-216.</p> <p>Brunsson, N. 1990. DECIDING FOR RESPONSIBILITY AND LEGITIMATION - ALTERNATIVE INTERPRETATIONS OF ORGANIZATIONAL DECISION-MAKING. <i>Accounting Organizations and Society</i> 15(1-2) 47-59.</p> <p>Ruef, M., W.R. Scott. 1998. A multidimensional model of organizational legitimacy: Hospital survival in changing institutional environments. <i>Administrative Science Quarterly</i> 43(4) 877-904.</p> <p>Suchman, M.C. 1995. Managing legitimacy - strategic and institutional approaches. <i>Academy of Management Review</i> 20(3) 571-610.</p> <p>Gkeredakis, E., Nicolini, D. and J. Swan. "Moral judgements as organizational accomplishments: insights from a focused ethnography in the English healthcare sector" in (eds.) Francois Cooren, Ann Langley, Hari Tsoukas, Eero Vaara, <i>Language and communication at work: Discourse, Narrativity, and Organizing</i>, Oxford: Oxford University Press (2014)</p>
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### VERSION 1 – AUTHOR RESPONSE

#### Theoretical comments

As recommended by the reviewer we have engaged with the research on organisational legitimacy when making the revisions to our manuscript. We have found this engagement very useful, especially when it comes to the question of how we might conceptualise and operationalise legitimacy in a more meaningful way than is currently suggested in the A4R framework. To reflect our engagement and consideration of the literature on organisational legitimacy we have added a new fourth paragraph to the introduction (pg. 5 of the revised manuscript, see tracked changes). In the new paragraph, we add the fact that A4R does not engage with conceptual and empirical insights provided by the literature on organisational legitimacy as an additional criticism of the A4R framework. We refer to Brockner’s, Wiesenfeld’s and Diekmann’s (2009) work to substantiate our doubts that the focus on fair processes is sufficient in achieving legitimacy. This paragraph is not the only one that we have revised to reflect our engagement with the literature on organisational legitimacy. You will find that we now refer to this

literature throughout the article, for example in the changes we have made on pg. 6 and 8. Specifically, on page 6 we highlight that the literature on organisational research provides avenues for explaining why fair processes may not always lead to outcomes that are perceived as legitimate because different stakeholders may have different views on what constitutes decision legitimacy in a given circumstance.

We agree with the reviewer's comments that the original manuscript did not distinguish carefully enough the process of decision-making and the process of legitimation. We have rectified this theoretical problem with a methodological solution in the revisions we have made to the second paragraph on the use of the decision-making audit tool (DMAT) (pg. 9 of revised manuscript). We have now specified that we will use the DMAT to assess both the 'general' decision-making profile of CCGs, e.g. their mission statements, constitutions or terms of reference, as well as individual types of decisions that CCGs have to make. Incidentally, this is something that was always part of our research plan. In our original manuscript we alluded to this in the 'data collection' section, specifically when we write about the purpose and content of the interviews, but we neglected to say that we will also use the DMAT on different types of decisions to account for any differences in perceptions of legitimacy that may arise from the types of decisions made. The reviewers' comments were thus helpful to make us aware of our own oversight and also helped underline the importance of carefully distinguishing between the process of decision-making and the process of legitimation.

With regard to the reviewer's encouragement that we account for the real WORK that goes into decision-making, we agree that this is very important. However, we also feel that this would require the incorporation of an ethnographic research element into our research plan, which unfortunately is not feasible due to the time and resource constraints of the project. Moreover, it might risk moving away from our aim to test whether the fulfillment of A4R conditions leads to more legitimate decision-making in the eyes of key stakeholders. However, as our research progresses we will keep in mind the possibility of examining more closely the real work that goes into decision-making and the skills it takes.

#### Methodological comments

As outlined in the above paragraphs we agree that our research benefits from sharpening the focus on specific CCGs decisions and considering the impact of different kinds of decisions on the processes of legitimacy. We intended to do this from the start, but neglected to make this explicit in the original version of our protocol paper. We have rectified this oversight by including an additional section in the second paragraph on the use of the audit tool to assess CCG decision-making (see pg. 9 of revised manuscript). We hope that this contextualises our work further and makes explicit that we expect to find that A4R conditions may be appropriate for achieving legitimacy in some cases of decision-making but not in others where more complex criteria and values need to be considered, which may or may not be covered by the DMAT (whether the relevant criteria and values are covered in the DMAT is the subject of the workshops that we are conducting as part of this study).

We agree with the reviewer's assessment that the term 'the public' was too general a term to use in the context of our research. We have changed it to 'key stakeholders' and decision-makers throughout the revised manuscript (see especially the changes made under 'Research question and hypotheses' on pg. 7 of the revised manuscript).

#### Comments related to ethics

We agree with the reviewer's comments related to ethics. In response to the comments we have referred to the helpful article by Brockner, Wiesenfeld and Diekmann in order to highlight that in some circumstances fair processes might not be desirable for agents or recipients of decisions (see pg. 5 of the revised manuscript). This substantiates our criticism of A4R for postulating that fair processes will ensure legitimate decision outcomes in health priority setting. In the context of CCGs it is especially difficult to buy into this oversimplified correlation because CCGs are faced with a high workload, financial and time constraints and a multitude of views from different stakeholders that need to be managed and reconciled.

We agree with the reviewer on the implicit assumption we make that legitimacy is reducible to DEMONSTRATION of fairness. We are aware of the challenges this raises in practice and in fact, this is something that was raised in the first workshop we carried out on the DMAT. It is a feedback comment that we will use to further improve the DMAT to make it more useful to decision-makers and stakeholders alike and we will be redrafting the DMAT questions in response to the feedback we get in our workshops.

As a result of the changes we made in response to the reviewer's comments we have added another point to the strengths of the study at the beginning of the manuscript, that is that the results will make an empirical contribution to the literatures on A4R, health care priority setting and organisational theory.

#### VERSION 2 – REVIEW

<b>REVIEWER</b>	Dr Emmanouil Gkeredakis Warwick University, UK
<b>REVIEW RETURNED</b>	18-May-2015
<b>GENERAL COMMENTS</b>	The authors have introduced a number of changes to the submitted manuscript, which address all main concerns I had. I wish them good luck with their research.