

The Relationship between Councils and Statutory Agencies

Purpose

For discussion and direction.

Summary

This paper reviews the current landscape of statutory agencies and their relationship with councils. It outlines the progress made against the government's reform programme and presents the results of initial, desk-based reviews of six agencies.

While progress has been made in addressing agencies' value for money, accountability, and openness, much remains to be done. This paper proposes a further review of statutory agencies to inform the LGA's wider policy and lobbying activity.

Recommendation

That the Executive consider the findings and agree a five-year update of the Quango Scorecard.

Action

Officers to proceed according to Members' decision.

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Background

1. Statutory agencies, often called quangos (which stands for quasi-autonomous non-governmental organisation) are public bodies which are appointed rather than elected and which receive public funding. Quangos are sometimes called Non-Departmental Public Bodies (NDPBs) or Arms-Length Bodies (ALBs). There are, of course, many NDPBs and other organisations which might be called quangos. What distinguishes all these bodies is that they spend public money and have been set up by the government, but they leave a degree of independence from political control by Ministers. That independence varies, depending on their model of accountability.
2. The Cabinet Office publishes data annually on NDPBs, executive agencies and non-ministerial departments. The latest government figures from 2013 show 497 NDPBs with an expenditure of £86.7 billion, employing over 230,000 people. NDPBs therefore account for 13 per cent of total public expenditure and 51 per cent of all employees (if we include all employees whose posts are funded by the Education Funding Authority). The Coalition Government has been undertaking a programme of reform relating to the number, function, and accountability of public bodies. The programme included the passing of the Public Bodies Act 2011, giving Ministers powers to abolish, merge, or reform bodies through secondary legislation.
3. This winter's extreme weather highlighted the potential for controversy about accountability within the NDPB model of bodies which spend public money and have been set up by the elected government, but are not controlled by the government. The Environment Agency in particular attracted criticism for a perceived lack of accountability to local communities. This has emphasised the need to look again at the role statutory agencies play in future public services.
4. To take another topical example, a number of the agencies are statutory consultees within the planning system. This is an important role, however it is recognised that there is a need to ensure that their approach is proportionate and timely to avoid delays to development coming forward. The LGA has been working with the Environment Agency, Natural England, Highways Agency and others to explore ways in which the process could be streamlined and made more efficient. To that end we have developed a set of proposals to ensure that statutory consultees engage in planning a way that is joined up, risk based and based on early engagement.
5. Our *Rewiring Public Services* campaign shows the only way to meet the challenges facing public services is to create a new framework which is able to be both strategic and locally responsive. Evidence from community budgets shows us that joining up services and funding at a local level, led by democratically elected local councillors must be the foundation of that change. The future role of NDPBs must be considered as part of this model.

Reviewing Statutory Agencies

6. Concerns of this kind have led the Executive to ask us to look again at the role statutory agencies play in future public services.
7. In 2009/10 the LGA led a 'Who's in charge' campaign calling for more accountability and greater for money in the public sector. This included a 'quango scorecard' report which scored statutory agencies on a traffic light system. Eleven agencies were assessed against three principles: value for money, accountability and openness. The results are included as **Appendix B**.
8. The scorecard exercise also rated local government against the three principles: councils were found to be 'green' (satisfactory) on all objective measures. None of the quangos examined achieved 'green' across all three. The scorecards clearly demonstrated that a step change was needed in the way quangos operated.
9. When the Coalition Government came to power in 2010 they undertook a Public Bodies Reform Programme. The Government's December 2013 report on the programme states that since the start of the programme more than 180 public bodies have been abolished; more than 160 bodies have been merged into fewer than 70; and the total number of public bodies has been reduced by more than 280. The only published savings relate to running costs: in 2011-13 quangos saved £1 billion, or 1.2 per cent of their expenditure. Government committed to a reduction in NDPB spend of £11 billion per year by 2014/15. Across the same time period, core funding to councils will have fallen by 40 per cent.

Reviewing Performance

10. To illustrate the current state of play, officers have undertaken an informal desk-based review of six quangos which undertake work that closely relates to that conducted by councils: the Education Funding Authority, Highways Agency, Environment Agency, Homes and Communities Agency, Planning Inspectorate, and Arts Council. Each was assessed against a number of criteria to demonstrate value for money, accountability, and openness. The evidence assembled in this can be found in **Appendix A**. Overall, it suggests that issues identified five years ago in the 'quango scorecard' remain live.

Next steps

11. This initial, desk-based review of indicators of NDPB performance and accountability indicates there continues to be room for debate about their value for money, accountability and openness and that the agencies vary widely amongst themselves on these metrics. While there has been considerable progress under the Government's programme of reform, much remains to be done to ensure that momentum is not lost and NDPBs are held to the same high standards as elected bodies.
12. This work does not, however, present a comprehensive picture. In particular, it captures only very limited quantitative data about the way quangos work with councils locally, and the trend in these important working relationships. We are conscious that in

many cases, partnership working is excellent and is delivering improved outcomes. We suggest therefore, that the LGA should now undertake a more thorough review of NDPBs that could refresh the earlier 'quango scorecards' exercise, including a comparison between the two reviews. This would inform the LGA's work leading up to the general election in 2015 and strengthen the case for community budget-based reforms of public services.

Financial Implications

13. There are no unbudgeted implications for the LGA.

Appendix A: Review of NDPBs

HIGHWAYS AGENCY

Role	The Highways Agency is an Executive Agency of the Department for Transport (DfT), and is responsible for operating, maintaining and improving the strategic road network in England on behalf of the Secretary of State for Transport.
Status	Executive agency: reports to Ministers
Geographic scope	England
Date established	March 1994
Sponsor department	Department for Transport (DfT)
Total number of staff employed	3,300
Public money	£858,000,000
Administration costs	£64,193,000 (7.5%)
Senior salary published	Yes
Spend on contracts published	£500
Complaints procedure on website	Yes
Register of interest	Yes
Meetings public	No
Published minutes	Yes

Value for money

In March 2012 the Government announced a review of the Highways Agency, which resulted in plans published in July 2013 to radically change the way strategic roads are funded and managed. This includes plans to transform the Highways Agency into a Government-owned company. Government forecasts savings of at least £2.6 billion over the next 10 years due to this change.

With councils and LEPs now having a clearer mandate on growth, and the Highways Agency undergoing reform, this presents an ideal opportunity for a new level of trust, engagement and partnership-working between local government, LEPs and the Highways Agency. The forthcoming reforms, particularly on route-based strategies, must result in dialogue between the Highways Agency and local government on the wider issue of economic growth, as opposed to the previously narrow focus on just roads.

Councils have shown that they are capable of delivering schemes and working in partnership with LEPs, other councils and other stakeholders, such as the Highway Agency. For example, Cornwall County Council has demonstrated that it could deliver the upgrade to the A30 road for £20 million less than the Highways Agency's plans, a 25% reduction in costs. Council projects often have a much higher return, with more than a quarter achieving a benefit-to-cost ratio of 5:1, according to the National Audit Office. By contrast, schemes are considered to have 'high' value for money by the Department for Transport if they produce £2 of economic benefit for every £1 spent.

Accountability and openness

The Highways Agency has some public accountability at a national level. There is a register of interest for Board members maintained and minutes are published. However the meetings cannot be attended by the public as it reports to Ministers. Senior salary data is published, along with spend on contracts of over £500.

EDUCATION FUNDING AGENCY (EFA)

Role	The EFA: <ul style="list-style-type: none"> • Provides funding for the education of pupils up to age 16 in academy trusts including city technology colleges, free schools, studio schools and university technical colleges. • Distributes funding for the education of pupils up to age 16 in local authority maintained schools. • Provides funding for all education and training for learners aged 16 to 19 years. • Provides funding for learners with learning difficulties and/or disabilities up to age 25. • Supports the delivery of capital programmes for local authority maintained schools, academy trusts and sixth form colleges.
Status	Executive agency: reports to Ministers
Geographic scope	England
Date established	1 April 2012 (subsequent to the Public Bodies Review)
Sponsor department	Department for Education (DfE)
Total number of staff employed	655 (administration), 251,357 (employed through EFA-funded programmes), 25 (capital projects)
Public money	£51,430,589,843
Administration costs	£90,615,000 (0.17%)
Senior salary published	Yes
Spend on contracts published	£25,000
Complaints procedure on website	Yes
Register of interest	No
Meetings public	No
Published minutes	No

Value for money

The EFA received the greatest funding of any quango at 31 March 2013; it received 59 per cent of all public money associated with quangos, however most of this money is used to directly fund programmes.

Since 2010 the number of people employed by the EFA and its predecessor bodies has increased from 716 FTE to a planned 917 staff in 2014/15¹. The EFA itself has more staff than all the

remaining 496 quangos put together when programme employees are considered.

The EFA's role duplicates functions that councils have very successfully carried out prior to its establishment; it has also introduced an additional layer of bureaucracy in place-planning and post-16 education and training between councils and DfE.

All programmes delivered by the EFA could be more effectively and efficiently delivered by councils with the remainder reverting to DfE, where they were carried out prior to its establishment in April 2012. We can see a significant savings in the abolition of the EFA.

Accountability and openness

The EFA is not an open or democratically accountable to local communities. None of its meetings are open to the public and meeting minutes are not publicly available, as it reports to Ministers. There is no register of interest for Board members maintained and appointments to the organisation are not regulated by Office of the Commissioner for Public Appointments. However, it does publish senior salary data and spend on contracts of over £25,000 and has a clear complaints procedure on its website.

THE PLANNING INSPECTORATE

Role	The Planning Inspectorate is a joint Executive Agency of the Department for Communities and Local Government (DCLG) and the Welsh Government. It deals with Local Plans in England and Local Development Plans (LDPs) in Wales, applications for NSIP, and other casework under planning, housing, environment and allied legislation. It carries out similar work for other Government Departments, particularly the Department for Environment, Food and Rural Affairs (Defra) on access, rights of way and environmental appeals and the Department for Transport (DfT) on highway orders and other related work.
Status	Executive Agency – reports to Ministers
Geographic Scope	England and Wales
Date established	1908
Sponsor department	Department for Communities and Local Government (DCLG)
Total number of staff employed	643
Public Money	£38,598,000
Administration costs	£14,426,000 (37%)
Senior salary published	Yes
Spend on contracts published	£500
Complaints procedure on website	Yes

¹ Commons written answers 25 Apr 2013 : Column 1172W:

<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm130425/text/130425w0005.htm>

Register of interest	Yes
Meetings public	No
Publicly available minutes	No
<p>Value for money</p> <p>The Planning Inspectorate is responsible for processing planning appeals, national infrastructure planning applications, examinations of local plans and other planning-related case work. Since 2010 its responsibilities have expanded and it has assumed new roles under the Localism and Growth and Infrastructure Acts. These include for example considering the case for renegotiating S106 on affordable housing where a developer is not satisfied with a councils' decision and handling planning applications where a council has been designated as poor performing if developers apply.</p> <p>The Planning Inspectorate received less than 0.5 per cent of all quango funding at 31st March 2013. Since 2010/11 its funding has increased by one per cent, whilst its administrative costs reduced by 12 per cent. Since 2010/11 there has been a seven per cent reduction in the number of staff, although staff levels still remain above average.</p> <p>Accountability and openness</p> <p>The Planning Inspectorate has some public accountability at a national level. There is a register of interest for Board members maintained and appointments to the organisation are regulated by Office of the Commissioner for Public Appointments. All appeal decision letters are public record and available on the Planning Portal. However the meetings cannot be attended by the public, and minutes of meetings are not publicly available as it reports to Ministers. Senior salary data is published, along with spend on contracts of over £500 and there is a clear complaints procedure on its website, although this complaints procedure does not refer the public to the Ombudsman.</p>	

HOMES & COMMUNITIES AGENCY (HCA)

Role	The Homes and Communities Agency is the national housing, land and regeneration agency; and the regulator of social housing providers in England. The statutory objectives of the HCA as defined by the Housing and Regeneration Act 2008 are to: <ul style="list-style-type: none"> • improve the supply and quality of housing in England • secure the regeneration or development of land or infrastructure in England • support in other ways the creation, regeneration or development of communities in England or their continued wellbeing • contribute to the achievement of sustainable development and good design in England, with a view to meeting the needs of people living in England.
Status	Executive NDPB – has its own independent Board
Geographic Scope	England
Date established	1 st December 2008
Sponsor department	Department for Communities and Local Government (DCLG)
Total number of staff employed	862
Public Money	£1,472,000,000
Administration costs	£18,014,000 (1.2%)
Senior Salary published	Yes
Spend on contracts published	£500
Complaints procedure on website	Yes
Register of interest	Yes
Meetings public	No
Publicly available minutes	Yes

The HCA was included in the LGA's original review of quangos. Its direction of travel was considered to be level and as a new body it was hoped there would be a positive working relation with councils, avoiding bureaucracy in its funding programmes.

Since that review the HCA has taken on a regulatory role, previously undertaken by the Tenant Services Authority.

Value for money

The HCA currently manages a number of funding programmes to which local authorities are eligible to bid. This includes the Affordable Homes Programme. The HCA also has a role to dispose of government owned land for housing.

The HCA seeks to act as an enabler for councils through its operational areas. Councils have anecdotally identified specific services provided by the HCA as benefit to them, in particular the ATLAS service² considered a helpful tool and source of advice provided by the HCA; additionally some local authorities are working with the HCA to release land through joint property boards as part of City Deals.

Accountability and openness

The HCA received under two per cent of all quango funding at 31 March 2013. Since 2010/11 its funding decreased by 73 per cent, whilst its administrative costs reduced by 32 per cent. Similarly since 2010/11 there has been a 28 per cent reduction in the number of staff, although staff levels still remain above average.

The HCA is generally an organisation that provides accountability to the public. Its meeting minutes are publicly available and there is a register of interest for Board members maintained, with appointments to the organisation are regulated by Office of the Commissioner for Public Appointments. Senior salary data is published, along with spend on contracts of over £500 and there is a clear complaints procedure on its website.

THE ENVIRONMENT AGENCY (EA)

Role	The Environment Agency is the leading public body for protecting and improving the environment in England and, up to 31 March 2013, in Wales. Its vision is to create a better place for people and wildlife. They reduce the risks to people and properties from flooding, make sure there is enough water for people and wildlife, protect and improve water, land and air quality and apply the environmental standards within which industry must operate. They also act to reduce climate change and help people and wildlife adapt to its consequences.
Status	Executive NDPB – has its own independent Board
Geographic Scope	England
Date established	1996
Sponsor department	Department for Environment, Food and Rural Affairs (DEFRA)
Total number of staff employed	12,252
Public money	£1,207,400,000
Administration costs	£426,400,000 (35%)
Senior salary published	Yes
Spend on contracts published	£500
Complaints procedure on website	Yes
Register of interest	Yes
Meetings public	Yes

² The ATLAS service supports major and large scale development

Publicly available minutes	Yes
<p>The EA was included in the LGA's original review of quangos. Its direction of travel was considered to be level, with concerns around duplication with central government and other quangos in developing environmental policy. However the working relationship with councils was considered to be positive.</p> <p>Value for money</p> <p>Concerns about duplication of the Environment Agency work with other quangos still exist; the Environment Agency and Natural England are a prime example of this duplication at a national level. Multiple central agencies can mean that local priorities and issues are not considered; the Triennial Review sought to address this.</p> <p>The EA received less than one per cent of all quango funding at 31st March 2013. Since 2010/11 its funding decreased by 10 per cent, whilst its administrative costs reduced by 11 per cent. Since 2010/11 there has been a two per cent increase in the number of staff, which remains above average.</p> <p>Accountability and openness</p> <p>The EA provides accountability to the public at a national level. Its meetings are public and meeting minutes are also publicly available. A register of interest for Board members is maintained, with appointments to the organisation regulated by Office of the Commissioner for Public Appointments. Senior salary data is published, along with spend on contracts of over £500 and there is a clear complaints procedure on its website.</p>	

THE ARTS COUNCIL

Role	The national funding body for the arts, museums and libraries in England. It is responsible for developing and improving the knowledge, understanding and practise of the arts and to increase the accessibility of the arts to the public through the distribution of exchequer money from central government and revenue from the National Lottery.
Status	Executive NDPB – has its own independent Board
Geographic Scope	England
Date established	February 2003
Sponsor department	Department for Culture, Media and Sport (DCMS)
Total number of staff employed	531
Public Money	£469,227,000
Administration costs	£8,017,000 (1.7%)
Senior salary published	Yes
Spend on contracts published	£500
Complaints procedure on website	Yes

Register of interest	Yes
Meetings public	Yes
Publicly available minutes	Yes
<p>The Arts Council was set up in February 2003, when the Arts Council of England and the 10 regional arts boards merged into a single body. The Arts Council was included in the LGA's original review of quangos. Its direction of travel was considered to be upwards, having a good working relationship with local government and having saved the equivalent of 15 per cent in administration costs by reviewing its structure.</p> <p>Value for money</p> <p>The Arts Council has a good relationship with local authorities, working effectively in partnership to deliver a range of activities. This includes a joint framework with the LGA to support local cultural offers.</p> <p>The Arts Council received less over 0.5 per cent of all quango funding at 31st March 2013. Since 2010/11 its funding has increased by seven per cent, which mostly comes from the National Lottery and has been affected by the return of Lottery money top-sliced temporarily for Olympics projects, whilst its administrative costs reduced by 38 per cent. Since 2010/11 there has been a five per cent increase in the number of staff, although staff levels still remain below average.</p> <p>Accountability and openness</p> <p>The Arts Council provides good accountability to the public at a national level. Its meetings are public and meeting minutes are also publicly available. A register of interest for Board members is maintained, with appointments to the organisation regulated by Office of the Commissioner for Public Appointments. Senior salary data is published, along with spend on contracts of over £500 and there is a clear complaints procedure on its website.</p>	

Appendix B – Quango Scorecard Results 2009

Name	Rating (value for money – accountability – openness)	Direction of travel
Arts Council	G – R – G	Upwards
Environment Agency	A – A – G	Level
Equalities and Human Rights Commission	R – R – G	Level
Health and Safety Executive	A – A – G	Level
Homes and Communities Agency	G – R – G	Level
Learning and Skills Council	R – A – G	Level
Museums, Libraries and Archives Council	G – R – G	Upwards
Passenger Focus	R – R – A	Level
Regional Development Agencies	R – A – G	Level
Sport England	A – R – G	Level
Tenant Services Authority	A – A – A	Level