



National Audit Office



# Central oversight of arm's-length bodies

Cabinet Office

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**REPORT**

**by the Comptroller  
and Auditor General**

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**SESSION 2021-22**

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**HC 297**

## Key facts

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**295**

the number of arm's-length bodies (ALBs) as per the Cabinet Office's public bodies data series as at 31 March 2019

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**£265bn**

the total amount of gross resource expenditure by ALBs in 2018-19

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**299,171**

the total number of full-time equivalent staff working in an ALB in 2018-19

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- 10** main types of delivery model identified by the National Audit Office as being available to government
- 830** the number of central government bodies (excluding departments) as per the Office for National Statistics' public sector classification guide as at 31 March 2019
- 24** number of business cases for new bodies submitted between 2016 and 2020
- 46%** percentage of business cases for new bodies submitted between 2016 and 2020 which did not adequately consider the risk of delivering through their chosen model
- 38%** percentage of business cases for new bodies submitted between 2016 and 2020 which did not adequately consider the alternative delivery models available
- 101** number of ALBs, of a planned 295 (34%), that were subject to a tailored review between 2016 and 2020

# Summary

## Introduction

**1** The government has choices about how it delivers policies and public services. It can deliver directly through government departments or it may instead decide to set up an arm's-length body, in particular where it is appropriate for the body to be distanced from government or to draw on external technical expertise. Arm's-length body (ALB) is a term commonly used to cover a wide range of public bodies, including non-ministerial departments, non-departmental public bodies, executive agencies and other bodies, such as public corporations.

**2** In 2018-19, ALBs accounted for around £265 billion of public expenditure and employed just under 300,000 staff. The scale of ALBs varies. For example, the Education and Skills Funding Agency receives roughly £56.9 billion of government funding per year and employs more than 1,500 people. In contrast, the Parole Board receives just £16.5 million of government funding per year and employs only 121 staff.

**3** Government relies on ALBs to carry out a range of important functions to deliver departments' strategic objectives. In the past five years new ALBs have been created to regulate the environment, higher education and social workers. Others have been created to advise on topics such as national infrastructure, international trade disputes, and aviation noise complaints. The UK's recent exit from the European Union means government is now responsible for functions previously delivered by the EU. This has resulted in the creation of new ALBs, such as the Office for Environmental Protection. Nearly all departments oversee ALBs and they operate with varying degrees of independence but not without parliamentary scrutiny. Departmental accounting officers remain ultimately accountable to Parliament for the performance of ALBs they oversee or 'sponsor'.

**4** The Cabinet Office, HM Treasury and sponsor departments have a role in deciding what type of ALB is set up and how it is overseen. The Cabinet Office oversees the ALB landscape and provides support and guidance to departments on the creation, governance and oversight of ALBs. Both the Cabinet Office and HM Treasury jointly approve business cases for new ALBs. Departments oversee delivery through their own ALBs by using a framework agreement that sets out the role of the ALB and the lines of accountability between the ALB and its sponsor department.

**5** Public bodies are classified differently by the Office for National Statistics (ONS) and the Cabinet Office. As of 31 March 2019, the ONS identified 830 central government public bodies operating in the UK and the Cabinet Office identified 295 ALBs. ONS classifies bodies for the purposes of national accounts, while the Cabinet Office describes its list of central government ALBs as “a specific category of public body including executive agencies, non-departmental public bodies, and non-ministerial departments”.

**6** In the past decade, the National Audit Office (NAO) has published a range of work on ALBs, including on public bodies reform and departmental oversight of ALBs.<sup>1</sup> Our work highlighted that types and classifications of ALBs are inconsistently applied, departments take different approaches to oversight, and oversight tends to focus on compliance and control rather than making the most of the operational expertise of their ALBs.

**7** Our 2016 report on Departments’ oversight of arm’s-length bodies<sup>2</sup> and the subsequent report by the Committee of Public Accounts<sup>3</sup> (the Committee) found that while there is no one-size-fits-all approach to departmental oversight, the government did not always understand how its bodies were performing and it was not clear if oversight arrangements were “proportionate to the relative risks and opportunities”. The Committee’s report concluded that “the Cabinet Office needed to use its position at the centre of government to ensure that departments improve the way they manage their business through ALBs”.

### **Scope of this report**

**8** This report focuses on the role of the centre of government (the Cabinet Office and HM Treasury) in supporting government departments and ALBs. It follows up on progress against the Committee’s recommendations<sup>4</sup> (see Appendix Three) and our earlier report. It examines:

- the ALB delivery landscape and the other delivery models available to government;
- the processes in place to support a department as it sets up an ALB;
- how ALBs are overseen by departments and the centre of government; and
- the Cabinet Office’s plans for reform of the public bodies landscape.

1 Comptroller and Auditor General, *Progress on public bodies reform*, Session 2013-2014, HC 1048, National Audit Office, February 2014; National Audit Office, *Companies in government*, December 2015; Comptroller and Auditor General, *Departments’ oversight of arm’s-length bodies: a comparative study*, Session 2016-2017, HC 507, National Audit Office, July 2016.

2 Comptroller and Auditor General, *Departments’ oversight of arm’s-length bodies: a comparative study*, Session 2016-2017, HC 507, National Audit Office, July 2016.

3 Committee of Public Accounts, *Departments’ oversight of arm’s-length bodies*, Twenty-first Report of Session 2016-2017, HC 488, October 2016.

4 See footnote 3.

**9** It analyses the business cases for bodies whose introduction was proposed between 2016 and the end of 2020. It does not consider the work of local authorities or devolved administrations.

**10** When discussing ALBs we refer to those bodies administratively classified as such by the Cabinet Office – namely executive agencies, non-departmental public bodies and non-ministerial government departments. This is separate from the wider ONS classification of public sector bodies.

## **Key findings**

### The arm's-length body landscape

**11 The extent and nature of ALBs is still poorly understood.** The ONS identifies 830 bodies that deliver across central government. The Cabinet Office identifies a subset of these which it considers to be ALBs. In 2016 they identified 463 such bodies; by 2019 there were 295. This decrease was in large part driven by the reclassification of bodies and does not reflect a true reduction in the number of bodies delivering across government. Other delivery models such as government companies can also be used to deliver policy objectives. In total, we identified 10 delivery models available to government. The Cabinet Office does not monitor how each of these are used or how their usage has changed over time. Combined with the large number of ALBs, this variation in delivery models makes it difficult to understand, manage and reform complex systems (paragraphs 1.4 to 1.7).

**12 Arm's-length delivery models are not applied consistently.** The Cabinet Office administratively classifies the 295 ALBs into three types: non-departmental public bodies, executive agencies, and non-ministerial departments. There is no central guidance for all the different delivery models available and definitions for each have evolved over time. Similar bodies can have different classifications or be set up differently. While variation is sometimes needed to accommodate the circumstances of an individual ALB, this further complicates the delivery landscape. Inconsistency in classification reduces opportunities for both sponsor departments and the ALBs themselves to benchmark performance, identify efficiencies or share good practice (paragraphs 1.5, 1.11 and 1.12).

## Setting up ALBs

**13 Departments have not always considered whether an ALB was the most appropriate policy delivery mechanism.** Considering different options helps to clarify the objectives of new bodies and to identify the most effective model. When the Office for Environmental Protection was proposed in 2018 to develop a new UK environmental regulatory authority after EU Exit, its business case considered delivery through 18 different options, including 11 that did not involve a public body. Nine out of 24 business cases we reviewed (38%) failed to consider a longlist of alternatives. We also found examples where the decision to set up a new body had been taken before full business case consideration (paragraphs 2.4, 2.8, 2.9 and Figure 5).

**14 Most business cases we examined addressed Cabinet Office's 'three tests' when setting out the case for a new ALB.** Departments are expected to submit a business case which sets out the strategic, economic, financial, management, and commercial case for creating a new ALB, as well as considering what oversight and monitoring arrangements should be put in place once the ALB is established. Most business cases we examined (22 out of 24) addressed the Cabinet Office's 'three tests' and demonstrated that using an ALB would provide: a unique technical function, absolute political impartiality, or a necessary independent source of facts and figures. However, none of the business cases we reviewed included all of the details required by the Cabinet Office:

- One quarter of business cases (six out of 24) made no assessment of an ALB's cost and benefits.
- Nearly half (11 out of 24) had little or no analysis of future risks or discussion of plans to mitigate them.
- More than one quarter (seven out of 24) failed to explain if the proposed ALB would be subject to a tailored review by its sponsor department as required by Cabinet Office policy. The Cabinet Office's guidance recommends each ALB should be reviewed every five years (paragraphs 2.7, 2.9 and 2.10).

**15 Unclassified bodies do not follow standard set-up processes and do not fall within the remit of Cabinet Office's monitoring and review processes.** The Cabinet Office expects departments to make sure that all new bodies are classified and are set up through its standard process, but acknowledges in its guidance this is not always possible. This may be the case if the body is set up on a temporary basis or because a department argues the organisation is unique in nature, as was the case in June 2018 when it was determined that the National Citizen Service Trust should remain administratively unclassified (paragraphs 1.14 and 1.15).

## Improving oversight

### **16 Cabinet Office guidance has clarified what makes for a good working relationship between a department and its ALBs but this is not consistently followed.**

Following our previous report in 2016, the Cabinet Office developed a Code of Good Practice (2017) which sets out how departments and ALBs should work together. This includes ensuring a mutual understanding of an ALB's purpose, implementing proportionate assurance arrangements, and sharing skills and experience through an open, honest and constructive relationship. For example, the Criminal Injuries Compensation Authority told us it routinely shares performance information with the Ministry of Justice and its officials attend departmental groups that inform policy decisions. In one fifth of cases we looked at, an ALB and its sponsor department did not formally set out regular reporting arrangements. Differences in departments' approaches to managing ALBs and measuring performance make it harder to determine where oversight is effective. In April 2021, the Cabinet Office began a departmental survey to understand the different approaches to oversight that exist across government (paragraphs 3.3, 3.4, 3.11, and Figures 7 and 9).

**17 Departments do not always maintain framework agreements.** The Cabinet Office's guidance states that the governing principles of an ALB should be formalised in the framework agreement between the department and the ALB. These agreements should set out the role of the ALB and the agreed lines of accountability. The Cabinet Office's Code of Good Practice mandates that framework documents are formally reviewed "at least once every three years". However, out of the 10 framework documents we reviewed, only six had been updated within the required time period. We also found three out of 13 published Accounting Officer System Statements (which set out the accountability relationships and processes within a departmental group) had not been updated since 2017 (paragraphs 3.8, 3.12 and 3.13, and Figures 10 and 11).

**18 The Cabinet Office does not have the right data to support proportionate, risk-based oversight of departments' management of their ALBs.** The centre of government leads the oversight and reporting of principal risks to the Civil Service Board through the Government Finance Function (GFF). There is currently no function in the Cabinet Office that is responsible for liaising with the GFF on cross-departmental or ALB risks, and the Cabinet Office does not require departments to provide information about the risk profile of the ALBs they oversee. This makes it difficult for the Cabinet Office to support a risk-based, proportionate review programme. This could lead to sub-optimal decisions as well as impede the Cabinet Office's ability to deliver its strategic priorities of supporting the delivery of government's programmes and driving efficiency and reform across government (paragraphs 3.9, 3.10 and 3.23).

**19 Timely appointment of ALB non-executive directors is an important factor in supporting the effective management of ALBs.** Despite previous recommendations by the Committee of Public Accounts for the Cabinet Office to streamline the public appointments process, some ALBs we spoke to raised concerns at the length of, and delays in, the public appointments process. We have not assessed the extent of delays and the Cabinet Office does not currently hold data on the length of time appointments take. It is developing a new website and applicant tracking system which will allow departments access to real-time data. The Cabinet Office also provides advice and guidance to sponsor departments to better support them with the appointments process (paragraphs 3.14 and 3.15).

### Reforming the public bodies landscape

**20 The Cabinet Office is still developing its post-2020 programme for oversight and management of ALBs.** The Cabinet Office made less progress than intended with its 2016–2020 programme for ALBs. In 2016 it aimed to deliver a programme of cross-departmental 'tailored' reviews of all public bodies by the end of 2020. The Cabinet Office has acknowledged that this goal was overly ambitious, resulting in only one-third of the intended tailored reviews being completed by December 2020. Perceptions on the value of these reviews also varied across government. The Cabinet Office aims to address these issues and make the reviews more independent as part of its Public Bodies programme refresh, which has been delayed because of EU Exit and the COVID-19 pandemic. This review incorporates work currently being undertaken by the Cabinet Office to identify gaps in ALB governance (paragraphs 3.18 to 3.20 and 3.24 to 3.26).

**21 ALBs would welcome greater support from the Cabinet Office in sharing best practice.** Most ALBs and departments we consulted (15 out of 20) said they would welcome increased guidance and support from the Cabinet Office. Departments and ALBs wanted the Cabinet Office to facilitate more good-practice sharing and networking with similar organisations across government, building on the working-level Peer Partnership Network and Senior Civil Service (SCS)-level Strategy Group that already exist. The NAO's 2021 good-practice guidance on the principles of effective regulation includes several considerations relevant to how policymakers and regulatory bodies, including ALBs, work together and share good practice (paragraphs 3.16, 3.17 and Figure 12).<sup>5</sup>

5 National Audit Office, *Principles of Effective Regulation*, May 2021.



## Conclusion on value for money

**22** In 2018-19, ALBs spent £265 billion and employed around 300,000 people to deliver the government policies and public services we depend on in vital areas such as healthcare, education and housing. The UK's exit from the EU and the COVID-19 pandemic have meant the UK government has assumed more responsibility for key functions in areas such as environmental protection and business support. The flexibility of arm's-length arrangements allows public bodies to develop technical expertise and operational independence but it is important that ALBs remain accountable, are properly managed and have the necessary support. In some areas the centre of government and departments have improved how they work with, and support, ALBs.

**23** However, the continuing inconsistency in how ALBs are set up and overseen is a barrier to further improvement. More needs to be done to share lessons across organisations, identify opportunities to improve the complex systems in which policies and services are delivered, and understand when a delivery model is no longer working effectively. The centre of government needs to make considerably more progress in understanding the risks in relation to ALBs so it can clarify the expectations and criteria for different ALB models and their oversight arrangements. It also needs to work with departments and ALBs to ensure that requirements, guidance and good practice are effectively implemented and monitored.

## Recommendations

**24** There is now established guidance in government for creating and operating an ALB including design, appropriate oversight and governance, effective sponsorship, and sharing of good practice. Our recommendations are directed to the Cabinet Office, HM Treasury and departments as they develop this guidance further and should be incorporated into the Cabinet Office's delivery plan for its new strategy.

### ALB design

- a** For all future business cases proposing a new ALB, the Cabinet Office and HM Treasury should ensure departments are explicit about the costs and benefits of different delivery approaches and apply these consistently, so that the ALB model used is appropriate.
- b** As the Cabinet Office develops its new public bodies reform programme it should set out clear expectations and criteria for how the choice of different forms of ALBs and oversight arrangements should be assessed.

### Good governance and relationships

- c** Departments and ALBs should review framework agreements regularly, supported by HM Treasury (and the Cabinet Office where appropriate). HM Treasury, departments and ALBs should ensure that agreements are properly drafted, consistent, maintained and updated when needed.
- d** The Cabinet Office should set out common standards for what good departmental sponsorship arrangements look like, and work with departments to ensure sponsorship teams have the right capability and sufficient capacity. It should monitor how this is adopted by departments during its regular review of framework agreements.
- e** Departments and the Cabinet Office should establish standards and good practice for monitoring ALB risks at departmental and cross-government levels. This should include establishing strong links between the Cabinet Office and the GFF on cross-departmental risks, and between departmental heads of risk on risks across their respective ALBs.

### Sharing of good practice

- f** The Cabinet Office and departments should develop and strengthen centres of ALB expertise and support them with organising events, training and sharing of good practice.
- g** The Cabinet Office, departments and ALBs should work together to develop and share performance information between ALBs, to help identify opportunities for improvement.