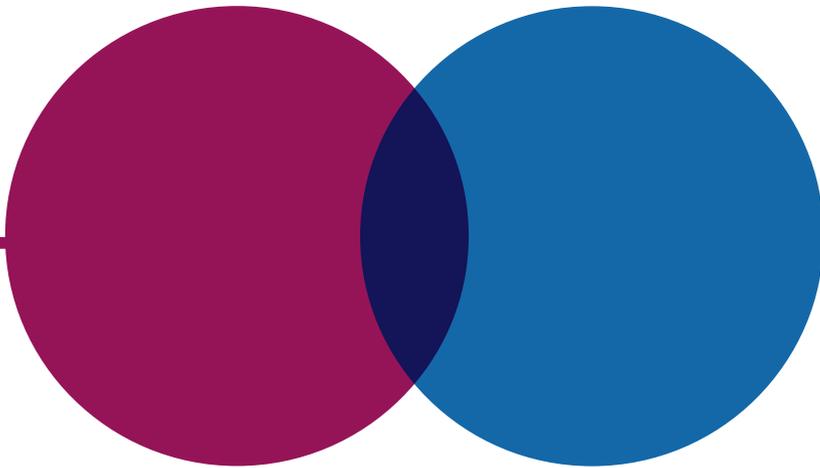




National Audit Office



Central oversight of arm's-length bodies

Cabinet Office

REPORT

**by the Comptroller
and Auditor General**

SESSION 2021-22

23 JUNE 2021

HC 297



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Central oversight of arm's-length bodies

Cabinet Office

Report by the Comptroller and Auditor General

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Gareth Davies
Comptroller and Auditor General
National Audit Office

16 June 2021

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Contents

Key facts 4

Summary 5

Part One

Ways of delivering
government policy 13

Part Two

Setting up an arm's-length
body (ALB) 20

Part Three

Managing arm's-length
bodies (ALBs) 25

Appendix One

Our audit approach 39

Appendix Two

Our evidence base 41

Appendix Three

Progress against past
recommendations 45

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Key facts

295

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

£265bn

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

299,171

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

- 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.¹ 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 bodies² and the subsequent report by the Committee of Public Accounts³ (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 recommendations⁴ (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).⁵

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.

Part One

Ways of delivering government policy

1.1 It can often make sense for departments to work with partners to deliver public services. This might involve delegating certain functions to an arm's-length body (ALB) to benefit from its operational expertise, technical advice and independence. An 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.

1.2 We previously reported on departmental oversight of ALBs in 2016.⁶ Our report found that there was no collective understanding across government of what type of oversight was appropriate and cost-effective; that roles and responsibilities and lines of accountability were not always clear; and that the Cabinet Office had more to do to develop greater consistency in the oversight of ALBs. It also concluded that departments were missing opportunities to exploit the skills and expertise of their ALBs in designing and implementing policy and that there was often a poor understanding of how an ALB's work aligned with wider departmental objectives.

1.3 We have considered the progress made by the Cabinet Office in response to recommendations made by the Committee of Public Accounts (Appendix Three). In this part of the report we outline the:

- delivery models available to government;
- ALB landscape and the role of departments, HM Treasury and the Cabinet Office; and
- the challenges in selecting the right delivery model.

⁶ Comptroller and Auditor General, *Departments' oversight of arm's-length bodies: a comparative study*, Session 2016-2017, HC 507, National Audit Office, July 2016.

Delivery models available to government

1.4 There are 10 main types of delivery model open to government (**Figure 1**). Most of these different models are set out in Chapter 7 of *Managing Public Money* which provides guidance to departments on working with others.⁷ Unclassified government bodies are not examined within *Managing Public Money*. These include expert committees, taskforces and working groups. This route is used if classification is not desirable or possible, for example for temporary bodies.

ALB landscape

1.5 The Cabinet Office identified 295 ALBs as at 31st March 2019. These are split into three sub-categories: non-departmental public bodies (80%), executive agencies (13%) and non-ministerial departments (7%).⁸ These 295 ALBs accounted for around £265 billion of public expenditure and were responsible for employing 299,171 full-time equivalent (FTE) staff in 2018-19.

1.6 The Cabinet Office list of ALBs captures a subset of the 830 central government bodies identified by the Office for National Statistics (ONS), which also includes:

- arm's-length bodies for Scotland, Wales and Northern Ireland;
- central government funds and accounts such as the Contingencies Fund; and
- other bodies including special purpose vehicles (SPVs).

The ONS separately lists public corporations, local government bodies and other financial institutions and pension funds.

1.7 The number of ALBs identified in the Cabinet Office list has fallen since we last reported on ALBs. From 2016 to 2019 the number fell from 463 to 295 (**Figure 2** on page 16). Much of this decrease was driven by the reclassification of 132 independent monitoring boards of prisons, immigration removal centres and short-term holding rooms.

1.8 Cabinet Office's public bodies data also show that 17 new ALBs were set up between 2016 and 2019. We compared that data to the business cases for new ALBs submitted to Cabinet Office in the same period. One body was not included in the 2019 Public Bodies list which should have been.

⁷ HM Treasury, *Managing Public Money*, May 2021.

⁸ Excludes one 'other' body, the Single Finance Guidance Body.

Figure 1

Delivery models for public services

There are 10 different delivery models which are commonly used by government

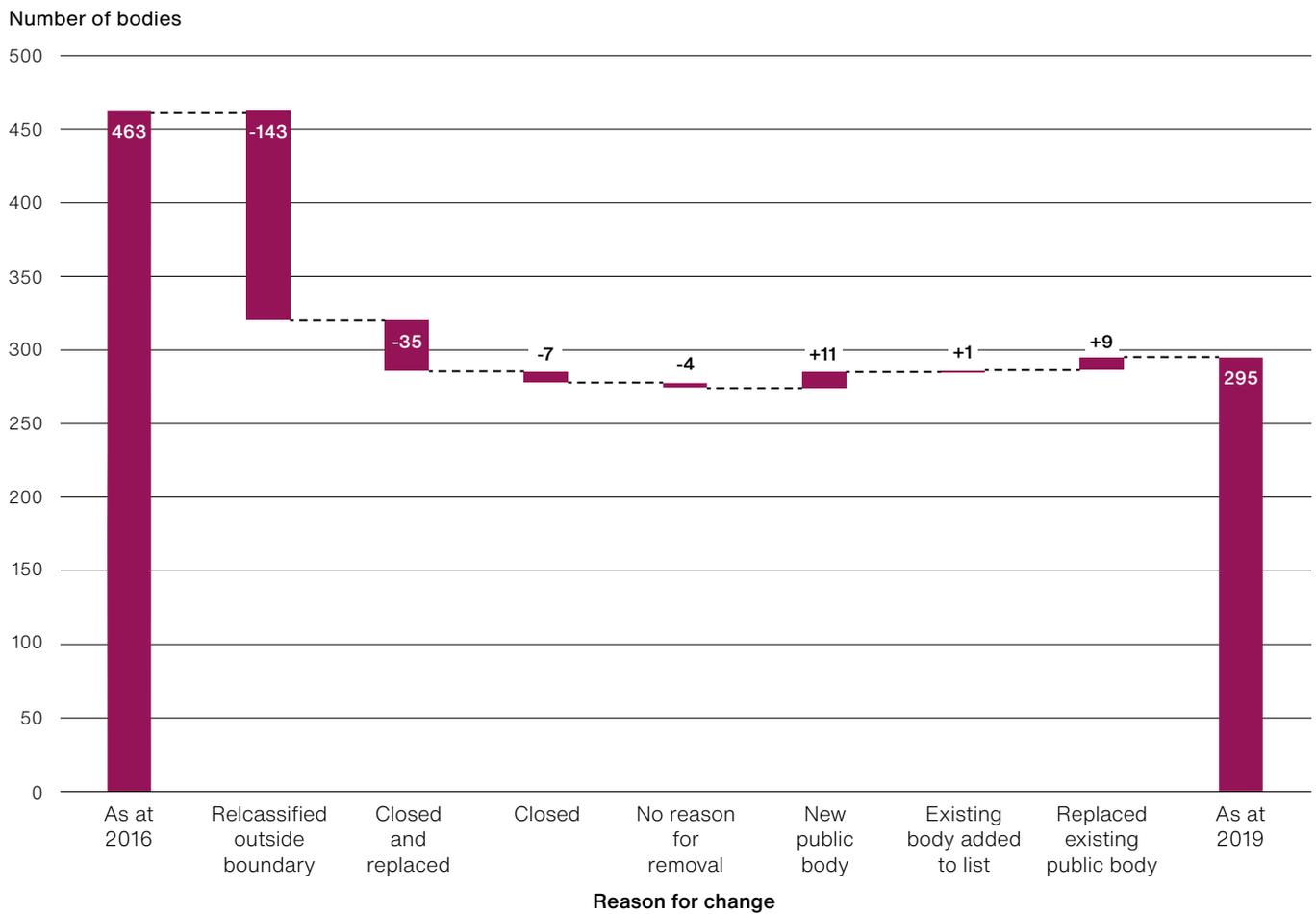
	Description	Example
Central government		
Within department	This model is used where government wants to deliver the service directly.	Office for Product Safety and Standards
Arm's-length body (ALB)	An ALB is used where the government determines the function requires external technical expertise or political impartiality. As at March 2019, the Cabinet Office identified 295 ALBs.	The Pensions Regulator
Unclassified public body	This model is used if classification is neither desirable nor possible, for example with small and temporary bodies. Expert committees, taskforces and working groups are all unclassified bodies.	National Citizen Service Trust
Local delivery		
Local government	This model is used where central government priorities and objectives are best delivered by democratically elected local bodies.	Metropolitan District Councils
Other local bodies	This model is used where central government priorities and objectives are best delivered by local bodies with specific governance arrangements.	NHS Foundation Trusts and local civil society bodies
Public companies		
Government company	This model ensures that the body to be set up is subject to the Companies Act 2006. Our report on Companies in government identified 218 government companies in 2015 and has further details on the range of companies and corporations that exist in government, including public financial corporations.	UK Asset Resolution Limited
Other commercial structure	This model is used where the entity will operate commercially, covering more than 50% of its cost through commercial activities.	Public corporations and trading funds
Private sector		
Private sector	Departments can sometimes find it satisfactory and cost effective to outsource some services or functions rather than provide them internally.	Outsourced IT services
Private finance	Private finance can be used to construct assets and/or deliver services with good value for money. The private sector puts its own funds at risk which encourages delivery on time and within budget.	Some prisons and hospitals
Other		
Innovative structure	Departments sometimes feel that their objectives will be better promoted through bespoke structures, for example joint ventures and mutuals. Often these involve private sector collaboration and classification	Crown Hosting Data Centres

Source: National Audit Office analysis of data from the Cabinet Office, the Office for National Statistics, HM Treasury's *Managing Public Money*, and previous National Audit Office studies

Figure 2

Change in Cabinet Office's list of arm's-length bodies (ALBs) between 2016 and 2019

There have been substantial changes to the ALB landscape between 2016 and 2019



Note

1 Reclassified bodies include 132 independent monitoring boards of prisons, immigration removal centres and short-term holding rooms.

Source: National Audit Office analysis of Cabinet Office public bodies data series

1.9 ALBs carry out a range of functions across government, many of which are vital to delivering departments' strategic objectives. For example, the Education and Skills Funding Agency is responsible for funding education and skills for children, young people and adults. It receives around £56.9 billion of government funding and has more than 1,500 FTE staff. The Parole Board, responsible for working with criminal justice partners to decide if prisoners can be safely released into the community, receives £16.5 million of government funding and has 121 FTE staff. 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. This has resulted in the creation of new ALBs, such as the Office for Environmental Protection. The 10 largest ALBs by expenditure account for some £244.9 billion of spend (**Figure 3** overleaf).⁹

Role of sponsor departments, the Cabinet Office and HM Treasury

1.10 The Cabinet Office, HM Treasury and sponsor departments each have different responsibilities when it comes to the set-up and oversight of ALBs. The Cabinet Office is the policy lead for both ALBs and public appointments. Ministers from both the Cabinet Office and HM Treasury are jointly responsible for approving the creation of all ALBs. HM Treasury also sets the financial management and governance framework for ALBs and is responsible for approving the financial business case for each new ALB. Government departments are responsible for both identifying which type of delivery model is most appropriate and maintaining appropriate oversight of the ALBs they sponsor.

Challenges of selecting the right delivery model

1.11 There is no central guidance that sets out each of the different delivery models available. This can make it difficult for departments to understand the delivery options open to them. Furthermore, several delivery models lack clear defining characteristics. For example, an organisation can be both an ALB and a government company.

1.12 Bodies with similar functions can be set up in different ways by different departments. Inconsistent choice of delivery model and classification creates complexities in the landscape. This makes it difficult to determine what type of body works best in a particular circumstance. Inconsistency also hinders benchmarking and comparison between similar organisations.

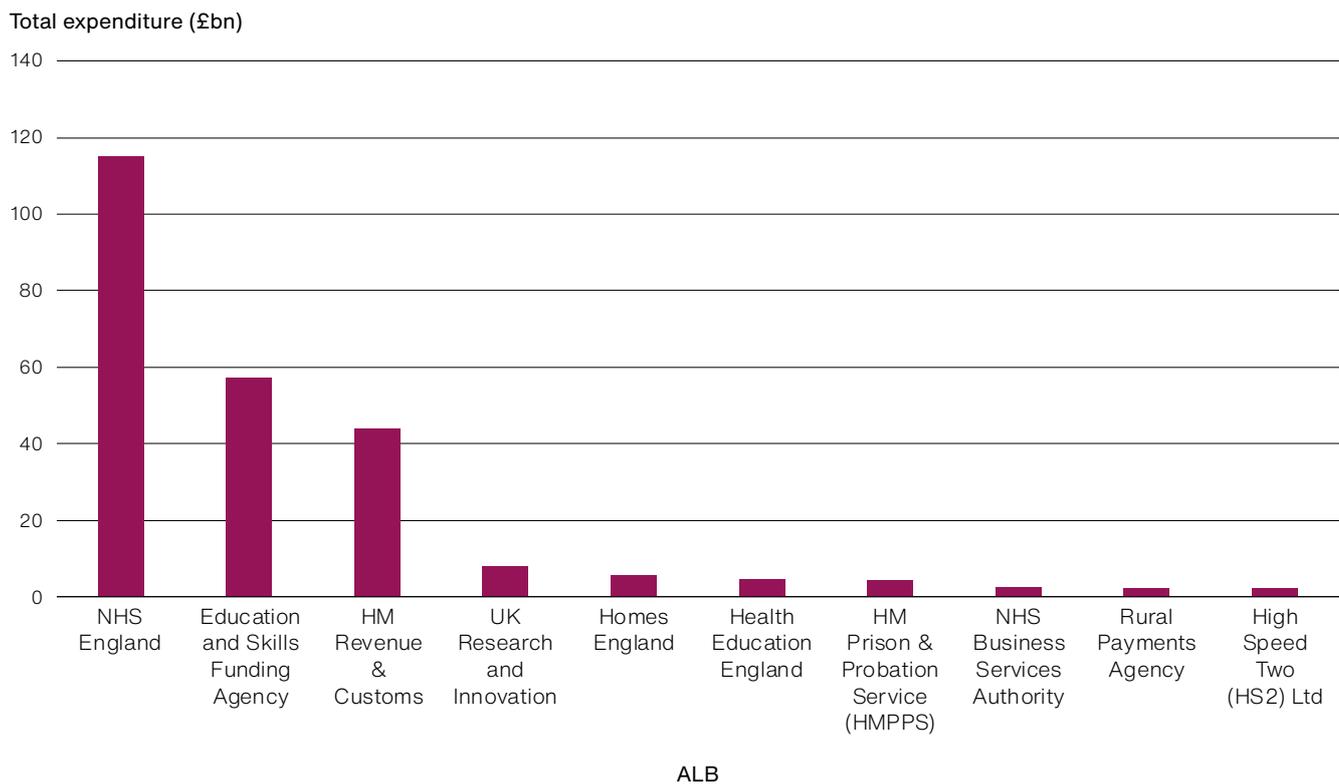
1.13 There are no published data that set out how many of each of these 10 types of model the government is currently delivering through, nor the amount of funding that flows through each type on an annual basis. Having these data would help the centre of government better understand and evaluate successful policy delivery.

⁹ This figure is higher if you include organisations not recognised as ALBs by the Cabinet Office, such as government companies.

Figure 3

The 10 arm's-length bodies (ALBs) with the largest public expenditure in 2018-19

Combined, the 10 ALBs with the largest expenditure spent **£244.9 billion** in 2018-19



Notes

- 1 The Cabinet Office definition of arm's-length bodies (ALBs) includes executive agencies, non-departmental public bodies, and non-ministerial departments.
- 2 This figure is based on the Cabinet Office's public bodies data series. Cabinet Office reported annual information on 295 ALBs with a total spend of approximately £265 billion in 2018-19. The most recent data release available is for 2018-19.
- 3 HM Revenue & Customs' expenditure figure includes the Valuation Office Agency.
- 4 The majority of the Rural Payments Agency expenditure figure relates to payments made to farmers on behalf of the government.
- 5 Health Education England data were incorrectly presented as NHS Digital data in the 2019 Cabinet Office public bodies dataset. This graph shows amended and correct figures for Health Education England.

Source: National Audit Office analysis of the Cabinet Office 2019 public bodies dataset

Unclassified bodies

1.14 Cabinet Office guidance encourages departments to make sure that all bodies are set up as one of the delivery models set out in *Managing Public Money*.¹⁰ However, in some circumstances a department may decide to set up an unclassified body, such as when the body is intended to be temporary or because a department argues the organisation is unique in nature. This was the case in June 2018 when it was determined that the National Citizen Service Trust should remain administratively unclassified.

1.15 The departmental principal accounting officer is responsible for unclassified public bodies. However, unclassified public bodies may not fall within the remit of Cabinet Office's monitoring and review processes. This means:

- no requirement to publish annual data on funding and FTE employees;
- no formal requirement for a framework agreement;
- no published guidance to help departments know how best to deliver via an unclassified body;
- Cabinet Office approval is not required for set-up; and
- the body is not included in Cabinet Office's review programme.

1.16 Unclassified bodies are, however, still subject to central expenditure and remuneration controls put in place by Cabinet Office and HM Treasury. They will also still be subject to participating in Spending Review processes, requiring approval from HM Treasury over how much they can spend. These controls apply to all government bodies.

¹⁰ See footnote 7.

Part Two

Setting up an arm's-length body (ALB)

2.1 This part considers the set-up and establishment of ALBs, including the:

- process for setting up and establishing an ALB;
- quality of business cases and the review conducted by HM Treasury and the Cabinet Office;
- challenges of selecting the right delivery model; and
- risks resulting from the creation of unclassified bodies.

Set-up and establishment of ALBs

2.2 The Cabinet Office, HM Treasury and sponsor departments all have a role in deciding what type of ALB is set up. Departments are responsible for initially assessing what type of ALB would best meet its requirements and submitting a business case to the Cabinet Office and HM Treasury for review. At both stages, guidance is available from the Cabinet Office (public bodies guidance) and HM Treasury (*Managing Public Money*).¹¹ Our good-practice guidance on the principles of effective regulation¹² also highlights the importance of:

- defining a clear overall purpose for any new body;
- translating the overall aim of the body into specific objectives; and
- ensuring that there are robust accountability arrangements in place.

¹¹ Cabinet Office, *Classification of Public Bodies: Guidance for Departments*, 2016; Cabinet Office, *The approvals process for the creation of new arm's-length bodies*, 2018; HM Treasury, *Managing Public Money*, May 2021.

¹² National Audit Office, *Principles of Effective Regulation*, May 2021.

Business cases for new ALBs

2.3 When proposing a new ALB, the sponsoring department must submit a business case to ministers at both the Cabinet Office and HM Treasury. Each business case proposal sets out the strategic, economic, financial, management and commercial case for creating a new body. It must also include both a long-list and a shortlist of options for delivery, as well as a full cost-benefit analysis of the preferred method of delivery. Further, it must include an assessment against the Cabinet Office's 'three tests' and demonstrate adherence to good governance principles (**Figure 4**).

2.4 The Cabinet Office's guidance states that departments should only create a new ALB as a "last resort". The business case must therefore seriously consider alternatives to an ALB, including doing nothing, using an existing body, or delivering the service through the department. It should also consider private sector and third sector options. **Figure 5** (overleaf) shows how the business case for the Office for Environmental Protection considered alternative options.

Figure 4

Writing the business case for a new arm's-length body (ALB)

The Cabinet Office has a number of requirements on what should be included in a business case

The Cabinet Office requires that all business cases it receives must:

Follow HM Treasury's best-practice Five Case Model:

- Strategic: Demonstrate why an ALB is needed.
- Economic: Outline why an ALB is the best option compared to a long-list and shortlist of alternatives.
- Commercial: Show that the ALB model is viable.
- Financial: Set out funding and demonstrate affordability.
- Management: Detail how the ALB will be set up and governed.

Include an assessment against at least one of the Government's "three tests":

- Demonstrate a need for independence.
- Demonstrate a need for external expertise.
- Demonstrate a need for political impartiality.

Explain how the body will be set up:

- Explain what the governance arrangements will be.
- Explain how they will adhere to the Principles of Good Corporate Governance.
- Set out how the entity will be subject to review in line with Cabinet Office policy.

Source: National Audit Office analysis of the Cabinet Office's *Public Bodies Handbook*

Figure 5

Good-practice example on what to include in a business case proposal for a new arm’s-length body (ALB)

The business case for the Office for Environmental Protection (OEP) considered alternatives to creating a new ALB and analysed the costs, benefits and risks of the preferred option

	Step	Approach
Long-list	Range of options	18 options identified.
	Inclusion of non-ALB options	11 options did not involve a new ALB.
	Assessment	Every option was assessed against success factors.
Shortlist	Range of options	Three shortlisted options.
	Cost-benefit analysis	Detailed analysis for each option, including ALB proposals.
	Testing assumptions	Detailed annex with analysis including cost calculations.
Risks	Risk identification	Identified a list of possible risks in relation to the ALB including economic, political and project management risks.
	Mitigation	Business case included steps to mitigate each risk.

Source: National Audit Office analysis of the business case for the Office for Environmental Protection

2.5 HM Treasury and Cabinet Office are responsible for reviewing the business case, with the majority of HM Treasury’s review focusing on the financial case. A public body cannot be set up without the approval of ministers from both departments. Ministers also have the power to approve a business case subject to restrictions should they have concerns over something contained in the business case. This requires the department to address the specific areas of concern.

Review of business cases

2.6 There were 25 submissions to the Cabinet Office and HM Treasury relating to the creation of a new ALB between 2016 and 2020. Further details of these submissions are included in Appendix Two. For 24 of these, a business case was submitted as expected. For the remaining body, the Cabinet Office agreed exceptionally that they would not require a business case as wide consultation and ministerial engagement had already occurred.¹³

¹³ The National Infrastructure Commission was approved in 2016. It was designed to advise the government on needed infrastructure improvements. This body did not follow the usual business case process so was not included in our sample of 24.

2.7 In the 24 business cases we reviewed, the level of detail provided in the cases varied substantially. None of the 24 business cases we reviewed provided all the details required. Without complete information it is difficult for the Cabinet Office and HM Treasury to determine whether the proposed ALB is the most appropriate and effective way to deliver a policy objective. Failing to fully consider the design of the delivery mechanism can lead to complicated accountability and governance arrangements, and a poor delineation of roles and responsibilities between the ALB and its sponsor department. Our report into Ofsted's inspection of schools highlighted the potential for confusion and duplication of work when there are overlapping roles and objectives between an ALB and its sponsor department.¹⁴

2.8 The business cases we reviewed included examples where the decision to set up a new body had been taken prior to full business case consideration. The Cabinet Office told us it regularly engages with departments who are trying to retrofit decisions to create a new public body into the business case process.

2.9 Most of the business cases we reviewed addressed the 'three tests' and effectively argued the need for an ALB that could provide a unique technical function or an independent voice. Almost all the cases demonstrated that adequate funding was available for the proposed ALB. However:

- more than one third of the cases (nine out of 24) failed to seriously consider a longlist of possible alternatives;
- one quarter of the cases (six out of 24) neglected to provide the required cost-benefit analysis;
- some (seven out of 24) of the cases failed to explain if the proposed ALBs would be subject to the tailored review process as required by the Cabinet Office. For those that did mention reviews, six set out how regularly they would occur; and
- one business case for an ALB established between 2016 and 2019 (15 in total) was not included in the Cabinet Office 2019 Public Bodies dataset despite meeting the necessary classification requirements.

2.10 Each business case should show that "contingencies have been made for risks and uncertainties". Only 13 out of 24 of the business cases we reviewed considered how best to mitigate any future risks. Best practice would involve the inclusion of a full risk register which analysed the likelihood and possible impacts, as well as steps that could be taken to mitigate each risk. Some bodies discussed possible risks and uncertainties but in a much less systematic way. Many (11) did not discuss risk at all (**Figure 6** overleaf).

¹⁴ Comptroller and Auditor General, *Ofsted's inspection of schools*, Session 2017–2019, HC 1004, National Audit Office, May 2018.

Figure 6

Analysis of business cases for new arm's-length bodies (ALBs) against Cabinet Office requirements

None of the 24 business cases we examined included all of the information required by the Cabinet Office

Assessment against business case requirements



- Included in the business case
- Not included in the business case

Notes

- 1 These requirements are laid out in the Cabinet Office's *Public Bodies Handbook* and all business cases are examined against a checklist that includes these requirements.
- 2 The HM Treasury Five Case Model requires the department to make the strategic, economic, commercial, financial and management case for change.

Source: National Audit Office analysis of business cases submitted to the Cabinet Office between 2016 and 2020

Part Three

Managing arm's-length bodies (ALBs)

3.1 Most ALBs have their own principal accounting officer who is directly responsible to Parliament for their organisation. However, the sponsor department is ultimately accountable to Parliament for the performance of the ALBs it oversees.¹⁵ It is important there is a good working relationship between an ALB and its sponsor department to ensure risks are properly managed and an ALB can operate effectively. The Cabinet Office works across government to ensure departments and ALBs have appropriate support to deliver public services successfully.

3.2 In this part of the report we consider:

- Cabinet Office good-practice guidance for the governance and oversight of ALBs;
- how oversight is undertaken by departments and the Cabinet Office;
- the Cabinet Office's work in recent years to reform the public bodies landscape;
- progress implementing its tailored review programme; and
- its future plans.

Governance and oversight of ALBs

Cabinet Office Code of Good Practice

3.3 In 2017, the Cabinet Office produced a Code of Good Practice for how departments and ALBs should work together. This was in direct response to recommendations made by both the National Audit Office and the Committee of Public Accounts in 2016.¹⁶

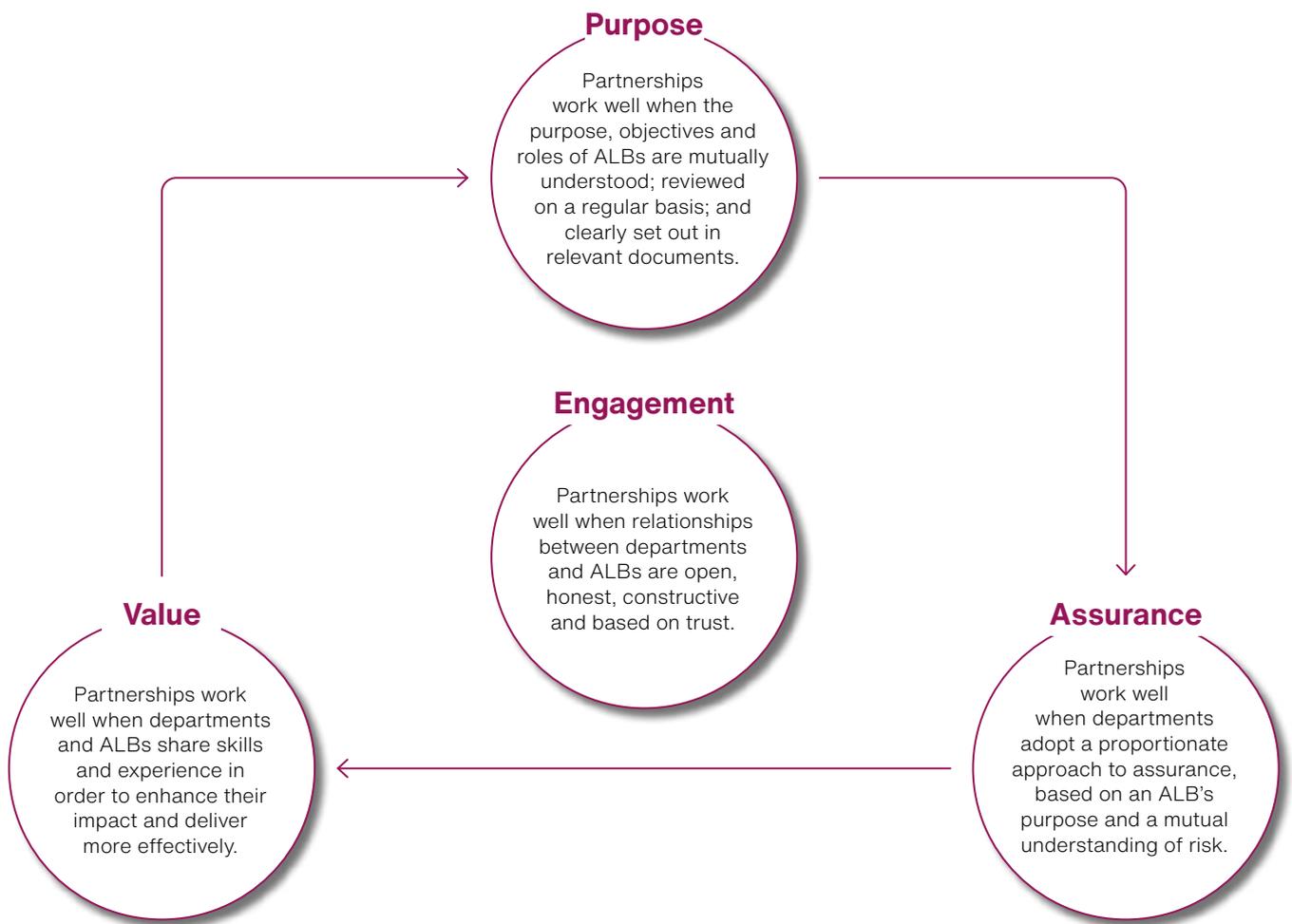
¹⁵ The only exception to this is non-ministerial departments (NMDs). With NMDs the sponsor department is usually accountable for the performance of the body, rather than always accountable.

¹⁶ Cabinet Office, *Partnerships with arm's-length bodies: code of good practice*, 2017.

3.4 This guidance aimed to bring greater consistency to relationships between departments and ALBs and set out a list of common principles that underpin effective partnerships. It set out that good engagement between an ALB and its sponsor department requires a clear understanding of purpose, sufficient assurance mechanisms in place, and a relationship that is open, based on trust and adds value (**Figure 7**). This includes departments listening to and learning from the experience of their ALBs, as well as reviewing their performance. Our recent report on achieving net zero highlighted the importance of ensuring that the perspectives of public bodies, as well as government departments, are used to inform government strategy.¹⁷

Figure 7
Cabinet Office Code of Good Practice

Following recommendations by the National Audit Office and Committee of Public Accounts, the Cabinet Office produced a Code of Good Practice for how departments and arm’s-length bodies (ALBs) should work together in 2017



Source: Cabinet Office, *Partnerships between departments and arm’s-length bodies: code of good practice*, 2017

17 Comptroller and Auditor General, *Achieving net zero*, Session 2019-2021, HC 1035, National Audit Office, December 2020.

UK Government Investments (UKGI) guidance

3.5 UKGI is a government company that is owned by HM Treasury. Its objective is to promote the organisational performance of ALBs from the perspective of government as owner, advising sponsor departments on building effective relationships with their ALBs. It acts as the shareholder on behalf of sponsor departments for a number of ALBs, such as The Royal Mint. Departments should seek advice from UKGI when establishing public corporations, as well as ALBs that include complex governance structures, have a significant commercial element, or have a significant private sector interface. In such cases, departments should consider whether UKGI is best placed to deliver the shareholder function itself on behalf of the department, or if not, should seek the advice and expertise of UKGI during the life of such ALBs.

3.6 In 2020, UKGI issued a paper that looked at the effective use of ALBs, as well as the success criteria that underpin setting them up and managing them. The paper draws on corporate governance best practice to identify the critical success factors that are vital to both effective delivery and a strong sponsorship relationship (**Figure 8**).¹⁸ This includes ensuring that the purpose, objectives and accountabilities of the ALB are clear and agreed, that the department's responsibilities as sponsor are clearly defined, and that there is an effective reporting mechanism in place.

Figure 8

UK Government Investments (UKGI) guidance on how to deliver through an arm's-length body (ALB)

UKGI identified several critical success factors for delivering through an ALB



1 Clear purpose and objectives



2 Clear accountabilities for the ALB board, the department and the senior responsible owners



3 Capable and strong sponsorship of the ALB



4 Appropriate capability and capacity within the ALB



5 Proportionate government delegations and controls



6 Transparency, and effective management information, assurance and risk systems



7 Constructive and appropriate behaviours between government and the ALB

Source: UKGI, *UK government's arm's-length bodies: the case for them in specialised delivery and how best to optimise their use*, 2020

¹⁸ UK Government Investments, *UK government's arm's-length bodies: the case for them in specialised delivery and how best to optimise their use*, 2020.

Central oversight of ALBs

3.7 The Cabinet Office told us that its current approach is not to monitor and understand how departments are overseeing their ALBs. It considers this to be the responsibility of departmental principal accounting officers. While it is the role of departments to ensure effective and efficient delivery through ALBs, the Cabinet Office is best placed through its position at the centre of government to understand the extent to which its guidance is being followed. In April 2021 the Cabinet Office began a departmental survey to understand the different approaches to oversight that exist across government.

3.8 Departments' alignment to the Cabinet Office's good-practice guidance can be mixed. The guidance states key governance documents should be reviewed regularly to provide governance health checks for the relationship between departments and ALBs, however three out of the 13 published Accounting Officer System Statements (which set out the accountability relationships and processes within a department) had not been updated since 2017. Six out of 13 lacked key details regarding accountability arrangements.¹⁹ This demonstrates the limited progress made since 2016 when our work on accountability to Parliament for taxpayers' money found that system statements are not comprehensive and are often little more than a compliance exercise.²⁰

Understanding of risks

3.9 The Cabinet Office does not have an accurate understanding of where risks exist across the landscape. 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. The Cabinet Office does not request data on risk from departments and standardised data on the risks across the landscape do not exist, which makes it difficult to implement a risk-based, proportionate review programme of ALBs, and could result in sub-optimal decisions. It could also 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.

¹⁹ Published Accounting Officer System Statements were checked to gov.uk website on 16 June 2021.

²⁰ Comptroller and Auditor General, *Accountability to Parliament for taxpayers' money*, Session 2015-16, HC 849, National Audit Office, February 2016.

3.10 Some departments we spoke to did not undertake regular assessments to analyse the level of risk an ALB presents or compare it with other ALBs that it sponsors. Consequently, risks within the totality of these ALBs were poorly understood, making it difficult to support the consolidation and aggregation of risks. Our recent report into managing flood risk found that the Department for Environment, Food & Rural Affairs (Defra) relied on data provided to it by the Environment Agency without carrying out any quality assurance or producing its own assessment of programme risk.²¹

3.11 Of the 10 departments we spoke to, four told us that they use the formal reporting meetings to discuss risk as well as performance, while another four described alternative risk management processes. Departments and ALBs were especially positive about routine discussions of risk. They told us using existing management information and having regular discussions of risk helped in joint understanding and management of issues (**Figure 9**).

Figure 9

Good-practice example: Performance reporting at the Criminal Injuries Compensation Authority (CICA)

Good performance reporting includes both performance and risk-based data which should be easily obtainable from existing management information

Good Practice	Description
Regular reporting	CICA regularly shares information with the Ministry of Justice (MoJ).
Range of information	Performance metrics, financial data and risk log.
Consistency	Data are drawn from CICA's own management information to ensure the MoJ and CICA make decisions based on the same information.
Use of information	CICA officials attended and were members of the MoJ's chief financial officer (CFO) group leadership meetings. CICA's Audit and Risk Committee (ARC) chair regularly meets with the MoJ ARC to discuss corporate risks. Performance and financial data are reported monthly to MoJ so these can feed into priority-setting and decision-making. CICA also meets regularly with the MoJ policy function, so it can feed into departmental policy decisions.

Note

1 As a result of a recent restructure within the Ministry of Justice, the Criminal Injuries Compensation Authority now reports to the Second Permanent Secretary.

Source: National Audit Office interviews with officials from the Criminal Injuries Compensation Authority and the Ministry of Justice

21 Comptroller and Auditor General, *Managing flood risk*, Session 2019-2021, HC 962, National Audit Office, November 2020. As part of its oversight role Defra attends quarterly review meetings where the Environment Agency presents headline information on overall progress, key issues and risks and progress on its largest 15 schemes.

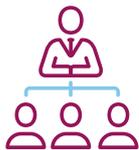
Framework agreements

3.12 The governing principles of an ALB should be formalised in the framework agreement between the department and the ALB. Each framework agreement should clearly set out the role of the ALB and the lines of accountability between it and its sponsor department, as well as the frequency and detail of performance reporting required of the ALB (**Figure 10**). Some departments we spoke to meet quarterly with their ALBs, whereas others meet monthly, or even weekly.

Figure 10

Guidance on framework agreements between a sponsor department and its arm's-length body (ALB)

HM Treasury has set out guidance about what should be included in a framework agreement



Governance and accountability

- The legal relationship, including any financial or other limits.
- Any statutory requirements relating to the functions of the partnership.
- The governance of the ALB: its board structure, how its members are appointed, and how the partnership should work.
- The extent to which any department is responsible to Parliament for the conduct of a partner.
- How any relationships with departments other than the sponsor should operate.
- Any arrangements for regular reporting on performance to the public and/or Parliament.



Purpose and decision making

- The aims of the relationship and its working remit.
- Its standards, key objectives and targets.
- How strategic decisions about the future of the partnership will be made.
- How the chain of responsibility should work.
- How the partnership will identify, manage and track opportunities and risks.
- The status of the staff and how they are to be hired, managed and remunerated.
- How any professional input is to be managed and quality assured.
- Arrangements for taking stock of performance and learning lessons from it.
- Arrangements for intervention when necessary.



Financial management

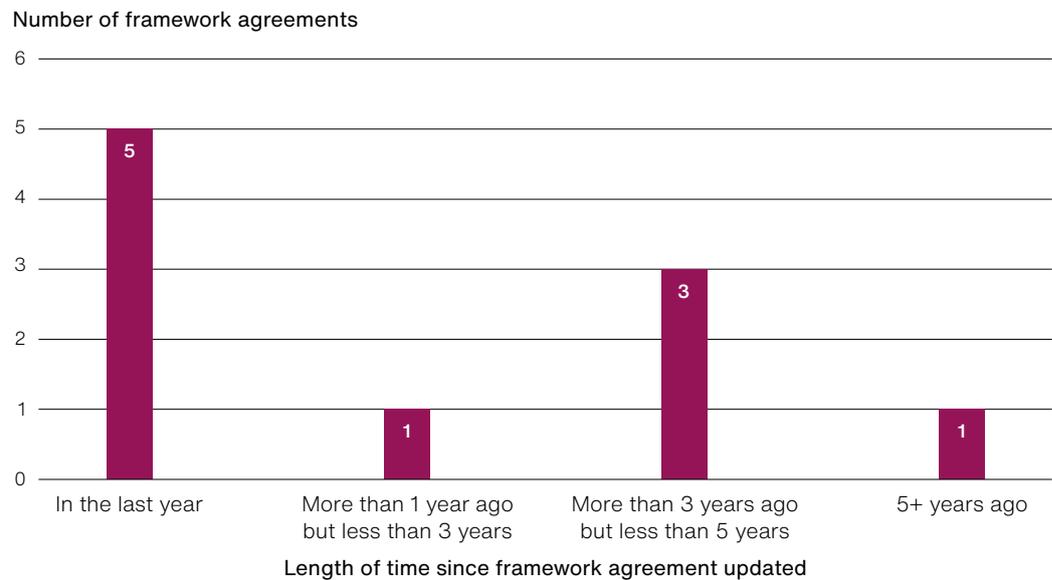
- Founding capital, including assets or financial sums.
- Any periodic grants and associated terms.
- How the annual targets and corporate plan will be agreed.
- How asset management and capital projects are to be decided and managed.
- How cashflow is to be managed, and current expenditure financed.
- How profits and income will be distributed.
- Any financial targets.
- Any agreed limits on business.
- Monitoring, financial reporting, regular liaison and any other tracking arrangements.
- Internal and external audit arrangements.
- Arrangements for consolidation of the accounts.

3.13 Our analysis of 10 framework agreements found that nearly half of the framework agreements had not been regularly updated in line with Cabinet Office guidance. The Code of Good Practice mandates that framework agreements be reviewed “at least every three years”, but four of the framework agreements we looked at had not been revised in this period. One had not been updated since April 2015 (**Figure 11**).

Figure 11

Frequency of review of framework agreements between sponsor department and arm's-length body (ALB)

Despite Cabinet Office requirements, framework agreements for four of the 10 (40%) case study ALBs we looked at had not been updated in the last three years



Notes

- 1 A framework agreement should clearly set out the role of the arm's-length body (ALB) and the lines of accountability between it and its sponsor department.
- 2 Framework agreements were last checked on 26 May 2021.

Source: National Audit Office analysis of publicly available framework agreements

Public appointments

3.14 Public appointments are a vital part of the effective governance of ALBs. Appointees provide expert knowledge, challenge and help set the strategic direction of an organisation. A public appointment is a ministerial appointment to the board of an ALB. The Cabinet Office prepares a Governance Code, which sets out how such appointments should be made, and also provides advice and guidance to sponsor departments to better support them through the appointments process. Ministers remain accountable to Parliament for the appointments they make within their departmental group.

3.15 Three of the 10 ALBs we consulted raised concerns about significant delays in the public appointments process. Delays in public appointments can create problems for both the ALB and the sponsor department. One ALB we spoke to has a four-year term for all board members. Even with this standardised approach, the appointments are regularly processed late, creating an unnecessary gap between one board member leaving and their replacement being appointed. The Cabinet Office does not hold data which would allow it to monitor the length of time appointments take but is currently developing an applicant tracking system which will allow departments access to real-time data.

Areas where Cabinet Office can offer support

3.16 Most ALBs and departments we consulted (15 out of 20) said they would welcome increased guidance and support. The Department for Work & Pensions told us it found the Cabinet Office's classification guidance particularly clear and helpful. Some noted that although the guidance for setting up an ALB was excellent, there was less guidance after that point. Some wanted more training opportunities, such as specific inductions for departmental staff new to sponsorship teams. Nine out of 20 also suggested that Cabinet Office could help facilitate further cross-departmental networks so they could continue to learn from each other (**Figure 12**).

Figure 12

Good-practice examples of cross-government working

Many of the departments and arm's-length bodies (ALBs) we spoke to had set up their own cross-government networks

Body	Network
The Disclosure and Barring Service 	<p>The Disclosure and Barring Service is in the process of establishing a network of Audit and Risk Committee Chairs from across their department, and are being facilitated in this effort by the Home Office. They have also worked with the Public Chairs Forum to help form and facilitate the Board Secretaries Group which enables the sharing of good practice.</p>
Highways England 	<p>Highways England have proactively built their own relationships with bodies who deliver similar functions, including Network Rail and High Speed Two Ltd.</p>
The Natural History Museum 	<p>The Natural History Museum has built relationships with the other 15 DCMS-sponsored museums and galleries, including The Science Museum and the British Museum.</p>
The Department for Environment, Food & Rural Affairs 	<p>The Department for Environment, Food & Rural Affairs has developed a relationship with the Department for Culture, Media & Sport (DCMS) and they work together on similar issues – such as those in the DCMS museum landscape and those facing the Royal Botanic Gardens, Kew.</p>
The Ministry of Justice 	<p>The Ministry of Justice has worked with the Cabinet Office to develop virtual centres of expertise which are open to all departments. These focus on the sponsorship relationship and on the tailored review process.</p>

Note

1 Highways England is not included in the Cabinet Office's list of 295 ALBs but was one of our 10 case study bodies.

Source: National Audit Office analysis of interviews with case study arm's-length bodies and sponsor departments

3.17 Several departments have taken the initiative to address some of these common needs. For example, one department, noticing a gap, developed sponsorship induction training. Another worked to develop virtual centres of expertise to provide operational support for sponsors on various topics, including tailored reviews and public appointments. Departments told us that, while it encouraged such initiatives, the Cabinet Office provided little direct support. Departments and ALBs have also launched efforts to develop networks across departments. Still, many have noted difficulties in finding such peers and suggest the Cabinet Office would be well-suited to facilitate such networks, building on its working-level Peer Partnership Network and Senior Civil Service (SCS)-level Strategy Group.

Public bodies reform

3.18 The Cabinet Office's Public Bodies Reform Programmes were designed to drive a simplified, customer-centric and cost-effective system of delivery through ALBs over a series of five-year strategies. The most recent 2016–2020 strategy aimed to deliver a programme of cross-departmental tailored reviews of the ALB landscape to understand more about ALB performance (**Figure 13**).

3.19 The 2016–2020 Public Bodies Reform Programme intended that all ALBs should be subject to regular tailored reviews by their sponsor department. These reviews examined whether an ALB should continue to exist, how it was functioning and if any changes were necessary. The Cabinet Office's guidance called for each ALB to be reviewed every five years, theoretically in synchronisation with every term of Parliament.

3.20 Progress with these reviews was slow and the programme is now paused while the Cabinet Office reconsiders its strategy. The Cabinet Office set out to oversee the departmental delivery of 295 tailored reviews, covering all ALBs it oversees.²² The Cabinet Office told us that the goal was overly ambitious, resulting in only one-third (101) of the intended tailored reviews being completed by 2020. Those bodies excluded from the 2016–2020 programme included cases such as the Nuclear Decommissioning Authority where we, alongside the Committee of Public Accounts, highlighted the need for a tailored review to clarify roles and responsibilities and to streamline governance and oversight.²³

3.21 In 2017 the Cabinet Office committed to several actions following our 2016 report and that of the Committee of Public Accounts. In addition to its tailored review programme, Cabinet Office has also updated guidance and developed its Code of Good Practice.²⁴ Full details on these recommendations and progress made against them can be found in Appendix Three.

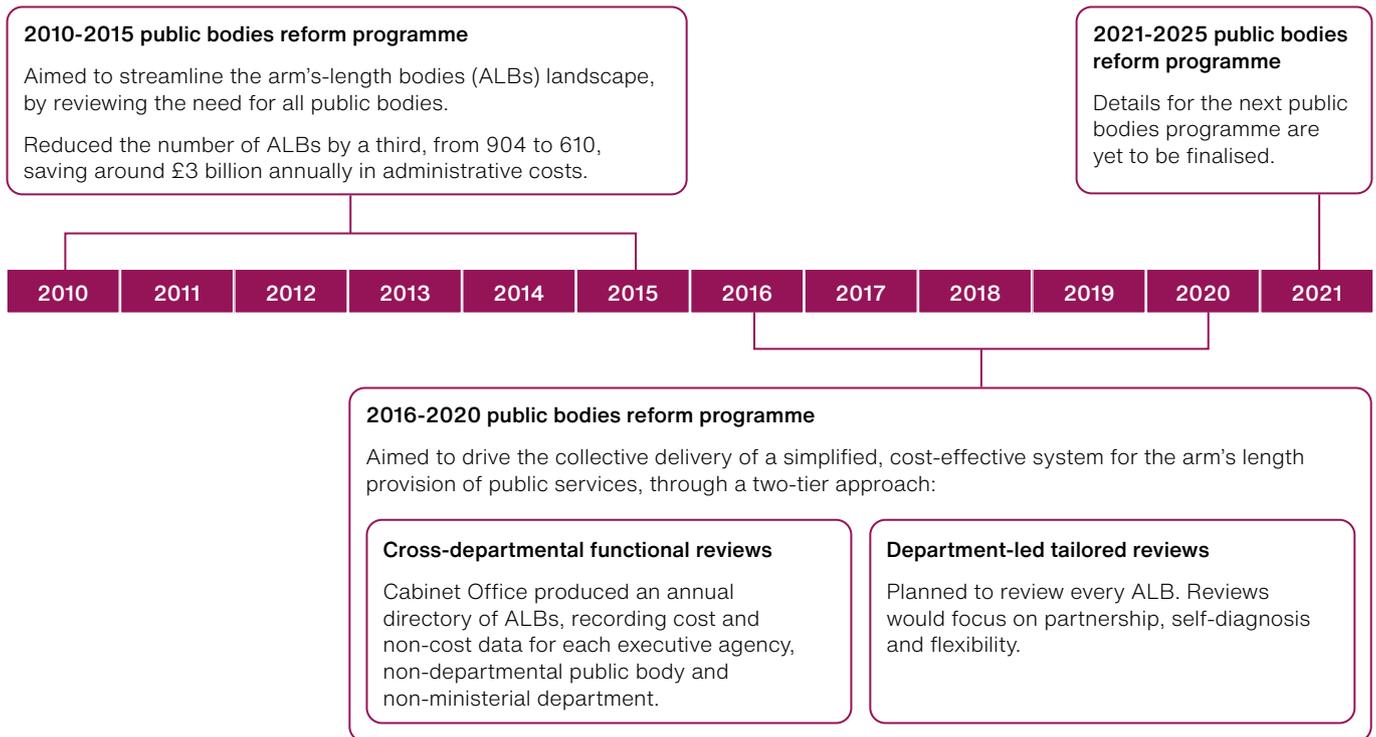
22 Cabinet Office, *Tailored reviews of public bodies: guidance*, 2016.

23 Comptroller and Auditor General, *The Nuclear Decommissioning Authority: Progress in reducing risk at Sellafield*, Session 2017-2019, HC 1126, National Audit Office, June 2018.

24 Cabinet Office, *Partnerships with arm's length bodies: code of good practice*, 2017.

Figure 13
Cabinet Office Public Bodies Reform Programmes

The Cabinet Office has undertaken two Public Bodies Reform Programmes between 2010 and 2020 and is currently planning a third with HM Treasury



Source: National Audit Office analysis of Cabinet Office documents

Tailored reviews

3.22 We examined a sample of 10 tailored reviews from the 101 that were completed. While the tailored reviews aimed to examine the function and structure of ALBs critically, they focused too narrowly on governance arrangements, and failed to address wider priorities such as overall delivery and effectiveness. For example, only two out of the 10 reviews sampled conducted benchmarking against other public bodies (**Figure 14** overleaf).

Figure 14

Good-practice example of using benchmarking to assess performance of an arm's-length body (ALB)

Highways England benchmarks its performance against other organisations, which allows it to understand how its performance compares to similar bodies

Highways England employed benchmarking in the following ways:

- ✓ against international bodies who deliver equivalent functions
- ✓ by comparing performance information from different regions across England
- ✓ to inform their annual budget plans and ensure they are in line with similar bodies

**Note**

1 Highways England is not included in the Cabinet Office's list of 295 ALBs but was one of our 10 case study bodies.

Source: National Audit Office analysis of interviews with case study arm's-length bodies

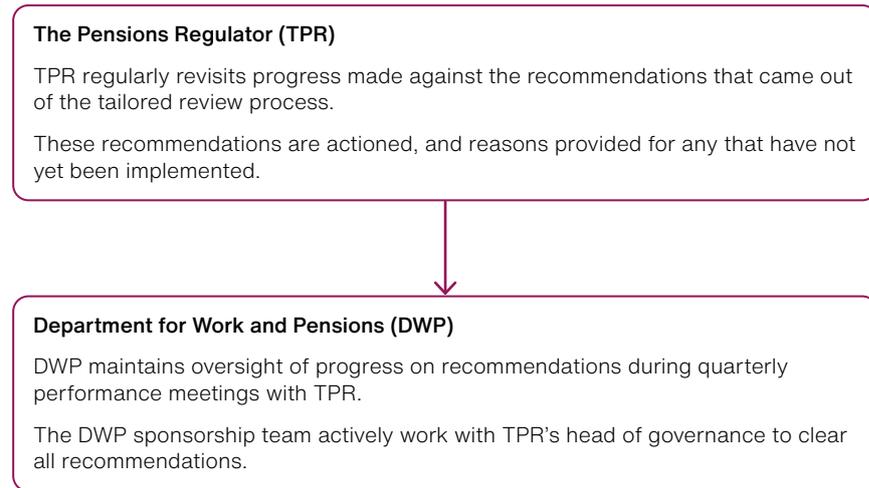
3.23 Despite the Cabinet Office's guidance, the tailored reviews we looked at lacked a consistent approach. The Cabinet Office told us reviews conducted by smaller departments differed from those delivered by larger departments, due to differences in capacity and capability. Recommendations were structured as a long-list of suggestions that ranged from high-level strategic considerations to previously identified, minor actions to improve governance and efficiency. Departments failed to weigh the importance of recommendations, creating a haphazard understanding of the risk environment. It is also unclear whether departments monitored the implementation status of recommendations. Only two of the case study organisations we spoke to explicitly stated that they tracked progress against recommendations, which we would consider to be best practice (**Figure 15**).

3.24 ALBs and departments had differing views of tailored reviews. Some departments described such reviews as a useful tool for examining governance arrangements. One department noted that the process placed unnecessary pressure on departmental resources, duplicating effort and adding little value to ALB delivery. Reviewers are usually from the sponsor department and are therefore not external to the ALB partnership team. Some stakeholders highlighted that the review process lacks an external perspective, with a small number of those we interviewed (two out of 20) suggesting tailored reviews could be conducted by a dedicated external review team to add objectivity and rigour to the assessment.

Figure 15

Good-practice example of tracking tailored review recommendations

The Pensions Regulator and its sponsor department track progress against tailored review recommendations which helps to ensure that necessary changes are implemented

**Note**

- 1 A tailored review considers whether an arm's-length body (ALB) should continue to exist, how it is functioning, and if any changes are necessary.

Source: National Audit Office interview with officials from The Pensions Regulator

Next steps in the Public Bodies Reform Programme

3.25 The Cabinet Office is currently developing its strategic work programme for 2021 onwards. This has been delayed by resourcing pressures in light of EU Exit and the COVID-19 pandemic but plans for the future strategy are now starting to be shared with departments. This includes a move towards a more independent review system, which will be led by an external team rather than by the sponsor departments themselves. The Cabinet Office has been working closely with HM Treasury to develop the reform approach through approval gateways, funding decisions and improved processes for data-gathering.

3.26 Using lessons learnt from their previous strategy and from the 2020 Spending Review, the Cabinet Office has highlighted some priority areas for the future. These include:

- how new bodies approvals and ALB reviews can be used to improve the governance, accountability and performance of ALBs;
- Cabinet Office's monitoring of departmental progress in implementing recommendations made as part of the new review programme;
- how to enhance the capacity, capability and consistency of ALB oversight;
- the use of data to aid the wider monitoring of ALBs and information sharing between them;
- the enhancement of board capability and skills via interventions throughout the non-executive director (NED) lifecycle, including a new NED induction programme and guidance on appraisal and review of boards; and
- making increased use of Spending Reviews as a way of assessing ALB delivery.

Appendix One

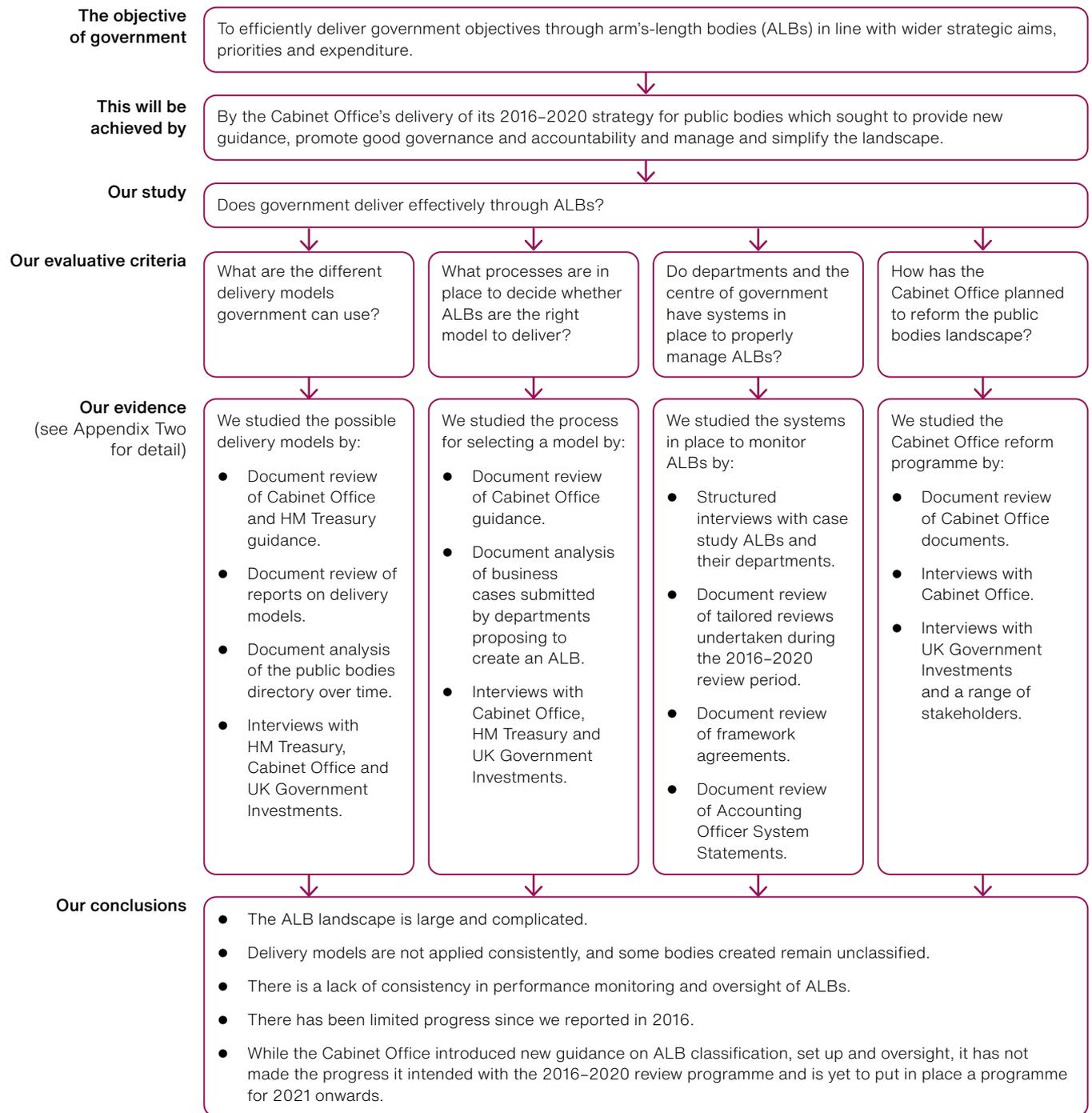
Our audit approach

1 This report examines the current state of the arm's-length body (ALB) landscape, focusing on the role of the centre of government (the Cabinet Office and HM Treasury) in supporting government departments and ALBs.

- We describe the overall landscape and the diverse models available for delivering government services (Part One).
- We describe the process for setting up a new ALB and the requirements that must be met (Part Two).
- We analyse the oversight arrangements for existing ALBs and how the Cabinet Office has sought to implement reforms (Part Three).

2 Our audit approach is summarised in **Figure 16** (overleaf). Our evidence base is summarised in Appendix Two.

Figure 16
Our audit approach



Source: National Audit Office analysis

Appendix Two

Our evidence base

- 1 Our independent conclusions on arm's-length bodies (ALBs) were reached following our analysis of evidence collected between October 2020 and April 2021.
- 2 We applied an analytical framework with evaluative criteria, which considered the use, creation, and oversight of ALBs. Our audit approach is outlined in Appendix One.
- 3 We identified the different delivery models available to government.
 - We performed a thorough document review. We analysed guidance from the Cabinet Office and HM Treasury about public bodies. We also looked at materials on ALBs from UK Government Investments (UKGI) and previous National Audit Office (NAO) reports.
 - Using data from the Office for National Statistics and the Cabinet Office, we performed analysis of the types and numbers of public bodies over time and the public expenditure of such bodies.
 - To better understand the public bodies landscape, we interviewed representatives from HM Treasury, the public bodies team of the Cabinet Office, and UKGI.
- 4 We assessed the systems that are in place to decide whether an ALB is the right model to deliver public services.
 - We performed a document review of available Cabinet Office guidance, including its *Public Bodies' Handbook*, *The Approvals Process for the Creation of New Arm's-Length Bodies*, and *Partnerships with arm's-length bodies: code of good practice*.
 - We performed a document analysis of 24 business cases submitted by departments proposing to create an ALB (**Figure 17** on pages 42 and 43). All of the business cases were from the past five years, during the 2016–2020 review programme. We reviewed these cases against the criteria laid out in the publicly available guidance for writing a business case, and against the Cabinet Office's internal checklist for assessment of business cases.

Figure 17

Business cases submitted to Cabinet Office between 2016 and 2020

Our study examined the 24 business cases for arm's-length bodies (ALBs) submitted to the Cabinet Office between 2016 and 2020

Arm's-length body	Description
Armed Forces Covenant Trust	Grant making body which provides funding to support service personnel, veterans and their families. The fund was previously administered by the Ministry of Defence (MoD), but a new body was established in 2018.
Atomic Weapons Establishment (AWE)	Designs, certifies and manufactures warheads for the UK nuclear deterrent. On the 1st July 2021 AWE plc will become an ALB, wholly owned by the MoD.
Audit, Reporting and Governance Authority	A stronger regulatory agency, created in response to the Kingman Review of the Financial Reporting Council.
Birmingham Organising Committee for the 2022 Commonwealth Games	Tasked with assessing a bid for the 2022 Commonwealth Games.
East West Rail	Delivers the planning, design, construction and operation of the East West Rail scheme.
Government Property Agency	Seeks to optimise the government's property assets.
Healthcare Safety Investigation Branch	Conducts independent investigations into patient safety concerns in NHS-funded care across England with the aim of improving the healthcare system, reducing risk and improving patient safety.
Independent Commission on Civil Aviation Noise	Provides advice to government on issues of aviation noise and develops best-practice guidance on aviation noise matters.
Independent Monitoring Authority	Seeks to protect the rights of EU citizens who reside in the UK.
Institute for Apprenticeships and Technical Education	Seeks to ensure high-level apprenticeship standards and advises government on funding. The Institute also develops and approves apprenticeships and technical qualifications with employers.
LocatED	Sought to secure and manage sites for 500 new free schools due to open over the course of the Parliament, in line with manifesto commitments.
National Citizen Service Trust	Delivers a programme of personal and social development for teenagers.
Office for Environmental Protection	Created to meet the Prime Minister's promise of "a new, world-leading independent statutory body to hold government to account and give the environment a voice".
Office for Students	Acts as the regulator and competition authority for the higher education sector in England.
Salix	Established in 2004 by the government to issue zero interest loans to public sector organisations to pay for energy efficiency measures. The government recently reclassified it as a non-departmental public body for legal reasons.
Single Financial Guidance Body	Delivers advice on topics such as pensions, money and debt.
Small Business Commissioner	Set up to "tackle late payment and unfavourable payment practices in the private sector".

Figure 17 *continued*

Business cases submitted to Cabinet Office between 2016 and 2020

Arm's-length body	Description
Social Housing Regulator	Regulates private registered providers of social housing to promote a viable, efficient and well-governed social housing sector.
Social Work England	Seeks to regulate and improve the quality of social work.
Submarine Delivery Agency	An executive agency of the MoD established in April 2018 to manage the in-service support and disposal of UK nuclear submarines.
The Reclaim Fund	Operates the UK's Dormant Assets Scheme, which allows participating firms to transfer dormant asset monies to good causes, while ensuring the rightful owner can reclaim their lost asset at any time. It is authorised and regulated by the Financial Conduct Authority.
UK National Memorial to the Holocaust	Oversees efforts to create a Holocaust Memorial and learning centre in London.
UK Research and Innovation	Brought together existing research councils and agencies under the umbrella of a new ALB.
UK Trade Remedies Authority	Investigates whether new trade remedies are needed to prevent injury to UK industries caused by unfair trading practices and unforeseen surges in imports.

Note

- 1 The National Infrastructure Commission was also approved in 2016. It was designed to advise the government on needed infrastructure improvements. This body did not follow the usual business case process so was not included in our sample of 24.

Source: National Audit Office assessment of Cabinet Office data

5 To understand the process of creating an ALB, we interviewed members of the Cabinet Office's public bodies team. We also interviewed officials from HM Treasury, UKGI, and other stakeholders.

6 We assessed the systems in place to monitor ALBs:

- We performed semi-structured interviews of case study public bodies and their sponsor departments. We chose the case study organisations to provide a cross-section of ALBs, considering size, classification and department. We approached 10 ALBs and their 10 sponsor departments. Interviewees were usually members of the sponsorship team in each department. We asked about framework agreements, performance reporting processes, interactions with their ALB/department and Cabinet Office, opinions on tailored reviews and available guidance, involvement in any cross-government networks and any areas they might wish to see more support. Questions were provided in advance. Notes were taken during all interviews. Each interview lasted approximately one hour.
- The ALBs we interviewed were the Disclosure and Barring Service, Homes England, The Pensions Regulator, Highways England, Natural England, the Institute for Apprenticeships and Technical Education, UK Asset Resolution Limited, the Criminal Injuries Compensation Authority, UK Research and Innovation and the Natural History Museum.

- The departments we interviewed were the Home Office, the Ministry of Housing, Communities & Local Government, the Department for Work & Pensions, the Department for Transport, the Department for Environment, Food & Rural Affairs, HM Treasury, the Department for Education, the Ministry of Justice, the Department for Business, Energy & Industrial Strategy and the Department for Digital, Culture, Media & Sport.
 - We analysed 10 tailored reviews undertaken during the 2016–2020 review period (out of a total of 101). The tailored reviews we analysed covered the British Council, the Student Loans Company, the Pensions Ombudsman, the Heritage Lottery Fund, the Criminal Cases Review Commission, Public Health England, Historic England, the Pensions Regulator, the Homes and Communities Agency, and DCMS-sponsored museums and the British Library. We looked at how the reviews were performed, the themes of each review, how the reviewers measured performance in each ALB, and how future commitments were made and tracked.
 - We reviewed the 10 framework agreement documents from our 10 case studies. While the entirety of the framework agreement was considered, we focused on the arrangements for reporting and oversight that each document codified.
 - We performed a document review of Accounting Officer Systems Statements, analysing eight topics including when they were published, the type of delivery model, funding, performance monitoring, accountability for spending decisions and whether they applied the code of good practice.
- 7** We assessed the Cabinet Office reform programme:
- We performed a document review of Cabinet Office publications, especially those involving their reform programmes.²⁵
 - We interviewed members of the Cabinet Office's public bodies team to assess their progress against 2016–2020 programme goals and previous recommendations made by the NAO and the Committee of Public Accounts.
 - We conducted unstructured interviews with officials from HM Treasury, UKGI, the Association of Chief Executives, the Public Chairs Forum and other stakeholders.

²⁵ Cabinet Office documents are available at www.gov.uk/guidance/public-bodies-reform

Appendix Three

Progress against past recommendations

Figure 18

Progress against past recommendations

The government has made a number of commitments in response to recommendations made by the Committee of Public Accounts (the Committee) in its 2016 report on departments' oversight of arm's-length bodies (ALBs)

Committee recommendation	Government commitment	Progress
The Cabinet Office (CO) should provide clear criteria which departments must consider when deciding if delivery should be through ALBs, and set out by when it expects departments to come into line with its guidance.	CO will update existing guidance. Under tailored reviews, departments must review the purpose, form, efficiency and effectiveness of ALBs at least once each Parliament. CO expects all ALBs to have been reviewed on their function by September 2019.	CO updated its existing guidance on the application of criteria for creating an ALB in 2018. Of the required tailored reviews, 34% were completed on time.
Departments should set out clearly, in published accountability system statements, the accountability relationship between ALBs and departments. They should also clearly set out the responsibilities and accountabilities of each ALB in published, and up-to-date, framework documents.	HM Treasury (HMT) will issue guidance to all departments to prepare these statements alongside their Annual Reports and Accounts for 2016-17. HMT expects that accounting officers (AOs) of sponsor departments will agree a framework document or equivalent with each of their ALBs and review them, at minimum, every three years.	The government published AO system statements from 2017, which are published on gov.uk.
CO should work with departments to make sure that they have robust measures of ALB performance. Departments should make more use of benchmarking to assess performance, and think beyond both departmental and public sector boundaries for comparators.	Each ALB will be reviewed by the end of this Parliament under the tailored review programme, or equivalent process appropriate to the departmental strategy, as agreed with CO. It is for departments to ensure they have effective performance measures and benchmarks in place, with CO providing support.	The 2016–2020 tailored review programme began in 2016. Of the required tailored reviews, 34% were completed on time.
CO, working with departments, needs to build on the National Audit Office (NAO) report in setting out a principles-based framework for overseeing ALBs.	CO, with input from departments and their ALBs, will develop a principles-based Code of Good Practice for partnerships between sponsor departments and ALBs. CO will finalise the Code by January 2017.	CO published its Code of Good Practice in February 2017, which set out principles of effective oversight.

Figure 18 *continued*

Progress against past recommendations

Committee recommendation	Government commitment	Progress
Departments should set out what more they will do to demonstrate that they are drawing on the experience of ALBs and service users when policies are being developed.	CO will include this as part of the Code of Good Practice for departments' partnerships with ALBs for application from April 2017. The Government Policy Profession recognises and promotes the importance of having breadth and depth of engagement in the policy-making process as a precursor to "good policy-making".	CO published its Code of Good Practice in February 2017, which set out principles of effective oversight.
CO should update us by July 2017 on its response to the Grimstone Review and the progress made by departments in streamlining the appointments process.	CO will update the Committee and the Public Administration and Constitutional Affairs Committee (PACAC) in parallel on the implementation of the Grimstone Review and progress made by the departments in streamlining the appointments process, by July 2017.	In response to the Grimstone Review, in 2016 the government put in place a new statutory framework which provides a Governance Code prepared by CO. This sets out how appointments by ministers to public bodies must be made and established an independent commissioner who regulates the process. Ministers are responsible for the appointments they make and departments are responsible for ensuring that the appointments they run are in line with the Code.

Note

- 1 This table details government's response and commitments to the Committee's recommendations made in its report on department's oversight of ALBs. This report was produced after taking evidence on our 2016 report *Departments' oversight of arm's-length bodies: a comparative study*.

Source: Committee of Public Accounts, *Departments' oversight of arm's-length bodies*, Twenty-first Report of Session 2016-2017, HC 488, October 2016. The government's response and associated commitments were outlined in *Treasury Minute CM 9389*

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