

What are quangos?

Public bodies, quangos, NDPBs

1. There is no clear and generally accepted definition of a "quango" (itself a term whose origins are confused) nor of "public body". The word is normally applied in a quite general way to Appointed bodies which perform public functions: the most recent major study of quangos says that it provides "a broad umbrella under which a wide array of organisations can cluster and be examined". The Government has usually tried to pin down the bodies under discussion more precisely, and has used a definition which is derived from Sir Leo Pliatzky's 1980 Report on *Non-Departmental Public Bodies*: "A body which has a role in the processes of national government, but is not a government department or part of one, and which accordingly operates to a greater or lesser extent at arm's length from Ministers". The Government has normally applied this to a group of around 1,000 bodies which it refers to more specifically as "Non-Departmental Public Bodies". These it normally divides further into those whose functions are executive and those which are advisory. While not placing them in the same class, the Government has also accepted that around 600 further NHS bodies are similar enough to be listed in its annual directory, *Public Bodies*. As the Cabinet Office say, "the Government classifies NHS bodies separately from NDPBs, but many of the same principles do of course apply to them". The bodies included in *Public Bodies*, with the definitions given there, are listed in the box on page 2.

2. Many argue that the Government's classification of "public bodies" ignores vast numbers of what might be called quangos, and seriously underestimates the "quango state". The Democratic Audit, reviewing the number of what it called "Extra Government Organisations" (EGOs), argued that apart from the executive NDPBs and NHS bodies, there was a huge number of "non-recognised" EGOs, operating in particular at local level. These included City Technology Colleges, Further and Higher Education Corporations, Registered Housing Associations, Training and Enterprise Councils and Local Enterprise Companies. The Democratic Audit calculated in 1994 that 4,534 such bodies existed. In all (including the NDPBs and NHS bodies) they estimated the number of people serving on the boards of such bodies at between 65,000 and 73,000. What The Democratic Audit called "non-recognised EGOs" are now usually referred to as local public spending bodies, following a Report by the Committee on Standards in Public Life (the Nolan Committee). The main bodies which, it has been argued, should also be included are listed by the Government in *Public Bodies*.

3. Academic commentators often refer to a "spectrum" of bodies which perform public functions of one kind or another, often delivering public policy. They can be defined by the degree to which they are public, rather than private, and the degree to which they are dependent on Ministers for their strategic direction, funding, or for the appointment of their members. Most dependent on Ministers are government departments and Next Steps Agencies. These are not (by and large) controlled by Boards and are staffed by civil servants. While some similar issues about accountability and openness are raised in relation to such bodies, departments and agencies operate in a very different context, which makes it appropriate to deal with them separately. These are not, therefore, dealt with in this Report.

4. NDPBs and local spending bodies, however, operate with much less direct connection to Ministers, which raise issues about the degree to which they are democratically accountable for their public functions; and they are run by Boards of people who are appointed by Ministers, or whose members are appointed by the rest

of the Board, which raises issues about the degree to which they are run effectively by the people best qualified to do so. This Report is concerned principally with these bodies; but it also touches on issues which are of relevance to a broader set of bodies which in the spectrum of institutions are further away still from Ministerial control: including private companies, charitable and voluntary bodies which perform recognisably public functions. No simple definition of "quangos" can capture precisely the range of institutions which raise the sort of questions we deal with here. It is possible, though, to isolate certain features by which they can be recognised: they are largely appointed, rather than directly elected; the appointments are made either by Ministers, or by the body itself, and they perform recognisably public functions; activities on behalf of society as a whole.

PUBLIC BODIES: WHAT IS INCLUDED

Nationalised industries and public corporations: "corporate enterprises which are publicly owned and controlled, but which, at the same time, have a substantial freedom to conduct their own affairs along ordinary business lines. This includes the power, within certain limits, to hold reserves". They include the BBC and the Bank of England. Nationalised industries "represent a Group of particularly large and important public corporations. Examples include the Post Office and the Civil Aviation Authority". For the purposes of the listing in *Public Bodies*, however, these are classed as Non-departmental public bodies.

Non-departmental public bodies (NDPB): an NDPB "is a body which has a role in the processes of national government, but is not a government department, or part of one, and which accordingly operates to a greater or lesser extent at arm's length from Ministers". *Public Bodies* subdivides this group into four smaller categories:

Executive NDPBs: "these bodies carry out a wide variety of administrative, regulatory and commercial functions. They generally operate under statutory provisions, employ their own staff and have responsibility for their own budgets. Examples include the Environment Agency and the Arts Councils." There are 304 of these listed in *Public Bodies* (including the Nationalised industries and public corporations)

Advisory NDPBs: "these are generally set up administratively by Ministers to advise them and their departments on matters within their sphere of interest. Some Royal Commissions are classified as advisory NDPBs. Generally, advisory NDPBs are supported by staff from within the sponsor department, and do not incur expenditure on their own account". There are 563 of these listed in *Public Bodies*.

Tribunal NDPBs: "bodies with jurisdiction in a specialised field of law. In general tribunals are serviced by staff from the sponsor department. There are two types of tribunal system: standing tribunals, which have a permanent membership, and tribunals that are convened from panels". There are 69 of these listed in *Public Bodies*.

Boards of Visitors: "these comprise boards of visitors to penal establishments in England and Wales, and boards of visitors and visiting committees in Northern Ireland". There are 137 of these listed in *Public Bodies*.

National Health Service Bodies: "these include Health Authorities or Health Boards in Scotland; NHS Trusts, Special Health Authorities, and certain other bodies operating Within the NHS (and the equivalent in Northern Ireland) to which Ministers make appointments."

There are 100 health authorities, 402 NHS Trusts, and 17 other NHS bodies in England; in Wales there are 5 health authorities, 29 NHS Trusts and 2 other NHS bodies; in Scotland there are 15 Health Boards, 47 NHS Trusts and 6 other NHS bodies.
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PUBLIC BODIES: WHAT THE GOVERNMENT SAYS IS NOT INCLUDED

Next Steps Agencies, such as the Passport Agency, which are part of government departments, are staffed by civil servants and are accountable to Ministers;

Non-Ministerial government departments, such as OFTEL and OFWAT, which are headed by statutory office-holders and staffed by civil servants;

Police authorities;

Local Public Spending Bodies", a term which the Committee on Standards in Public Life use to describe further and higher education institutions (including universities); Grant-Maintained Schools; Training and Enterprise Councils; Local Enterprise Companies; Registered Social Landlords; and Registered Housing Associations (in Scotland);

Ad hoc, short-term groups of experts, such as Task Forces and Reviews, brought together to look at a particular problem. Those bodies with a longer remit, such as the Football Task Force, have been classified as advisory NDPBs and are subject to the same controls as other NDPBs.

Quangos in the UK, 1998

	Number of bodies	Total number of appointed members
Executive NDPBs	304	2,742
Advisory NDPBs	563	6,780
Tribunal NDPBs	69	19,882
Boards of Visitors	137	1,823
Local Public Spending Bodies	4,534	65,000-73,000

Non-departmental public bodies

5. How does the Government decide whether a given body is an NDPB or not? The Cabinet Office and Treasury guidance to departments on NDPBs gives only a set of three questions in order to help them to decide. They are:

"Is it a 'body' rather than an informal *ad hoc* group? Does it have formal terms of reference, defined membership, a chairman, records of its proceedings, and so on?"

Are some or all of its members appointed by Ministers? The higher the proportion of Ministerial appointments, the more likely it is that the body is an NDPB.

Is a Minister answerable ultimately for the performance of the body and its continued existence? Does the Minister have the power under subordinate legislation, subject, if appropriate, to Parliamentary approval, to wind it up?"

These rules of thumb result, however, in decisions that do not seem at all clear. Professor Vernon Bogdanor points out some of the confusion that results: "Why... was Historic Scotland, until devolution, an executive agency, but English Heritage an

NDPB? ... Why is the Royal Parks Agency an executive agency, but the Countryside Commission an NDPB? There may be a perfectly good rationale for these arrangements, but I suspect that it is not very clear to the general public to whom it must seem that both agencies and NDPBs, have, like Topsy, 'just grown'. Surely the first requirement of a good administrative system is that it be easily comprehensible to those whom it administers. Therefore, if there is a rationale for current arrangements, it should be clearly and publicly stated."

6. Other examples might be given: the British Potato Council is classified as an NDPB; the British Wool Marketing Board is not. The responses from Departments to our questionnaire on the accountability of their public bodies gives some idea of the range of and types of public body which (for one reason or another) are not classed as NDPBs. The Treasury, for example, listed a number of bodies which seem not too different from many of those classed as NDPBs: the Public Works Loan Board, an independent unpaid statutory body; the statutory Building Societies Commission and the Friendly Societies Commission (both to be abolished and their functions transferred to the new Financial Services Authority); the Financial Reporting Advisory Board and the Treasury Academic Advisory Panel. The Government accepts that some bodies fall outside its definitions, including the National Audit Office and the Parliamentary Commissioner for Administration. A number of NDPBs spawn their own bodies. Some of these may be classed as NDPBs themselves, and appear in *Public Bodies*. Regional Flood Defence Committees are statutory executive committees of the Environment Agency, supported by EA staff. They carry out "most of the Agency's flood defence functions in England and Wales". Others are not included. For example, the Further Education Funding Council has constituted its own Regional Committees.

7. Mr Flinders, Dr Richards and Professor Smith ask "why is there no firm or clear theoretical framework for British public administration which dictates which functions should rest directly under the control of elected politicians or quasi-autonomous bodies?" **There is a wide variety of ways of bringing NDPBs into existence; and a wide variety in the way they are set up. Often the rationale for this diversity is also difficult to understand. We note that the Cabinet Office is planning to revise its guidance to Departments on NDPBs: we recommend that that guidance include more detailed guidelines on what sort of body it is appropriate to set up as an NDPB, and what is better in some other form.**

8. Confidence that the Government can adequately decide how to classify the bodies which do its work is not enhanced by the quality of *Public Bodies* itself. There are some errors (the Expert Group on Cryptosporidium in Water Supplies, for example, an advisory NDPB whose members are unpaid, is listed as spending over £3 billion a year). Its statistics are unreliable. For example, in the aggregate numbers of NDPBs published in the statistical summary, the Department of Trade and Industry includes its nationalised industries. The Scottish Office, Department of the Environment, Transport and the Regions, the Welsh Office and the Ministry of Agriculture, Fisheries and Food include neither nationalised industries nor public corporations. (It is unclear from the introduction whether the Government regards nationalised industries and public corporations as NDPBs or not). In counting the total number of executive and advisory NDPBs, the figures include each one of a class of bodies (for example, all of the six Agricultural Wages Committees under the Welsh Office are included in the figures); when it comes to counting the number of tribunals, only one of each type of tribunal is included (for example, the four Welsh Valuation tribunals are not counted individually). **We recommend that the Government review the value and purpose of *Public Bodies* and the quality and presentation of information in it.**

Task Forces

9. Recently, the debate about NDPBs has become further complicated by the proliferation of a number of other bodies which report to Ministers and are appointed by Ministers, but which are set up on a purely temporary basis. These "Task Forces", or "working parties" have existed in the past, but the present Government appears to have created more than its predecessors have done. The Cabinet Office describes them as "typically *ad hoc*, short-term advisory groups of experts brought together to look at a particular problem with a view to reporting (and being wound up) within 12 months or so of being established". The definition, however, fails adequately to cover the full range of Task Forces that exist. The New Deal Task Force, for example, was appointed initially for two years; it was, however, reclassified as an advisory NDPB in December 1997, as were a number of other Task Forces.

Local public spending bodies

10. Local public spending bodies were defined by the Committee on Standards in Public Life as "usually independent or self-governing 'not for profit' bodies which spend public money and perform public functions. The members of such bodies are neither fully elected nor appointed by Ministers, although their membership is usually regulated by statute or in contracts with Government". Many of them have taken over functions formerly exercised by local authorities (see box). The Government regards the main bodies which fall within the definition as including higher and further education institutions, grant maintained schools, Training and Enterprise Councils (TECs) and their equivalent in Scotland, Local Enterprise Companies, and Registered Social Landlords and Registered Housing Associations.

The growth of the new magistracy

Local authority representatives removed from DHAs and FHSAs; post-1990 health authorities have no local authority representatives as of right.

NHS trusts created to manage delivery by hospitals and community services.

TECs and LECs created to exercise functions at local level, incorporating or overlapping with some local authority activities.

Careers service companies, formed by partnership of local authorities, business and others, bid for contract to deliver careers service in each locality. Service formerly part of local government.

Self-appointing boards of governors take responsibility from local education authorities for Further Education colleges and sixth-form colleges. They are subject to the requirements of various funding councils, themselves non-departmental public bodies.

Schools encouraged to opt out of local authority control and become grant-maintained, funded and regulated by new national non-departmental public bodies.

Housing associations gain increased responsibility for social housing.

HATs and UDCs created to undertake urban regeneration in specific localities, with some transfer of responsibility from local authorities.

Police authorities with majority local authority membership abolished. New police authorities have seventeen members - five appointed by minister after local consultation, nine by local authorities and three by magistrates.

Source: Chris Skelcher, *The Appointed State*, p. 9

11. Individual local bodies vary even more than individual NDPBs in their functions, legal status, and relationships with other bodies. TECs and LECs are companies limited by guarantee. Registered housing associations are part of the voluntary sector; often they are charities. Old universities are governed by charters or occasionally by Acts of Parliament; new universities are established in ways determined by statute. Further education corporations are statutory corporations, set up as required under the same statute, the Further and Higher Education Act 1992. They all have different types of governing body, and different systems of regulation.

Other bodies

12. Beyond this there are bodies which still perform functions which are recognisably public ones, and have some sort of government involvement. Often they are (legally speaking) private companies or charities (and sometimes both); but they receive grants-in-aid from the Government to support their work (such as the National Council for Voluntary Organisations), work under almost permanent contracts from government (such as the WEA), or have legal and fiscal privileges to promote their work (such as The National Trust). The National Association of Citizen's Advice Bureaux is a good example of an organisation of this kind, and how it blurs the distinction between public and private organisations. It is a company limited by guarantee and has charitable status, but is funded by the DTI. Its corporate and work plans are submitted to the DTI for approval; it has to conform to the Treasury rules on NDPBs, and to observe the Code of Practice on Access to Government Information.

Mapping the 'quango state'

13. The existence of such a profusion of bodies which are referred to by some as quangos, helps to create huge confusion. For example, the pages from the government publication *Quangos*:

Opening the doors refers to "quangos", but is in fact only about NDPBs. This diversity results in unnecessary confusion in the mind of the public about what services are performed by government organisations, and what are performed independently of government. Some commentators have called for a "map" of public services, and for a regular report on trends in governance. The beginnings of such a map already exist. *Public Bodies* has existed in one form or another since 1980; since 1990 the Government has published an Annual Report listing executive Agencies; since 1998 it has also published an annual report on the performance of the larger executive NDPBs (a publication recommended by the Cabinet Office Efficiency Unit Report of 1996, *Objective Setting and Monitoring in Executive Non-Departmental Public Bodies*). Departments publish their own Annual Reports as well. It would be well worth bringing some of this information together in an Annual Report or directory which explained the roles of all public bodies. Such a publication could provide a form of index to other government-published reports, and might be published along with the new Government Annual Report in July. **We recommend that the Government brings together information about the range of organisations carrying out its policy in a single directory, combining the information given at present in**

Public Bodies with other, summary information about departmental roles, and how departments deliver policy through other bodies, and how all of these bodies relate to one another. Such a digest could replace **Public Bodies**, and be published in tandem with the Government's annual report. The separate publications on the performance of Agencies and executive NDPBs could also be brought in to a group of related publications, and expanded, to form in effect a report on the performance of government as a whole. We also recommend that such a directory of government should be made available on the internet with links to the sites of all organisations which are included.

14. Such a publication would provide a comprehensive 'map' of the Government, and organisations which carry out functions on its behalf. It should more clearly classify such bodies; show how much each organisation spends in public money, and where this money comes from; what is the legal status of each organisation; who sets the policy of each organisation; who appoints its members, and how they are appointed; and what information each organisation publishes.

The quango debate

15. Does it matter that government is delivered through a wide variety of different bodies with differing powers, constitutions, obligations, funding arrangements and so on? This diversity has been regarded as an advantage. The previous Government argued that "like the elements of our constitution; and in keeping with that approach; mechanisms for providing and delivering public services have developed over time to suit the type of service in question, and the particular requirements and characteristics that those services have needed to fulfil." Governments have frequently found it useful, for a number of reasons, to decentralise certain functions to service authorities and organisations. The Government's list of reasons for conferring functions on an NDPB in preference to a government department shows the main advantages it sees in establishing a quango. (See Box)

WHY QUANGOS ARE USEFUL

a. There are a number of government functions which need to be carried out **at arm's length** from Ministers. These include regulation (for example, by the Health and Safety Commission and Executive, and the Environment Agency) and decisions on funding for the sciences, where expertise is essential and where it has long been agreed that political considerations should play no part in decisions on the allocation of scarce resources between competing, worthy claimants. They also include the funding of universities, colleges and grant-maintained schools, within a general framework laid down by Ministers.

b. Many quangos provide **expert advice to Ministers** on technical or other very specialised issues. National experts in a particular field are brought together on bodies as diverse as the Royal Commission on Environmental Pollution, the Law Commissioner and the Expert Advisory Group on AIDS.

c. Quangos offer the opportunity of **bringing a large number of ordinary people into public life**. They can include, for instance, lay members who sit on many NDPB tribunals, which are responsible for reaching decisions on matters such as unfair dismissal. On Boards of Visitors to penal establishments, lay people voluntarily take on responsibility for exercising, on behalf of the Home Secretary, an independent oversight of penal establishments, including such matters as the state of prison premises, administration of the establishment, complaints or requests from prisoners, and their mental or physical health.

d. Quangos - particularly advisory NDPBs -can provide a **quick and flexible response** to matters of particular concern. For instance, under the last Government, the Nolan Committee (the Committee on Standards in Public Life) was set up to address concerns about sleaze in many areas of public life, and the Human Genetics Advisory Commission was set up last year to take a broad view of developments in human genetics and advise Government on ways to build public confidence in the application of the new science.

e. There is a huge range of models for quangos. Bodies can be set up in a way which **best meets the needs of the functions** they are to be given. They range from small advisory quangos, with no staff, meeting perhaps once or twice a year to advise on a technical issue, to high profile large executive NDPBs such as the Environment Agency, which employs 9,450 staff, or the Further Education Funding Councils responsible for channelling more than £3.6 billion of Government funds to further education establishments.

f. Quangos can provide a valuable mechanism for bringing together a **partnership between government and other interests**. This is done, in some instances, by enabling other bodies to nominate members. For example, the boards of Housing Action Trusts include nominees from local authorities, and nominees elected by residents of the Trusts' areas. The tribunal system resolves conflicts in certain areas between the citizen and the state, or between individuals, providing members of the public with a simple, reliable and cheap form of arbitration.

g. Quangos can carry out a range of **commercial activities where board members need a degree of independence** from government to make decisions, as in the case of Scottish Enterprise or the proposed Regional Development Agencies. Others, such as the Meat and Livestock Commission or the Industry Training Boards, raise their income by a levy from a particular industry, receiving no Government grants or other support. The levy is spent on research, training and other activities for the general benefit of a particular industry.

From: Opening up quangos, pp. 8-9

It is not only in the UK that a wide range of organisations carry out public functions which are not, exactly, part of government. Similar organisations exist in many countries.

16. There are two main arguments against the use of quangos in government. The first suggests that the diversity of government organisations can make it more difficult for services to be delivered in a "joined-up" way. The Local Government Association argued that their use resulted in "a fragmentation in public service delivery in localities as more and more public services are provided by single service agencies thereby losing the benefits of corporate working across multi-agency authorities". Where a range of services are provided by a single body (usually of local authority) it is easier to get them to operate closely together in partnership. Professor Bogdanor puts this in a different way: "NDPBs represent a particular service, rather than the community as a whole. Their characteristic defect may be tunnel vision. They represent a sectional interest rather than the community interest. They may detract therefore, from the proper role of the local authority as community representative, a role which the present administration is trying to strengthen through the introduction of elected mayors in major cities. With NDPBs, the question arises of how policies involving a choice of priorities between services are to be democratically decided so

that they may respond to popular needs. There seems no obvious constitutional mechanism enabling the community to influence the decisions of NDPBs". Professor Bogdanor's argument leads towards the second argument against quangos: their lack of accountability. Quangos are insulated from political pressures in a way that government departments or local authorities are not. Indeed, one of the reasons for establishing a quango of whatever type has been to insulate it from political pressure. Many of them carry out functions in which independence is seen as an important asset.

17. The growth in "local public spending bodies" has been at the expense of local authorities. The Local Government Association referred to what it called "the traditional view" that these bodies "were set up explicitly to remove functions from local authorities that had lost the confidence of the then Government to deliver effective and efficient services. New appointed bodies were created to deliver regeneration and development, housing, health, education and training services in local areas. These bodies often imported a private sector or business-oriented approach into the public service". It argued that "appointed bodies" contribute to "a democratic deficit in the governance of localities as service provision and public expenditure fall under the control of appointees rather than those who are elected".

18. In this Report, we review the criticisms made of the Government's approach to reform, both of NDPBs, and of the broader class of local public bodies, and consider the accountability arrangements for each of these classes of public body. We have also reviewed some issues which concern other public bodies, which do not have such a close or direct connection with the Government. We finally consider some questions concerning the making of appointments to public bodies, and the Commissioner established to oversee appointments to public bodies.