

5. EXECUTIVE AGENCIES

In 1987 the Next Steps Programme transformed civil service institutional arrangements. The new Executive Agencies were to manage policy and programmes in specific areas, with resources and jurisdiction approved by the appropriate Minister. The Executive Agencies would be responsible for their own personnel management needs, a flexibility that was meant to enhance both efficiency and effectiveness.

One of the key objectives of the Next Steps initiative is improved reporting by Agencies to Ministers, Parliament and the wider public. All Agencies are therefore required to provide annual reports to Ministers and thence Parliament, as explained in paragraph 5.2 of the 1989 White Paper *The Financing and Accountability of Next Steps Agencies* (Cm 914). The need for clear and consistent reporting was reinforced in July 1998 by the *Modern Public Services for Britain* White Paper¹.

Agencies have been set up at intervals and over the years some have been restructured. In mid-2002, there were 128 Executive Agencies, 94 in England, 2 in Wales, 12 in Scotland and 20 in Northern Ireland². From the sources cited below, it is possible to obtain for each Agency its start date and description of objectives. In addition, there were 1025 Non-Departmental Public Bodies (NDPBs)³. Annex A1 is a list of Executive Agencies; Annex A2 lists NDPBs. These demonstrate the variety of activities they cover. Libraries, Museums and Galleries; Research Councils; Regional Development Agencies; and Regulators and Ombudsmen have been grouped together; the remainder, ranging through Advisory Committees, Councils, Commissions, Boards, Tribunals, Trusts, etc., operate in a wide variety of sectors and fields.

In judging the comparability of the objectives of ONS with those of the executive agencies and NDPBs, the criteria used were:

Does it operate in the interest of government or the public?
Is it/does it have to be seen to be politically independent?
Is the service performed for the government or for the public?
Does it need to consult with the government or the public?

On the basis of these criteria, the agencies are either providing an administrative service for government eg the Central Office of Information (publicity), or the Defence Procurement Agency or for the public eg the Child Support Agency. Some may be doing both eg Companies House, the Public Record Office or the Met Office. In this sense they do not compare with ONS, which is providing products.

The NDPBs are in similar situations.

A perusal of their objectives indicates that the statistical functions of ONS are not directly comparable with the main objectives of any other agency, though other agencies may themselves produce and publish statistics. The Registrar-General functions of ONS, which cover England & Wales, are a mixture of administrative procedures and statistical output and there are separate Agencies which perform comparable functions for Scotland and Northern Ireland.

The subject of 'quangos' is extensively discussed in the sixth report of the Select Committee on Public Administration, 1998/99 and therefore the details discussed therein are not repeated here (see Annex B for details).

5.1 What is a Civil Servant?

The status of Agencies (and other official bodies) is also determined by their employment of civil servants.

Civil Servants are defined by the nature of their employer. There are three categories of public body:

1. The first is comprised of Parliament itself, and the bodies which report direct to Parliament, including the National Audit Office, the Parliamentary Ombudsman and the Electoral Commission. Constitutionally, employees of these bodies are not servants of the Crown and they are therefore not civil servants.
2. The next category is comprised of those which carry out central government functions. Employees of these departments are servants of the Crown and therefore civil servants. The most prominent organisations within this category are Government departments which report to Ministers (who are of course always Parliamentarians).

Many departments have turned parts of themselves into Executive Agencies. These bodies, such as the Benefits Agency (now merged into Jobcentre Plus) and the Patent Office, constitutionally remain part of their parent department. However, they implement established policies and it makes sense for them to be run semi-independently from their head offices. Most MPs who wish to raise constituency matters with such Agencies are content to correspond directly with their Chief Executives, rather than through Ministerial intermediaries.

3. This category also includes a small number of non-Ministerial Government Departments (NMGDs), which themselves include two main categories. The first contains the Inland Revenue and Customs and Excise whose senior officials work closely with Ministers and whose key policies are set each year in the Finance Act. Day to day, however, neither Ministers nor Parliament can interfere in taxation decisions. The second category of NMGD contains bodies such as the Charity Commission, Ofsted and the economic regulators, such as the Office of Fair Trading, and the Postal Services Commission. These bodies are 'creatures of statute': - that is they implement legislation which they have no power to change. Their political independence is assured by providing that they have the status of Government Departments, but are accountable only to Parliament and the Courts. Their budgets are set by the Treasury, not by the department which set them up, and they are funded by licence fees.

A large number of civil servants also work in the Devolved Administrations in Scotland, Wales and Northern Ireland.

5.2 Other Public Servants

There are a wide variety of other public bodies who do not generally employ civil servants (other than on loan from government departments). The only exceptions are the Health and Safety Executive and ACAS which are not Government departments but whose employees are nevertheless regarded as civil servants. First, there are around 1000 NDPBs (Non-departmental public bodies, more popularly known as "quangos":- Quasi-Autonomous Non-Government Organisations). Some are purely "advisory" whilst others are "executive". Full details are on their dedicated web site. Some NDPBs are very large and important organisations such as the Environment

Agency and the Health and Safety Executive. NDPBs are accountable to Parliament (and are headed by "Accounting Officers") and have a complex relationship with their sponsoring department. They are, by definition, not directly accountable to Ministers and their employees (although often seconded from major departments) are not subject to the same constraints as their opposite numbers in their parent departments. For instance, Environment Agency officials will criticise polluting industries in terms which would not be used by officials from the Department of the Environment. However, NDPBs are set up to do jobs defined by, their budgets are allocated by, and their members are appointed by, their sponsoring departments. They are therefore hardly independent of those departments. The National Health Service is in a category of its own as a huge organisation which has a large degree of independence but is otherwise constitutionally quite similar to NDPBs. It does not employ civil servants, other than on loan from e.g. the Department of Health. And of course the Armed Forces are a major employer of public servants who are not civil servants. The Financial Services Authority is also a special case in that, although it is a limited company financed by the financial services industry, it exercises statutory powers and is treated for many purposes as part of government. Nevertheless, its employees are not civil servants. Other public servants, but not civil servants, work for public corporations such as the BBC, the Bank of England, Consignia (previously the Post Office), the London Underground, BNFL and the canals. And of course a great many public servants work for local authorities of various shapes and sizes.

5.3 Agency Framework Documents

1. Framework Documents set out the key elements of the policy and resources framework for an Agency and the relationship and respective responsibilities of the Chief Executive, the Permanent Secretary and the Minister for the delivery of the service.
2. As a result of changes recommended in Stage Two of the review, an Agency's Framework Document will probably need to change, sometimes substantially. In recognition of the range of different types of agencies, there is no 'model' Framework Document.

However, when considering changes, one should be aware that Framework Documents should contain:

a foreword by the Minister;

details of the Agency's size, location and functions;

the Agency's aim and objectives; and information on those aspects of the Agency's performance for which key targets will be developed in order to assess the progress with which the aim and objectives are being achieved;

the areas where the Service First principles will be applied;

the relationship between the Minister, the Agency Chief Executive and the Permanent Secretary of the Department;

where applicable, the relationship with other bodies with which the Agency has established partnership arrangements;

the arrangements for dealing with Parliamentary Questions and letters from Members of Parliament on matters concerning the Agency;

the customer complaints procedure and the arrangements for handling Parliamentary Commissioner for Administration cases;

the financial regime agreed with the Treasury for the Agency when first established and any changes which might be proposed subsequently;

the business planning framework which will apply, including arrangements for setting objectives and targets for the Agency, where appropriate, and the arrangements for their periodic revision;

the machinery for accounting, audit, monitoring and reporting, both within government and externally;

the relations with the Principal Accounting Officer of the Department (and other relevant Accounting Officers) as stated in the Accounting Officer Memorandum;

the arrangements for producing accounts;

the corporate and business planning cycle;

the arrangements for recruitment, pay and other personnel management responsibilities, and the extent to which they are delegated to the Agency;

the method of recruitment and the basis of remuneration for the Chief Executive;

the reporting arrangements for the Chief Executive;

the arrangements for monitoring the Agency's performance; and

the arrangements for reviewing the Agency and agreeing changes to the Framework Document.

3. The Framework Document might also include other elements, such as statements of the Agency's policies on training and development, industrial relations and health and safety, although these do not need to be dealt with exhaustively. Information on Service First principles and Charter Mark is available on the Internet at <http://www.cabinet-office.gov.uk/servicefirst/index.htm>.

Agencies are required to publish annual reports of their own, in addition to featuring in the annual reports of their sponsoring departments. The structure and nature of their contents may be seen in *Guidance on Next Steps Annual Reports* (attached as Annex C).

Accountability of agencies to Parliament usually takes the following forms:

Annual report to the sponsoring Department's Secretary of State;
Annual auditing of its accounts by the National Audit Office (NAO);
Periodic reports by the NAO on the economy, efficiency and effectiveness with which the agency uses its resources; and
Periodic examinations by the Commons Public Accounts Committee (PAC)

An independent critique of agencies, (*Difficulties with Autonomous Agencies*, Nick Manning & Yasuhiko Matsuda), published by the World Bank (see Annex D), discusses their characteristics and implications.

A short extract from the HoC Hansard (see Annex E) throws further light on the position of agencies and reviews of them.

5.4. National Audit Office

There have been references above to the NAO. It is therefore necessary to examine in more detail its role and development. These are described in Annexes F and G. Furthermore the fourth report of the Select Committee on Public Accounts, 1999/00 (Annex H) discusses the activities of the Comptroller and Auditor General, the NAO's head.

The functions of NAO and ONS, may appear similar as they both collect and publish data. However ONS's stance is to assemble facts and, on the whole, leave it to others to interpret and use the data for a variety of purposes. The National Statistician's relationship with departments is influenced by the responsibilities of their statisticians to ministers. Conversely, NAO has wide-ranging critical functions, concerned with assessing the effective use of government resources, and has independent access to departments and other bodies.

5.5. Regulators

In order to perform their duties, regulators eg FSA, Of tel, Of wat need to collect and process data relevant to the sectors which they regulate. There are therefore similarities in parts of their operations to those of National Statistics.

Insofar as the Statistics Commission functions as a type of regulator, then comparisons may be drawn to a significant number of regulators. However, there is a fundamental difference in that the Commission only advises or comments, whereas the regulators have many statutory powers.

¹ HM Treasury, *Modern Public Services for Britain: Investing in Reform, Comprehensive Spending Review: New Public Spending Plans 1999-2002*, July 1998, Cm 4011, The Stationery Office Ltd, ISBN 0 10 1401124.

² *Vacher's Parliamentary Companion* (Quarterly), June 2002
Also: *The 37th Civil Service Yearbook*, The Stationery Office, 2002
Dod's Civil Service Companion, 2002
Dod's Parliamentary Companion, 2002

³ *Public Bodies*, Cabinet Office, 2002