



Quangos

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'Quango' is an abbreviation of the phrase 'quasi-autonomous non-governmental organisation' and is often used as an alternative to the abbreviation NDPB which stands for 'non-departmental public body'. The Conservative-Liberal Democrat Government has pledged to cut the number and cost of quangos.

On 14 October 2010 the Government announced the outcome of their review of public bodies. Substantial reforms were proposed for 481 public bodies. Out of a total of 901 public bodies, non-ministerial departments and government owned public corporations and trading funds, 192 will cease to be public bodies; 118 will be merged into 57 bodies; 171 will undergo substantial reform whilst retaining their current status. Another 40 were still 'under review'.

The *Public Bodies Bill [HL] 2010-11* was introduced in the House of Lords on 28 October 2010 as the main legislative vehicle for making changes to the public bodies as set out in the review. The Bill is enabling legislation which gives ministers the power, by order, to abolish, merge and transfer functions to and from certain public bodies listed in the Schedules to the Bill.

The delegation of functions to public bodies has a long history in United Kingdom public administration. The Conservative administrations of 1979-1997 and the Labour administrations of 1997-2010 both pledged to cut the costs of the NDPBs but also found that delegated governance was a useful structure for service delivery, regulation and independent advice.

This note provides a short history of public bodies in the United Kingdom before looking at the size and cost of the quango state. It considers why the number and cost of quangos has been hard to control. It then looks at the accountability of public bodies and appointments mechanisms. It also sets out the main provisions of the *Public Bodies Bill [HL]* as introduced. The Library Standard Note SN/PC/5845, [Progress of the Public Bodies Bill \[HL\] 2010-11](#) provides more detailed information on the Bill. The House of Lords Library Note LLN 2010/027, [Public Bodies Bill \[HL\]](#), also provides some details of the Government's Bill and initial reactions.

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1 Introduction

'Quango' is an abbreviation of the phrase 'quasi-autonomous non-governmental organisation', and is often used as an alternative to the abbreviation NDPB which stands for 'non-departmental public body'. The word 'quango' is not itself a classification that the Government has traditionally used. For some, it has become a highly emotive term, used as a by-word for wasteful bureaucracy, patronage and a lack of democratic accountability.

The term NDPB has been in existence since 1980 when it was coined by Sir Leo Plaitsky in his *Report on Non Departmental Bodies*. The Government publication, *Public Bodies*, defines NDPBs as follows:

An NDPB is defined as 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".¹

The 'arm's length' nature of public bodies means that their day-to-day decision making is independent of government, although ministers are ultimately responsible to Parliament for their NDPB's independence, effectiveness and efficiency.

NDPBs carry out a wide range of functions and as such, can be further classified into various groups:

Executive NDPBs – typically established in statute and carrying out executive, administrative, regulatory and/or commercial functions. Examples include the Environment Agency, Regional Development Agencies and national museums and galleries;

Advisory NDPBs – provide independent, expert advice to Ministers on a wide range of issues. Examples include the Low Pay Commission and the Committee on Standards in Public Life;

Tribunal NDPBs – have jurisdiction in a specialised field of law. Examples include Valuations Tribunals; and

Independent Monitoring Boards of Prisons, Immigration Removal Centres and Immigration Holding Rooms – formerly known as Boards of Visitors, these are independent "watchdogs" of the prison system.²

There is some disagreement about which bodies should be included in any list of non-departmental public bodies. Professor Matthew Flinders of Sheffield University has written that, "Nobody knows exactly how many quangos exist".³ For example, the Taxpayers Alliance has stated that:

...there are many SAPBs [Semi-Autonomous Public Bodies] which share critical characteristics of quangos without being NDPBs. Public Corporations, Executive Agencies and SAPBs overseen by Britain's other national executives should also be included.⁴

¹ Cabinet Office, *Public Bodies 2009*, p5

² *Ibid*, p5

³ Written evidence from Professor Matthew Flinders to the Public Administration Select Committee, *Smaller Government: Shrinking the Quango State*, QGO 02

⁴ Taxpayers Alliance, *ACA to YJB: A Guide to the UK's Semi-Autonomous Public Bodies 2007-08*, p8

In their 2010 report, *Read before Burning*, the Institute for Government identified at least 11 types of arm's length body (ALB). As well as the four outlined above, they added: Executive Agencies; Non Ministerial Departments; public corporations, independent statutory bodies, special health authorities, parliamentary bodies, and the central bank (the Bank of England).⁵

In 1999 the Public Administration Select Committee called for "greater clarity and consistency" to be brought to the "confusing network of bodies which play a crucial role in British Government".⁶ The Committee called for an annual 'map' of public bodies to be published. They recommended that the map should clearly classify bodies, and set out key information such as who was responsible for appointments to the body and the transparency arrangements which applied to it.⁷ In 2001 the Committee conducted their own 'mapping exercise'. The Committee defined 'quango' as:

...all bodies responsible for developing managing or delivering public services or policies, or for performing public functions, under governing bodies with a plural membership of wholly or largely appointed or self-appointing persons...⁸

Their definition excluded executive agencies, but included task forces and local public spending bodies.

More recently, in January 2011 PASC drew attention to the "complex and confusing nature of the public bodies' landscape". They concluded:

Simplifying this set-up is not a matter of administrative tidiness but a necessary step to ensure the accountability and effectiveness of these organisations. The current system is chaotic, making it difficult to understand why different types of bodies exist and what these variations mean in practice. We recommend that the Government use its triennial review process to re-examine the proper governance arrangements for each public body and place them in a new simplified taxonomy.⁹

2 The Public Bodies Bill [HL] 2010-11

2.1 Background

In September 2009 David Cameron, Leader of the Conservative Party, gave a speech in which he promised that a Conservative Government would carry out a review of all quangos:

The existence of each and every quango must be justified by passing one of three tests we have set:

- Does it undertake a precise technical operation?
- Is it necessary for impartial decisions to be made about the distribution of taxpayers' money?
- Does it fulfil a need for facts to be transparently determined, independent of political interference?

⁵ Tom Gash et al, *Read Before Burning: Arm's length government for a new administration*, Institute for Government, July 2010, p22

⁶ Public Administration Select committee, *Quangos*, 9 November 1999, HC 209 1998-99

⁷ *Ibid*

⁸ Public Administration Select Committee, *Mapping the Quango State*, 21 March 2001, HC 367 2000-01

⁹ Public Administration Select Committee, *Smaller Government: Shrinking the Quango State*, 7 January 2011, HC 537 2010-11, para 128

If the answer is yes, it will stay. But if the quango in question does not pass any of the tests it will go, its function assumed by departments of state and we can save a huge amount of money.¹⁰

The Conservative Party manifesto stated that:

Under Labour, the quango state has flourished. Government figures show that there are over 700 unelected bodies spending £46 billion every year, but this does not even include the range of advisory bodies, public corporations, taskforces and regional government bodies that have sprung up under Labour. We believe that Ministers should be responsible for government policy, not unelected bureaucrats. Any quangos that do not perform a technical function or a function that requires political impartiality, or act independently to establish facts, will be abolished. To increase the scrutiny of quangos, we will:

- give Select Committees the right to hold confirmation hearings for major public appointments, including the heads of quangos;
- examine the case for giving Select Committees the power to prevent increases in quango budgets; and,
- ensure that the National Audit Office has full access to the BBC's accounts.¹¹

The manifesto had also made particular reference to the activities of local councils being “micro-managed by unelected quangos”,¹² the need to abolish the Government Office for London,¹³ cutting the number of quangos “intervening in the energy market”,¹⁴ and abolishing many of the further education quangos that the previous Labour Government had put in place.¹⁵

The Liberal Democrat manifesto did not include an overarching policy on public body reform, but did consider reforms to individual public bodies, such as Regional Development Agencies,¹⁶ and Education bodies.¹⁷

The Coalition Agreement published on 20 May 2010 stated that the new Government would “reduce the number and cost of quangos”.¹⁸

2.2 The Queen’s speech and further statements

The Queen’s Speech at the opening of the 2010 Parliament stated that “The cost of bureaucracy and the number of public bodies will be reduced”.¹⁹ The accompanying documentation published by the Cabinet Office gave further details: there is to be a Public Bodies (Reform) Bill to:

Ensure that there will be a greater degree of transparency and accountability for all Public Bodies (‘quangos’); and provide Ministers with the powers to abolish, merge or transfer functions.

¹⁰ Speech made by David Cameron, ‘Cutting the Cost of Politics’, 8 September 2009

¹¹ Conservative Party, *An Invitation to Join the Government of Britain*, 2010, p81

¹² *Ibid*, p73

¹³ *Ibid*, p76

¹⁴ *Ibid*, p93

¹⁵ *Ibid*, p17

¹⁶ Liberal Democrats, *Liberal Democrat Manifesto 2010*, p26

¹⁷ *Ibid*, p35

¹⁸ HM Government, *The Coalition: Our programme for Government*, p16

¹⁹ HL Deb 25 May 2010 c6

In June 2010, the Minister for the Cabinet Office and Paymaster General, Francis Maude, told Parliament that:

We are committed to cutting the number of public bodies to increase accountability and cut costs. In future, each public body will have to meet one of three tests – does it perform a technical function, does it need to be politically impartial or does it act independently to establish facts? The Prime Minister has written to Cabinet colleagues asking them to apply those tests rigorously to the public bodies within their area of responsibility. I will be meeting colleagues in the coming weeks to take the review forward, and I expect to publish the outcome in the autumn with a view to introducing a public bodies Bill later this year.²⁰

2.3 Public bodies to be abolished – 14 October 2010 statement

On 14 October 2010 Francis Maude announced the outcome of the Government's review of public bodies against the three tests set out above, in both Written²¹ and Oral²² statements to the House. There are still some bodies which are subject to a longer-term review so further announcements on the future of particular public bodies are still expected.

Of the 901 non-departmental public bodies, non-ministerial departments and government owned public corporations and trading funds:

- 192 will cease to be public bodies (some will become 'committees of experts' and others will have their functions transferred into civil service departments);
- 118 will be merged into 57 bodies
- 171 are proposed for substantial reform whilst maintaining their current status
- 40 are listed as 'under consideration' with further announcements expected on their future.

The Written Statement announced that the remaining bodies will be subject to a triennial review, and would be "expected to become more open, accountable and efficient". The statement said that further details on the new framework for remaining bodies would be announced in the New Year.

Concluding his statement to the House, France Maude said that he believed that:

...these reforms are the first and necessary step to restoring proper democratic accountability to public life and signal a complete culture change in government, from one that ducks difficult decisions, is opaque and allows profligacy, inflated salaries and waste, to an administration which is open and transparent about what it does, takes responsibility for its actions and is mindful of every penny of taxpayers' money.

A list of the proposals for change to public bodies was placed in the Library of the House.²³

²⁰ HC Deb 9 June 2010 c313

²¹ [HC Deb 14 October 2010 c26WS](#)

²² [HC Deb 14 October 2010 c505](#)

²³ Cabinet Office, *Public Bodies Reform – Proposals for Change*, 14 October 2010

2.4 The Bill

The *Public Bodies Bill [HL]* was introduced on 28 October 2010 in the House of Lords as Bill 25 of Session 2010-11.²⁴ The Second Reading in the Lords is scheduled to take place on 9 November 2010.

The Bill is largely enabling legislation. It allows the Minister, by Order, to make, abolish, merge or transfer the function of the public bodies listed in the Schedules to the Bill. Such Orders would have to be made under the affirmative procedure. The various schedules to the Bill list bodies subject to the order-making powers as follows:

- Bodies which the Minister will have the power to abolish are listed in [Schedule 1](#)
- Bodies subject to the power to merge are listed in [Schedule 2](#)
- Bodies subject to the power to modify constitutional arrangements (that is, to change the structure or governance of these bodies) are listed in [Schedule 3](#)
- Bodies subject to the power to modify funding arrangements (for example, allowing public bodies to charge fees) are listed in [Schedule 4](#)
- Bodies subject to the power to modify or transfer functions are listed in [Schedule 5](#)
- Those bodies where a Minister would have the power to make provision by order to authorise it to delegate some or all of its functions to an eligible person are listed in [Schedule 6](#)
- [Schedule 7](#) specifies the bodies and offices which are subject to the power to add to the other schedules.

The Bill stipulates the objectives to which the Minister must have regard when making Orders to merge, abolish, transfer functions or modify constitutional arrangements of public bodies. The Explanatory Notes to the Bill list these as:

...achieving increased efficiency, effectiveness and economy in the exercise of public functions; and securing appropriate accountability to Ministers in the exercise of such functions. The Minister may for example, therefore, make an order to merge two regulatory bodies having regard to increasing their efficiency through eliminating a duplication of their functions.

There are also provisions in the Bill relating to environmental bodies in Wales and powers in relation to the functions of the Forestry Commissioners.²⁵

The Impact Assessment which accompanies the Bill states that bringing forward a single Bill which enables the changes to be made in secondary legislation was the Government's preferred option:

...because it only requires one piece of primary legislation thereby saving time on the floor of the House. Once the legislation has passed, departments can affect the changes they need, through the less time-consuming process of secondary legislation, as soon as they are ready to do so. The benefits of rationalisation will therefore be

²⁴ [Public Bodies Bill \[HL\] \(HL Bill 25 of 2010-11\)](#). See also the [Explanatory Notes](#)

²⁵ For more information see the Library Standard Note SN/SC/5734, [The Forestry Commission and the sale of public forests in England](#)

realised far more quickly. Using one enabling bill also sets up a coherent framework for change giving strength to the government's reform agenda.²⁶

The Impact Assessment also looks at the costs and benefits of the legislation:

There are three interlinked strands of cross-cutting issues that are likely to have major impacts associated with the use of the powers enabled by the Bill. These are equality, the affects of possible job losses and regional/ rural impacts.

Following a decision to abolish, merge or transfer the functions of a public body, it is possible that some members of staff will lose their jobs. At this time, it is not possible to quantify the costs or savings to the Government of redundancies, as it will be unclear until departments bring forward their statutory instruments how many staff in what areas will be made redundant. Costs associated with job losses include redundancy payments and the possible increase in those claiming benefits whilst unemployed. Departments will be able to mitigate some of these costs through redeployment of staff, but it is likely that some redundancies will be necessary. In these cases, Departments will follow employment law and HR policies to ensure fairness and avoid disputes.

It is possible that job losses may have an adverse impact on diversity. Departments should monitor this closely when preparing their statutory instruments, and should seek to ensure no group is disproportionately affected.

Certain regions are more heavily dependent on public sector employment than others. Public bodies employ approximately 110,000 members of staff across 766 bodies. The use of the powers in the Bill to abolish, merge or transfer the functions of a body will, as outlined above, lead to the closure of some bodies and resulting job losses. The impact of these losses is likely to be felt most strongly in regions that are most dependent on the public sector, and particularly in rural areas where access to services is more limited. When Departments are bringing forward their statutory instruments, they will be able to assess clearly what regions are most likely to be adversely affected by changes and make necessary adjustments to mitigate this as far as possible, such as by moving retained public bodies to affected regions...²⁷

The Bill has been subject to some criticism for the extent of the order-making powers.²⁸ The Government has tabled amendments to these powers, along with other aspects of the Bill. For more detailed information on the Bill and its progress so far please see Library Standard Note SN/PC/5845, [Progress of the Public Bodies Bill \[HL\] 2010-11](#).

3 A short history of public bodies

The use of arm's length public bodies to deliver government policy is not a new phenomenon: as a constitutional monarchy, the UK has long allowed Ministers to delegate government functions through the use of the Royal Prerogative. Examples date back as far as the sixteenth century, when new functions and responsibilities of the state were commonly given to appointed boards. For example, the Commissioners of Bankruptcy were founded in 1570; the Bank of England was founded in 1570; the British Museum, 1753; and the Met Office in 1854.

²⁶ *Public Bodies Bill: Impact Assessment*

²⁷ *Ibid*

²⁸ See for example, Select Committee on the Constitution, [Public Bodies Bill \[HL\]](#), 4 November 2010, HL Paper 51 2010-11; Delegated Powers and Regulatory Reform Committee, [Public Bodies Bill \[HL\]](#), 12 November 2010, HL Paper 57 2010-11

During the Twentieth Century, the growth in the number of public bodies was a subject of some concern. The Fulton Report on the Civil Service, published in 1968, noted that the increase in the numbers of public bodies needed to be met with thought about their accountability and responsibility arrangements, and recommended a review. Overall, the report favoured the 'hiving-off' of some functions of government:

...we see no reason to believe that the dividing line between activities for which Ministers are directly responsible, and those for which they are not, is necessarily drawn in the right place today. The creation of further autonomous bodies, and of the drawing of the line between them and central government, would raise parliamentary and constitutional issues, especially if they affected the answerability for sensitive matters such as social and educational services... We think, however, that the possibility of considerable hiving-off should be examined, and we therefore recommend an early and thorough review of the whole question.²⁹

Such a thorough review never took place at that time, and Fulton was correct in thinking that the growth of the quango state would raise parliamentary and constitutional issues. The 1990s saw some attempt to deal with these concerns. A series of reports by the Committee on Standards in Public Life and the Public Administration Select Committee sought to identify the problems with delegated governance and made a series of recommendations. In response, the Government first under Prime Minister John Major and then under Tony Blair introduced a number of measures for ensuring good practice in quangos. A Code of Practice was introduced for public appointments and the post of Commissioner for Public Appointments was established. In 2008 a system of pre-appointment hearings by select committees was introduced for certain public body appointments.

However, the size and cost of the 'quango state' has been the main source of perennial concern, as Professor Brian Hogwood of Strathclyde University wrote in 1995:

In 2008, or thereabouts, there will be a large number of news items about the growth in the number of bodies appointed by or funded by government. Many of these news items will be fuelled by what will still be called Written Answers recorded on the electronic version of *Hansard*, placed by MPs in the main party of opposition to the government in power, often at the behest of members of 'independent' think tanks established to challenge the conventional wisdom embodied in the incumbent government. This whimsical speculation is inspired by the common features behind the upsurge in interest in the late 1970s and that in the 1990s, and the distinct sense of déjà vu about much of the debate, with the common assumption that the phenomenon is a growing and worrying one.³⁰

4 The number and cost of public bodies

4.1 Number, staffing and cost of public bodies

Headline figures on the number of NDPBs are published by the Cabinet Office in an annual publication, *Public Bodies*.³¹ As at 31 March 2009, there were 766 NDPBs sponsored by the UK Government. Of these:

- 192 were Executive NDPBs;

²⁹ Brian Hogwood, 'The 'Growth' of Quangos: Evidence and Explanations', in *The Quango Debate* edited by F. F. Ridley and David Wilson, p29

³⁰ Brian Hogwood, 'The "Growth" of Quangos: Evidence and Explanations', in *The Quango Debate*, Edited by F. F. Ridley and David Wilson

³¹ Cabinet Office, *Public Bodies 2009*

- 405 were Advisory NDPBs;
- 19 were Tribunal NDPBs and
- 150 were Independent Monitoring Boards of Prisons, Immigration Removal Centres and Immigration Holding Rooms.

The 2009 Government publication, *Public Bodies*, provided the following details on staffing of NDPBs:

As at 31 March 2009, there were over 110,000 people employed by Executive NDPBs. With the exception of ACAS (the Advisory, Conciliation and Arbitration Service), the Child Maintenance and Enforcement Commission and the Health and Safety Executive, all NDPBs are non-Crown bodies. As such, the vast majority of directly employed staff are not civil servants.

In 2008/09, total expenditure by Executive NDPBs was around £46.5bn. Of this, around £38.4bn was funded directly by Government. The remainder was financed through a combination of fees and charges, levies, and other sources of funding (such as National Lottery or EU grants). Advisory and Tribunal NDPBs, and Independent Monitoring Boards, rarely generate their own expenditure. They are usually supported, and resourced, by their sponsoring department.

Differences in definitions of ‘quangos’ can lead to different findings on the size and cost of the quango state.

In his statement to the House on 14 October 2010, Francis Maude explained the difficulties in assessing the number and cost of public bodies, and the scope of the current Government’s review:

Our first task was quite simply to identify how many quangos there are and what they do. It may sound absurd but it was and remains incredibly difficult to gain firm information on such bodies. Many do not publish accounts, there is no central list and there are myriad different types all with different statuses. The official list of non-departmental public bodies has 679 bodies, excluding those in Northern Ireland, but that does not include non-ministerial departments, Government-owned public corporations or trading funds. Our review covered 901 bodies and we believe, but cannot be certain, that that is the true extent of the landscape. I stress that departmental – Executive agencies – are not in the review’s scope. They are directly controlled by Ministers who are accountable to Parliament for what they do.³²

The Taxpayers Alliance has published a list of public bodies which is much wider than that published by the Government as it includes bodies sponsored by the devolved administrations as well as local and NHS public bodies. According to its figures, in 2007-08 there were 1,148 Semi-autonomous Public Bodies operating in the UK, with Government spending over £90 billion on or through these bodies that year.³³

4.2 Previous reviews of the number and cost of public bodies

The new Governments of both 1979 and of 1997 promised to review and cut the size of the quango state, as has the 2010 Coalition Government. In 1978 Margaret Thatcher told the Conservative Party conference that:

³² HC Deb 14 October 2010 c505

³³ Taxpayers Alliance, *ACA to YJB: A Guide to the UK’s Semi-Autonomous Public Bodies 2007-08*

Today, instead of the voice of compassion, the croak of the quango is heard in the land. There may not be jobs for the workers, but there are certainly plenty of jobs for the boys.³⁴

And in 1995 the then Leader of the Opposition, Tony Blair pledged to “sweep away the quango state” if Labour won the next election.³⁵ The New Labour Government’s 1998 Paper, *Quangos: Opening the Doors* stated that the Government:

...was committed to reducing the number of NDPBs and will ensure that a new NDPB will only be set up where it can be demonstrated that this is the most cost-effective and appropriate means of carrying out the given function.³⁶

In 1979 Margaret Thatcher instructed her Cabinet to find savings from their non-departmental public bodies. In December 1979, she announced the abolition of 436 public bodies. Professor Flinders has noted that most of these bodies were advisory (some had not been active for some time). In addition, he states that Mrs Thatcher acknowledged that delegation would continue to play a role under her government. The absence of a full list of public bodies led Mrs Thatcher to commission a review conducted by Sir Leo Pliatsky which mapped the quango state. The Pliatsky report, however, only led to the abolition of 30 executive bodies although it did result in new guidance given to departments on NDPBs and annual government reports on NDPBs. The Ibbotson review and the Next Steps programmes of the 1980s led to further delegation of government functions to executive agencies. Professor Flinders concludes that “In short, delegation was a core-business philosophy for the Tory governments during 1979-97”.³⁷

A number of reviews carried out in the first years of the twenty-first century suggested rationalisation of the number and types of government bodies. The *Better Government Services* report published by the Prime Minister’s Office of Public Sector Reform highlighted differences in institutional design and weak links between some quangos and government departments.³⁸ These views were echoed by the Better Regulation Task Force in October 2003.³⁹ In 2004 the Gershon Review suggested that efficiency savings could be made through the amalgamation of certain public bodies.⁴⁰ The Haskins Review led to the abolition of several bodies and the amalgamation of others into a new organization, Natural England. In 2003-04 the Department of Health undertook a review of all its public bodies. The Review, chaired by Lord Warner, led to a reduction in the number of public bodies from 38 to 20. Professor Flinders argues that during this time:

...The sphere of delegated governance was reformed into a slightly smaller number of public bodies with broader responsibilities.⁴¹

The Labour government’s reforms of Arm’s Length Bodies were summarised in the 2010 Treasury Paper, *Reforming Arms’ Length Bodies*, as follows:

³⁴ Margaret Thatcher, Speech to Conservative Party Conference, 13 October 1978

³⁵ As quoted in Matthew Flinders, ‘MPs and Icebergs: Parliament and Delegated Governance’, *Parliamentary Affairs*, Vol. 57 No. 4, 2004

³⁶ As quoted in Public Administration Select committee, *Quangos*, 9 November 1999, HC 209 1998-99

³⁷ Matthew Flinders, *Delegated Governance and the British State*, 2008, p69

³⁸ Prime Minister’s Office of Public Sector Reform, *Better Public Services*, July 2002

³⁹ Better Regulation Task Force, *Independent Regulators*, October 2003

⁴⁰ Sir Peter Gershon, *Releasing Resources to the Front Line*, July 2004

⁴¹ Matthew Flinders, *Delegated Governance and the British State*, 2008, p86

- **bringing together services to deal more effectively with new challenges**, for example, creating Jobcentre Plus out of the Employment Service and Benefits Agency, and establishing the UK Border Agency from the Border and Immigration Agency, customs detection work at the boarder from HM Revenue and Customs, and UK Visa Services from the Foreign and Commonwealth Office;
- **establishing clearer objectives and holding ALBs to account for performance**, for example through the introduction of Public Service Agreements (PSAs), and ensuring ALBs support local performance through measures such as the legal duty to cooperate with councils in Local Area Agreements;
- **investing in service transformation**, for example in Jobcentre Plus, where 98 per cent of benefits are now paid directly into customers' bank accounts (rather than by giro cheques and order books). This provides a more convenient, secure service, and has saved more than £1 billion in administrative costs over 5 years; and
- **improving accountability** for example through the introduction of Freedom of Information legislation, and expanding the remits of the Parliamentary Ombudsman and the National Audit Office to cover more ALBs.⁴²

In July 2009 the *Smarter Government* programme stated that there was "scope to reform" arm's length bodies (ALBs). It announced that the number of bodies would be reduced by over 120.⁴³ ALBs to be merged or abolished were:

- 16 regional advisory committees relating to agricultural workers in England and the 15 regional committees in England that appoint each of them;
- rationalise the 101 Advisory Committees on Justices of the Peace to 49;
- reduce the number of Court Boards from 23 to 19;
- reduce the number of separate publicly funded bodies in the skills sector by 30 in the next three years;
- merge the Sentencing Guidelines Council and Sentencing Advisory Panel into a single Sentencing Council;
- merge four existing military museums into the new National Museum of the Royal Navy;
- merge the Postgraduate Medical Education and Training Board with the General Medical Council; and
- abolish HM Inspectorate of Courts Administration.⁴⁴

In March 2010 HM Treasury published *Reforming Arm's Length Bodies* which set out measures to achieve savings as follows:

- first, **the Government will save £500m by 2012-13 from ALBs**. The number of ALBs will be reduced by over 120. The Government will mutualise British Waterways to give waterways users greater involvement in management of this

⁴² HM Treasury, *Reforming Arm's Length Bodies*, March 2010, p5

⁴³ HM Government, *Putting the Frontline First: Smarter Government*, 2009

⁴⁴ HM Treasury, *Reforming Arm's Length Bodies*, March 2010

asset. In addition, the Government will consider proposals to introduce a Bill at the earliest opportunity to enable further obsolete bodies to be wound up and functions to be stopped;

- second, the Government will create a new hurdle that departments must overcome in order to propose a new ALB. A new ALB must be absolutely the last option. The **justification for new ALBs will be published** so that the public can hold the Government to account for the decision. There should be a presumption that any legislation creating an ALB includes a ‘sunset clause’ to make sure it does not outlive its useful function;
- third, **ALBs will face new restrictions on using lobbying or PR consultants.** Duplication of any function between ALBs and departments will be cut;
- fourth, to enable the public to see how efficiently ALBs spend public money – and the proportion that goes on staff costs and back office functions – **ALBs will comply with new requirements on transparency;** and
- finally, the Government will ensure all ALB boards have the right skills and composition to drive value for money and challenge performance. There will be sought sanctions for failure at board level, including **potentially extending the Company Directors Disqualification Act to ALB Chairs and Chief Executives.**

Liam Byrne, the Opposition spokesman, responded to Francis Maude’s Statement of 14 October 2010 as follows:

In March I told the House that 123 quangos would need to close, and from first glance at this statement it appears that two thirds of the 192 arm’s length bodies that need to close are those that I announced in March.⁴⁵

4.3 Why has the number of public bodies been difficult to control?

Despite these previous attempts to cut the size of the quango state, successive Governments have continued to create new public bodies to carry out various functions. As the Public Administration Select Committee commented in 1999, “undoubtedly, this is partly because quangos can perform useful functions”.⁴⁶ By dividing the functional responsibilities of the state amongst a range of single purpose quangos, the Government has been able to, in effect, ‘de-politicise’ service delivery and develop specialist skills. In his 1980 report, Pliatsky considered why governments created quangos:

Because the work is of an executive character which does not require ministers to take responsibility for its day to day management; because the work is more effectively carried out by a single purpose organisation rather than by a government department with a range of functions; in order to involve people from outside of government in the direction of the organisation; in order to place the performance of a function outside the party political arena.

The ability to do this has been a temptation for governments for many decades. Despite the Coalition Government’s commitment to cut the number of quangos, several commentators asserted that the Conservative’s plans for a ‘bonfire of the quangos’ included plans to create 17 new ones, such as the Office of Tax Simplification and the Office of Budget Responsibility.

⁴⁵ HC Deb 14 October 2010 c507

⁴⁶ Public Administration Select committee, *Quangos*, 9 November 1999, HC 209 1998-99

During the Labour Governments, quangos were an attractive option for solving a number of difficult public policy issues, as Matthew Flinders has explained:

In the health sector, for example, the disagreement between the Chancellor of the Exchequer and the Health Secretary over foundation hospitals led to the creation of the Office of the Independent Regulator for NHS Foundation Hospitals; tensions between the Home Office and senior members of the judiciary over sentencing led to the creation of the independent Sentencing Guidelines Council; plans to increase the capacity of universities to raise tuition charges led to the establishment of the Office of Fair Access; concerns regarding the proceeds of crime led to the setting up of the Assets Recovery Agency; the government's response to terrorist attacks led to the Creation of the Independent Reviewer of the Anti-Terrorism, Crime and Security Act 2001; the programme of constitutional reform led to the establishment of the Electoral Commission, Office of the Information Commissioner, and Independent House of Lords Appointments Commission; tensions in Ireland saw the creation of the Parades Commission and Sentence Review Commission; financial difficulties in the nuclear energy sector led to the creation of the Nuclear Decommissioning Authority; and disputes between Transport for London and the various private contractors working on the redevelopment of the London Underground system were delegated to the Office of the Public Private Partnership Arbiter. Specific incidents and controversies also led to the creation of new bodies. The death of twenty cockle pickers in Morecambe Bay led to the creation of a Gangmasters Licensing Authority in 2004, the scandals of organ retention at Alder Hey and Bristol hospitals led to the Retained Organs Commission in 2001 and then the Human Tissue Authority in 2004, concerns regarding criminal involvement in the security industry led to the foundation of the Security Industry Authority in 2001, while the government's response to the death of school pupils on a field trip took the form of the Adventure Activities Licensing Authority.

The Taxpayers Alliance points to the interest groups and networks which group up around quangos as reasons why once established, they are hard to abolish:

Once established, a SAPB [semi-autonomous public body] is very hard to abolish; politically vocal groups become attached and reforms or cut backs are vigorously opposed.⁴⁷

The HM Treasury March 2010 document, *Reforming Arm's Length Bodies*, identified four principal problem areas in controlling the cost and efficiency of NDPBs:

- **it can be easier to set up a new arm's length body, rather than fit functions into existing bodies.** A new organisation must only be introduced as a last option and must be designed to drive value for money;
- **it can be insufficiently clear where the boundary of responsibilities is drawn between a department and an ALB.** The presumption is to be that ALBs are given clear objectives and the operational freedom to deliver results, and be properly held to account for their performance. Departments may need to constrain ALBs' freedoms in order to achieve wider objectives, but this should be clearly specified. Lack of clarity can lead to the costs of duplication and micro-management by the Government departments and need to absolutely rule this out.
- **accountability mechanisms rely too much on top down rather than bottom up measures.** More transparency will enable citizens and Parliament to be sure ALBs are providing value for money and take action if they feel that they are not; and

⁴⁷ Taxpayers Alliance, *ACA to YJB: A Guide to the UK's Semi-Autonomous Public Bodies 2007-08*, p4

- **performance management focuses too much on box-ticking** and too little on supporting senior managers, building capabilities and dealing swiftly with failure.⁴⁸

The document created new rules to tackle these problems:

Tighter start-up process to ensure new ALBs are only created when this is the most efficient means of delivery

Rules:

- departments to publish a thorough value for money assessment for all new ALBs, setting out how ALBs will achieve operational efficiency through sharing back office functions and efficient use of the government estate;
- departments to ensure any legislation establishing new ALBs includes sunset clauses; and
- government to conduct a cross-Whitehall exercise to assess whether a one-off Bill to tidy up outdated legislation and enable obsolete bodies to be wound up would be worthwhile.

A tighter relationship between departments and ALBs to avoid duplication and cost

Rules:

- new rules limiting what ALBs can do, with restrictions around marketing and lobbying; and
- all departments to introduce a systematic process for reviewing ALBs, to be signed off by HM Treasury.

New transparency so that it is easier for the public, local bodies and Parliament to hold ALBs to account

Rules:

- require ALBs to publish more information, more often, about their performance; and
- require ALBs to publish, where relevant, how they engage with local public bodies, such as local authorities.

Strengthen and simplify corporate governance to improve focus on best value for money

Rules:

- all ALB boards to be streamlined, with the right skills and composition to drive VfM and challenge performance;
- support departments to raise their game in sponsoring and holding ALBs to account; and
- tougher sanctions for failure, including potentially extending sanctions in the Company Directors' Disqualification Act to ALBs Chairs and Chief Executives.⁴⁹

In its July 2010 report, *Read Before Burning*, the Institute for Government stated that:

Previous attempts at reform of arm's length government in the UK have tended to focus on reducing the numbers of ALBs. Ongoing focus on cost is clearly inevitable in the current fiscal climate and some functions performed by ALBs may be considered no longer to be affordable. But, based on historical experience, an excessive focus on the number of bodies will be unlikely to yield long-term improvements to arm's length government, and it neglects the fact that ALB spending is concentrated in just a

⁴⁸ HM Treasury, [Reforming Arm's Length Bodies](#), March 2010, p11

⁴⁹ HM Treasury, [Reforming Arm's Length Bodies](#), March 2010, p23

handful of larger bodies. Restructurings can be an effective way of achieving economies of scale but, given the costs and disruption involved, care should be taken to ensure that any such moves are justified by a clear business case...⁵⁰

4.4 Savings from cutting the number of quangos

Statements from the current Government whilst in Opposition talked about the ability to “save a huge amount of money” by cutting the number of NDPBs.⁵¹ However, on 14 October 2010 Francis Maude stated that:

Savings will be made as a result of the exercise, but, as I said out the outset, it is not principally about saving money, although it will do so. It is principally about increasing accountability.⁵²

There have been some reports in the press about the costs of abolishing some public bodies which have existing liabilities, and which will need to pay redundancy payments to staff. On 8 October 2010 the *Guardian* reported that:

The Audit Commission alone, which the communities secretary, Eric Pickles, has axed, is facing nearly £500m in liabilities. A letter from the chief executive, Eugene Sullivan, to the permanent secretary in Pickles's department and the National Audit Office warns that the costs include pounds 75m in redundancy packages and £15m in contracts for rented properties. There is also an estimated £400m in pensions liabilities.

The annual budget for the commission is £200m, but the letter says that has already been reduced to £46m by 2014. If the winding-up costs are not mitigated, it could be 10 years before the government sees any significant savings from the closing down of the commission.

The Crown Prosecution Service, which is expected to be merged or dramatically scaled down, has submitted a bid to the Treasury for £40m to fund exit schemes, according to a leaked internal document. The annual budget is £82m and the document does not provide details of the cost of its pensions and other liabilities.

The nine regional development agencies, which have a joint budget for this year of £1.4bn to help promote industry around the country but are to be abolished, are understood to have liabilities in the region of £1.5bn. They are also tied into contracts that stretch beyond 2012.

Standards for England, the local government watchdog, receives an annual grant of £6m, but the costs of scrapping in terms of its pension liabilities alone could be up to £12m. The Film Council, axed by the culture secretary, Jeremy Hunt, last month, distributed £160m over 10 years with an annual administration budget of around £3m, which Hunt has said would be better spent on directly making films. Its estimated winding-down cost, obtained under the Freedom of Information Act, amounts to £11.3m.

Chris Banks, head of the Public Chairs Forum, which represents quango bosses, said: "The scale of the potential changes is unprecedented, so it is vital that the reductions in

⁵⁰ Tom Gash et al, *Read Before Burning: Arm's length government for a new administration*, Institute for Government, July 2010, p52

⁵¹ Speech made by David Cameron, 'Cutting the Cost of Politics', 8 September 2009

⁵² HC Deb 14 October 2010 c508

overhead costs achieved by mergers, abolitions and changes to new arrangements are not wiped out by deterioration in the service delivered."⁵³

The Institute for Government's 2010 report, *Read Before Burning*, argued that cutting the number of quangos would not necessarily lead to a reduction in their costs:

...Research conducted for us by the National Audit Office (NAO) shows that nearly 80% of non-departmental public body (NDPB) expenditure is located in just 15 NDPBs (out of nearly 800 executive and advisory NDPBs), while just seven executive agencies employ more than three quarters of all agency staff. What's more, much of the money 'spent' by NDPBs could not realistically be reduced by simply abolishing a body: 65% of NDPB costs are grants that are passed on to others, funding universities, legal aid and other core government functions. To make cuts in these areas, difficult policy decisions would be required. Advisory bodies, usually the first target in a government cull, account for nearly half of all ALBs but most do not even have their own budgets and simply offer a way of bringing expert advice to policy-makers at lower cost than they would through consultancy contracts. Mergers, another default in a cull, can also be problematic: Institute for Government and NAO research has shown the significant costs and disruption that have resulted from past government reorganisations – more than £750 million in direct costs over four years from 2005-2009 – although mergers can, on occasion, bring benefits.⁵⁴

Francis Maude was asked by the Public Administration Select Committee whether the Government would publish the costing figures for the reorganisations of quango functions. The Minister stated, "I guess departments will want to do that as they finalise the plans, yes".⁵⁵ In their January 2011 report, *Smaller Government: Shrinking the Quango State*, the Public Administration Select Committee reported:

We asked Sir Gus O'Donnell, Cabinet Secretary, to write to us with the latest estimates of the total savings likely to be achieved by the review. In his response he emphasised that the "primary reason for the reforms to public bodies is to ensure that accountability rests in the right place". But he continued that he expected "the exercise will reduce duplication of effort and activity, either by stopping functions that are no longer vital to the delivery of public services, or by streamlining activities and reducing administrative costs". He was not able to give us an estimate for the total cost saving, merely saying that public body reform would "make a contribution" to the achievement of wider targets for administrative savings".

At the outset, both accountability and value for money were considerations, but the extent to which quangos reform would yield significant savings was probably exaggerated. This created a false expectation that the review would deliver greater savings than it has been able to realise. Consequently, the Government appears unsure about the extent to which the reform will result in significant savings for the taxpayer.⁵⁶

5 Accountability

Francis Maude told the House of Commons on 14 October 2010 that the primary objective of his reforms to public bodies was "increasing accountability". He said:

⁵³ 'Why cutting 180 quangos will cost as much as it saves', Guardian, 8 October 2010

⁵⁴ Tom Gash et al, *Read Before Burning: Arm's length government for a new administration*, Institute for Government, July 2010, p11

⁵⁵ Oral evidence taken before the Public Administration Select Committee on 9 November 2010, to be published as HC 537-i 2010-11, *Small Government: Shrinking the quango State*, Q121

⁵⁶ paras 82-83

...the important presumption that when an activity is carried out by the state, and there is no pressing need to do so at arm's length from government, it should be carried out by someone who is accountable democratically, either a Minister who is accountable to this House, to the public, or a local authority that is accountable to local residents.⁵⁷

He continued:

They [public bodies] will be expected to become more open, accountable and efficient. In the new year, I shall outline to the House in more detail the new framework for those remaining quangos.⁵⁸

Concerns about the accountability of non-departmental public bodies are not new. Civil servants operate within an organisation, traditionally a department, headed by a Minister who is accountable to Parliament between elections and to the public at elections. Quangos are established precisely to avoid ministerial involvement – operating at arm's length from the Ministerial department. However, this distance and lack of involvement can also translate into a lack of direct democratic accountability for the actions, effectiveness and efficiency of arm's length bodies. In its 1999 report, *Quangos*, the Public Administration Select Committee explained that:

The main bodies of central and local government are directly accountable to the people through elections and through Parliament. Quangos, despite the amount that they do, and the importance of what they do, are not. Their accountability lies instead to those (who may be Ministers or other organisations) who established them. For this reason, they have been seen as organisations which lack democratic legitimacy and popular respect...⁵⁹

Professor Flinders has explained that during the 1980s:

...It quickly became apparent that agencification had affected ministerial responsibility in a number of ways. Notably, the procedures for answering PQs were altered so that agency chief executives answered questions concerning operational issues and changes to Hansard were made to accommodate this adjustment.⁶⁰

In 2002 the Liaison Committee published a list of core tasks of select committees. Core task number seven was:

To monitor the work of the department's Executive Agencies, NDPBs, regulators and other associated public bodies.⁶¹

Select committees report against the core tasks each year, and these reports show active consideration of departmental public bodies.

The Cabinet Office guidance on Public Bodies explains the formal position that:

Whilst NDPBs are distanced from government, the responsible minister is accountable to Parliament for the degree of independence which a NDPB enjoys; for its usefulness as an instrument of government policy; and so ultimately for the overall effectiveness and efficiency with which it carries out its functions. Ministers also remain accountable

⁵⁷ HC Deb 14 October 2010 c508

⁵⁸ *Ibid*, c506

⁵⁹ Public Administration Select Committee, *Quangos*, 9 November 1999, HC 209-I 1998-99 (including HC 1118 of Session 1997-98), para 2

⁶⁰ Matthew Flinders, *Delegated Governance and the British State*, 2008, p79

⁶¹ Liaison Committee, *Annual Report 2002*, 1 April 2003, HC 558 2002-03, para 13

to Parliament for public money spent by a NDPB, even though bodies operate at arm's length with their own designated accounting officers. NDPBs are also accountable to the public for the services which they provide.

However, the Taxpayers Alliance are more sceptical about the effectiveness of the accountability arrangements:

While all SAPBs are notionally accountable to a parliament, the excessive cost involved in monitoring such bodies means that, in practice, accountability is minimal. More often than not, SAPBs are used by ministers to avoid taking responsibility for failures in public service delivery. The Qualifications and Curriculum Authority (QCA) for instance, provided a useful buffer for Departmental Ministers during the SATS fiasco.⁶²

The Public Administration Select Committee considered the accountability of public bodies in their January 2011 report, *Smaller Government: Shrinking the Quango State*. They concluded that it was not clear that the Government's plans to bring functions previously conducted by quangos into civil service departments would necessarily improve accountability:

The Government has not made the case that these reforms will improve accountability. We believe that its narrow definition of accountability has inhibited its ability to develop mechanisms that will actually deliver a more responsible and transparent system. We sympathise with the desire of ministers to have direct responsibility for functions for which they are likely to be held account. But we also believe that bringing functions back into sponsor departments is likely to undermine other channels of accountability, particularly with relevant stakeholder groups, and risk leaving policies fighting numerous other priorities for ministerial attention. This will mean less effective accountability and challenge on a day-to-day basis.⁶³

Instead, the Committee suggested that some quangos should instead become Executive Agencies:

We believe that the Executive Agency model offers a possible solution. It allows ministers direct responsibility for policy, combined with the ability to influence it, while still enabling high quality "day-to-day" accountability by stakeholder groups. We recommend that the Government consider converting those organisations which it intends to retain and move into Government departments into Executive Agencies. If this is not feasible, we recommend the Government explain why this is not a workable solution.⁶⁴

6 Appointments

Quango posts are filled through a system of public appointments. This was traditionally overseen by ministers, operating under the royal prerogative. In the early 1990s a number of surveys indicated a preponderance of business people on the boards of quangos, some with links to the then Conservative Government. This led to suspicions of Ministerial bias and the operation of patronage in the public appointments system.

⁶² Taxpayers Alliance, *ACA to YJB: A Guide to the UK's Semi-Autonomous Public Bodies 2007-08*, p4

⁶³ Public Administration Select Committee, *Smaller Government: Shrinking the Quango State*, 7 January 2011, HC 537 2010-11, paras 96

⁶⁴ *Ibid*, para 97

In 1995 the Government established the Committee on Standards in Public Life (CSPL) with a remit to examine the public appointments system. The first report from CSPL recommended the inclusion of an independent person or body in the public appointment process and the introduction of external regulation in the form of the Commissioner for Public Appointments (CPA).⁶⁵ From 1 April 2011 the Commissioner for Public Appointments will be Sir David Normington.

The Commissioner's Code of Practice provides the regulatory framework for the process of making appointments. It covers a range of ministerial appointments. The Commissioner does not regulate appointments processes in relation to all public appointments. Those public appointments which fall within the Commissioner's remit are those listed in the Schedule to the relevant Public Appointments Order in Council, and those specified by the Minister for the Cabinet Office by Instrument in Writing as falling within her remit.

Currently the types of public bodies which fall within the Commissioner's remit are:-

- Executive non-departmental public bodies;
- Advisory non-departmental public bodies;
- health bodies;
- Public Corporations;
- Public Broadcasting Authorities;
- certain Utility Regulators;
- Non-Ministerial Departments;
- National Park Authorities in England and Wales; and
- Conservation Boards for Areas of Outstanding Natural Beauty.⁶⁶

Under the Commissioner's Code, ministers are consulted early in the planning stage to agree both the selection criteria and the way in which the appointments process is to be conducted. Once the panel has selected appointable candidates, ministers are given a choice from which to make a final selection. Depending on the ministerial preference at the beginning of the exercise, the candidates may or may not be ranked in order of merit.

In addition, the Office of the Commissioner for Public Appointment's external auditors are responsible for conducting rolling departmental reviews to ensure that quangos comply with the Commissioner's Code and standards of good practice.

The Governance of Britain Green Paper, published in July 2007, announced plans for select committees to be involved in some public appointments. For most posts, these hearings would take place after a "single preferred candidate" had been identified through proper procedures but before the minister confirms the appointment. The committees would not be able to veto the appointments. After some to-ing and fro-ing between the Liaison Committee and the then Minister for the Cabinet Office, Ed Miliband, a list of posts to which these pre-appointment hearings would apply was agreed. The list includes a number of appointments to non-departmental public bodies.⁶⁷ The hearings focus on the professional competence and the personal independence of the candidate. More information on pre-appointment hearings is available in the Library Standard Note, SN/PC/4387, [Parliamentary Involvement in Public Appointments](#).

⁶⁵ For more background information about the establishment of the Office of the Commissioner for Public Appointments see Library Standard Note, SN/PC/3368, [The Commissioner for Public Appointments](#)

⁶⁶ Office of the Public Appointments Commissioner, [Which appointments does the Commissioner regulate?](#)

⁶⁷ For more information, including the list of the appointments which are subject to pre-appointment hearings, see Library Standard Note, SN/PC/4387, [Parliamentary Involvement in Public Appointments](#)

7 Parliamentary scrutiny of proposals to establish new quangos

In their 2010 Report, *Read Before Burning*, the Institute for Government recommended that:

Parliament should ensure that no new ALB can be established without a written business case, which must be approved by the Cabinet Office and subjected to scrutiny by the relevant select committee and by the Public Administration Select Committee (PASC). The PASC should have a specific horizon-scanning remit to ensure that the form an ALB takes follows from the function it performs. Given the costs and disruption involved, these committees should also scrutinise business cases for any proposed reorganisations of existing bodies, and no reorganisation should be permitted without a clear business case...⁶⁸

In July 2010, the Public Administration Select Committee asked the two Cabinet Office ministers, Oliver Letwin and Francis Maude, whether they would consider giving PASC the role described by the Institute for Government. The exchange was as follows:

Nick de Bois: Would you give PASC a role in approving new or reorganised arm's-length bodies as, I think it was, the Institute for Government recommended?

Mr Maude: It is not a bad idea actually.

Mr Letwin: That is a rather attractive idea.

Mr Maude: So you can take that as a yes.⁶⁹

The Committee's Chair, Bernard Jenkin, has commented that:

Quangos are often criticised as being unelected and unaccountable, but this new role gives MPs on the Public Administration Select Committee a chance to keep tabs on the creation of new and reorganised public bodies.

I am delighted that the new Government has taken this step, because it makes the executive more accountable to Parliament – which in turn will improve the way democracy works in the UK.⁷⁰

In their January 2011 report, PASC stated that:

We intend to bring forward proposals to strengthen Select Committees' role in scrutinising changes to public bodies in our future report on the detail of the Public Bodies Reform Bill.⁷¹

⁶⁸ Tom Gash et al, *Read Before Burning: Arm's length government for a new administration*, Institute for Government, July 2010, p52

⁶⁹ Uncorrected Transcript of Oral Evidence taken before the Public Administration Select Committee, *Civil Service Compensation Scheme/ Work of the Cabinet Office*, Rt Hon Francis Maude MP and Rt Hon Oliver Letwin MP, 27 July 2010, to be published as HC 397-i, Q69

⁷⁰ Public Administration Select Committee Press Notice, *MPs to get new role in approving new quangos*, 28 July 2010

⁷¹ Public Administration Select Committee, *Smaller Government: Shrinking the Quango State*, 7 January 2011, HC 537 2010-11, para 99