



Cabinet Office

Public Bodies Handbook – Part 1

Classification Of Public Bodies: Guidance For Departments



Introduction

The Importance Of Classification

Administrative classification will provide departments with the guidance and ability to create arm's length bodies that fulfil their governance objectives within a clear, consistent and comparable system. This system will lead to a simplified and more transparent public bodies' landscape, promoting greater accountability. It will provide a clear and intelligible map of the landscape and aid public and internal understanding of relationships between public bodies and government ministers. It will also promote efficiency and effectiveness, helping to drive strategic reform of the landscape and the development of best practice models.

The Classification Framework

The system of administrative classification comprises the 'framework', and the 'process' of applying that framework to public bodies. This is the part of the classification system that handles the application of the framework as public bodies are established, modified or closed. The framework is the supporting structure to administrative classification.

The guiding principle underlying the framework is that the classification of an arm's length body ('ALB') should be determined by the degree of freedom that body needs from ministerial control to perform its functions.

It is made up of three categories of ALBs: Executive Agency, Non Departmental Public Body, and Non Ministerial Department. The framework establishes the differences between these categories and the relationship each has to its home or sponsoring department if it has one.

About This Guidance

This 'Classification of Public Bodies' document is departmental guidance from the Cabinet Office. It sets out the different categories of the UK's public bodies, and:

provides a high level introduction to the early decision making process for establishing different types of public bodies;

summarises and provides a first point of reference on the main characteristics of each of the ALBs that the Cabinet Office focusses on, as well as those of other forms of public bodies; and

provides information on some of the now defunct or legacy forms of public bodies that still exist.

This document is to be read as an introduction and high-level guide for establishing public bodies. It should be read in conjunction with the rest of the Public Bodies Guidance Handbook, which will cover in more detail the actual steps required to setting up ALBs, and related issues. Part 1 of the Handbook provides guidance on the classification of public bodies and provides definitions of the categories of **public bodies** that operate within the **public sector**. The main focus is on **arm's length bodies**, though for context it also provides an overview of public corporations, certain Parliamentary bodies, public bodies belonging to the Devolved Assemblies, Local Government public bodies and some entities that operate within Ministerial Departments. Whilst there may be other entities that perform a public or Government function unless they fall into the above forms, they are out of scope, as are private sector entities. It updates and replaces the *Categories of Public Bodies: A guide for Departments* issued by the Cabinet Office in April 2012.

Introduction

Public bodies are diverse, which means classification is not always a simple process. For ease of reference, and to help departments understand the different delivery models that exist, this guidance sets out the main categories of public body. This guidance covers:

The ALBs that are classified.

Other non-classified central government and parliamentary entities.
Department Specific, Devolved Assembly and Local Government public bodies.

Public corporations.

The information on bodies that are not administratively classified has been included to provide an overview of the wider UK public bodies landscape. It does this in a way that allows for relatively easy comparison between these different types of public bodies, by looking at the sorts of factors that impact on their design and creation, then listing the key common characteristics that make up and differentiate each category of public body.

The Role Of The Public Bodies Reform Team

The Cabinet Office's Public Bodies Reform Team should be contacted by departments that wish to establish new ALBs. Early involvement of all relevant parties, including the department's central governance (or dedicated public bodies) team and the relevant HM Treasury Spending Team, is important to ensure that a body is classified correctly and in accordance with Government and departmental intentions for the body in question. This also allows scope for amendments to the governance and control arrangements to be considered before the public body is formally classified to a particular category of public body.



The Public Sector & Its Public Bodies

Public Sector

The 'public sector' is defined by the Office of National Statistics ('ONS') with reference to the European System of Accounts 1995 in accordance with EU requirements for Governments to produce accurate public sector finances and national accounts. The National Accounts (or Sectoral) classification of entities as public or private depends on the level of government control over the general corporate policy of the entity being classified. This can be direct or indirect and may be evidenced by indicators that include:

The ability to appoint those in control, or those who determine the policy of the entity; and / or

A right to be consulted over such appointments, or to have a veto over appointments; and / or

The provision of funding accompanied by rights of control over how that funding is spent; and / or

A general right to control the day-to-day running of the body.

Once the ONS has classified a body as public sector (its general corporate policy is controlled by the government) it is classified to a particular sub-sector based on its characteristics. These sub-sectors are:

Central Government:

includes Government Departments and their ALBs: Executive Agencies, Non-Departmental Public Bodies, Non Ministerial Departments, and any other non-market bodies controlled and mainly financed by them;

Local Government:

includes those types of public administration that only cover a specific locality and any non-market bodies controlled and mainly financed by them (**see chapter 5**); and

Public Corporations:

market bodies controlled by either Central Government or Local Government. These include any type of public entity that is a market body. Market bodies are defined as entities that gain over 50 per cent of their income from purely commercial activities (**see chapter 6**).

More details on sectoral classification for the national accounts are available from the ONS website <http://www.ons.gov.uk/ons/guide-method/classifications/na-classifications/the-ons-classification-process/index.html>.

Public Bodies

A 'public body' is a formally established organisation that is (at least in part) publically funded to deliver a public or government service, though not as a ministerial department. The term refers to a wide range of entities that are covered as within the Public Sector. This does not include forms of public entity that do not require staff to carry out their functions, such as public funds or trusts.

Arm's Length Bodies

The main focus of this document and of most interest to departments are 'arm's length bodies' or 'ALBs'. These are a specific category of public body that are administratively classified by the Cabinet Office. ALBs include: Executive Agencies ('EA'), Non Departmental Public Bodies ('NDPBs') and Non Ministerial Departments ('NMDs').

Charities

It is worth noting that some Public Bodies are also classified and registered as charities by the Charities Commission. This is a separate system of classification that applies to institutions that are established for charitable purposes only and subject to the control of the High Court's charity law jurisdiction. This is mentioned for information only, and is not within the scope of this document. More information about UK charities can be found here: <https://www.gov.uk/government/publications/what-makes-a-charity-cc4/what-makes-a-charity-cc4>

Chapter One

How To Reach The Right Category Of Public Body

1.1 Determinant Factors

New public bodies should only be created if there is a clear and pressing requirement, a clear need for the state to provide the function or service through a public body, and no viable alternative - effectively establishing new public bodies as a last resort. This is to prevent any unnecessary increase in the number of public bodies.

Departments should consider whether the proposed functions are needed, and whether there are any alternatives to establishing a new public body (this requires at least a basic understanding of the various alternatives for delivering new services or functions). These initial considerations form the first part of the *determinant* factors that lead to the main types of public bodies available.

1.1.1 Initial Considerations

The following decision tree sets out a range of issues that departments should consider when setting up new public bodies. This is not an exhaustive list and departments should think creatively when considering how new services or functions should be delivered. However, as a minimum, departments should explore the following options as a precursor to choosing the form of delivery for that function:

Chart 1 Initial Questions On Setting Up Public Bodies

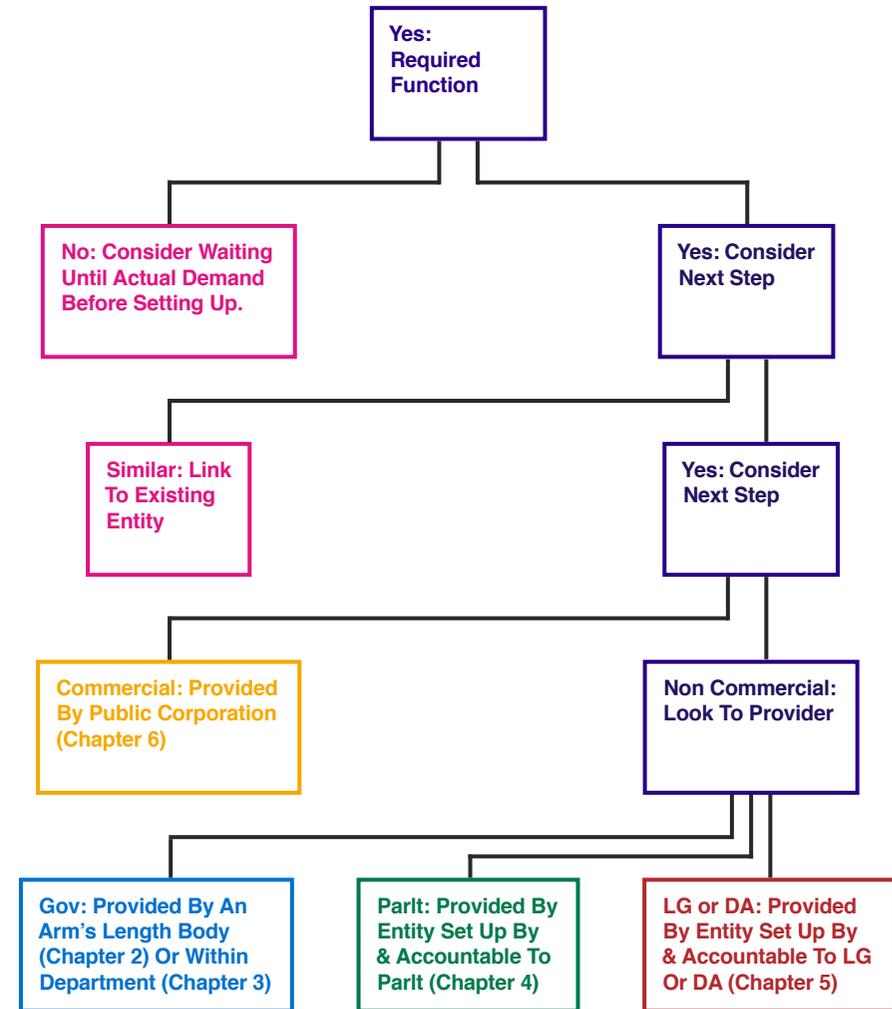
Is the proposed public or government service or function really needed, and should it be provided by the state?

Is there sufficient demand for this, and does it contribute to Government policy, commitment or legal obligation?

Is it unique or something sufficiently similar already being provided elsewhere?

Will this entity operate commercially, covering over 50% of its cost from commercial activities

Should the function be provided by Government ('Gov'), Parliament ('Parl'), Local Government ('LG') or a Devolved Administration ('DA')?



1.2 Options Of Public Bodies

Once departments have considered the initial questions contained within Chart 1, there follow a series of options for each category dependent on whether the entity receives over 50 per cent of its funding from commercial activities and then which part of the state should be accountable and administer the body (the Government, Parliament, Local Government or the Devolved Administrations.

The main resulting categories of public entity are as follows:

1.2.1 Administratively Classified Government ALBs:

These are the main recognised categories of public bodies within the UK. They are subject to ONS National Accounts classification, as Central Government. These categories are the preferred method for delivery for department sponsored public bodies (that do not have a majority income from commercial activities).

Each of the categories listed below are covered in greater detail within subsequent sections of the Public Bodies Guidance Handbook. See Chapter 2 for more information on the following categories of ALB:

Executive Agency – a public body that acts as an arm of its home department.

Non Departmental Public Body – a public body that operates separately from its sponsoring department.

Non Ministerial Department – a public body that shares many characteristics with a full department, but without a minister and acts separately from any sponsoring department.

1.2.2. Non-Classified Government Entities:

These are some of the categories of Government public bodies that are not covered by administrative classification. They are included in this document to provide a fuller description of the overall public bodies' landscape. See Chapter 3 for more information on the following forms of non-administratively classified government entities:

Offices and Taskforces – distinct groups within a department that are usually set up to deliver on a specific task or project.

Working Groups – department specific teams of advisors usually civil servants, though can include external specialists; advice does not need to be independent of the department.

Expert Committees – committees of independent specialists, administered from within a department.

Statutory Office Holder – post created by legislation to carry out public functions.

Department specific – public bodies that are uniquely classified by specific departments.

1.2.3 Non-Classified Parliamentary Bodies:

While the majority of public bodies that operate within the UK are established and operated by the Government, some are set up by and directly accountable to Parliament. See Chapter 4 for more information on Parliamentary bodies.

1.2.4 Non-Classified Local Government & Devolved Administration Bodies:

Similar to Parliamentary bodies, these are set up by and directly accountable to either Local Government or the Devolved Administrations. See Chapter 5 for more information on each.

1.2.5 Public Corporations:

Any public entity that is at least 50 per cent funded through commercial activities will be classified by the ONS National Accounts system as a Public Corporation. These are only included in this document for illustrative purposes. See Chapter 6 for more information on Public Corporations.

1.3 Category's Characteristics

Each of the three categories of ALB possess certain characteristics (listed below) that are consistent and comparable, meaning all examples of a particular category will have the same characteristics no matter what they do or which department they are sponsored by. The individual category specific combination of characteristics will form a unique list that help define (and contrast the differences between) the categories of ALBs and some of the other forms of public bodies.

These comparable characteristics are:

Sources of Funding / Income:

Examines the different public and private revenue streams available for funding public bodies.

Relationship to the Home Department:

Covering oversight and accountability, by listing the ability for departments to control public bodies from a strategic, policy or operational level, as well as addressing how they are accountable and to whom.

Setup and Position in Government:

Looks at how public bodies are established, and where they fit within Departments.

Duration:

Covers how long a public body will operate for.

Appointments and Management:

Looks at how the public body is managed at a senior level and how that management structure is appointed.

Status of Staff:

Covers whether the staff are civil servants or another category of public servants, as well as how they are employed and their status.

Financial Accounts:

Examines where the public body's accounts are prepared and published.

These characteristics and the options for each of them are fully covered in **Appendix A**. They are also presented in a comparative table which lists the characteristics for most of the categories of public body in **Appendix B**.



Chapter Two

Categories Of Government Arm's Length Body

Chapter 2 | Classified Arm's Length Public Bodies

This chapter covers the three categories of administratively classified arm's length public bodies, which include Executive Agencies, Non Departmental Public Bodies and Non Ministerial Departments. The following sections will provide details on the determinant factors that lead to each category and the unique pattern of comparable characteristics that typify each of these administrative categories. The following decision tree lists the main options for administratively classified ALBs.

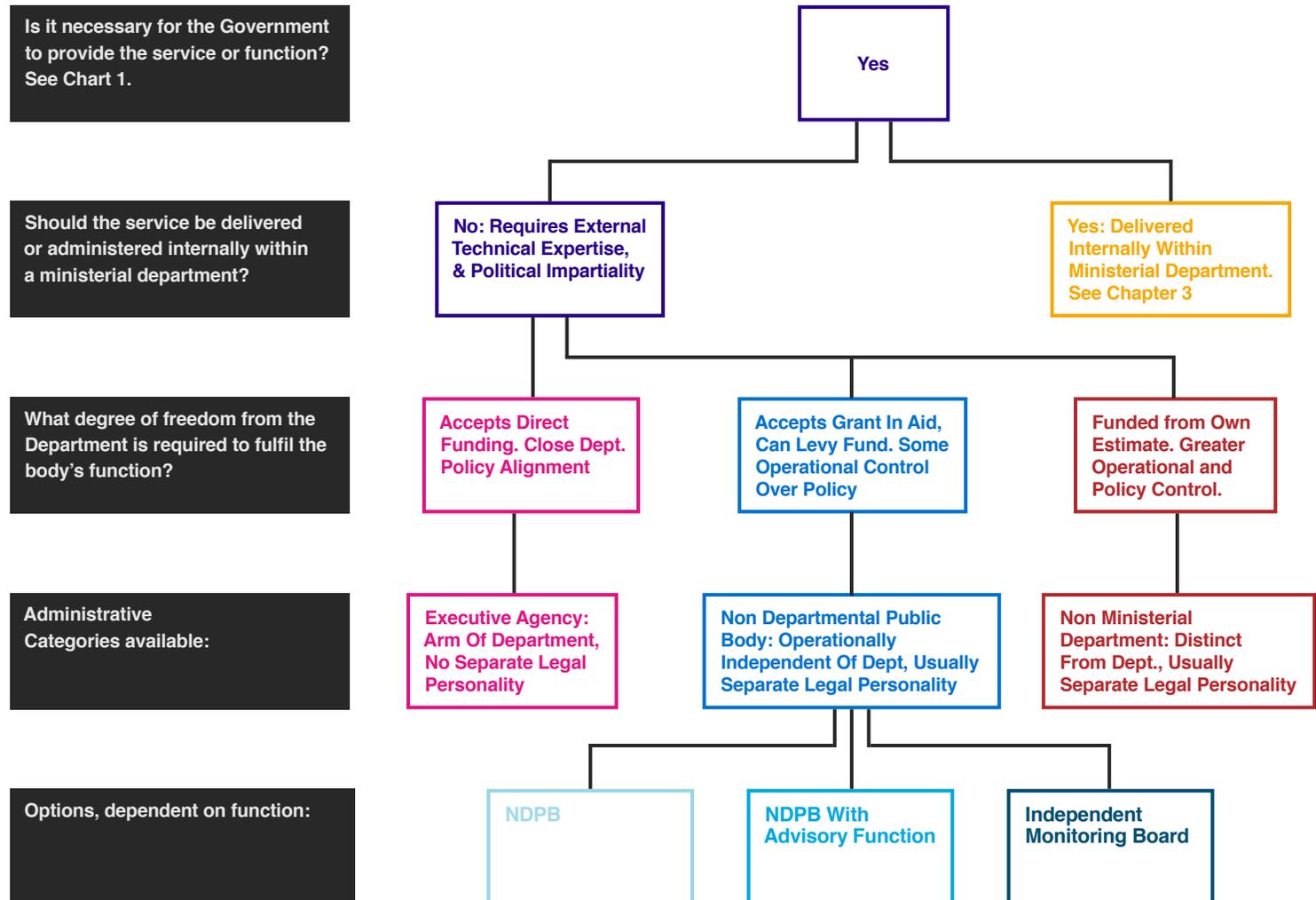
2.1 Choice Of Government Provided Public Body

Once departments have considered the initial questions contained in the decision tree at Chart 1, there follows a series of questions to help determine the best option for the public body. These cover:

The appropriate level of departmental control which will determine whether or not it should be delivered or administered by a department directly, or if independence is required; and

If independence is needed, category of ALB is best suited for delivery of the function by virtue of the degree of freedom it requires from the Department in order to fulfil its function.

Chart 2 Choices To Determine Categories Of Public Entity



2.2 Executive Agency

Executive Agencies are clearly designated (and financially viable) business units within departments which are responsible for undertaking the executive functions of that department, as distinct from giving policy advice. They have a clear focus on delivering specified outputs within a framework of accountability to Ministers. While they are managerially separate, they are independently accountable within their home department, which also reports to Parliament on their agency-specific targets. Due to this close working relationship, executive agencies are part of their department, and do not have the same level of legal separation from their home departments that other categories of public bodies often possess.

Category Specific Aspects

Varying in staff and budget size, varying in remit, though generally not wide enough to justify NMD status, allows departments to maintain strategic control and policy lead. HM Courts and Tribunals Service ('HMCTS') is an Executive Agency that provides courts and tribunal functions for HM Government. Although there are some tribunals that operate as separate NDPBs, all new tribunal functions must be delivered within HMCTS and not as separate NDPBs.

Examples

Skills Funding Agency, Planning Inspectorate, Valuation Office Agency.

Exceptions

Trading Funds: Usually EAs that are specially classified by ONS as public corporations. They are a means of financing the revenue-generating operations of a Department or public body which takes them outside the supply process. They are not separate legal entities and remain part of a Department (or are Departments in their own right). Trading funds are no longer an option for EAs. Existing funds will be reviewed in the ordinary course of business and can be reclassified if necessary (see chapter 6).

NMDs with EA Status: For a variety of historic reasons the previous classification system allowed a number of EAs to be dual classified as NMDs. This resulted in a lack of consistency between NMDs, and possible conflicts of governance. In future dual EA/NMD classification is not an option. Existing EAs with dual NMD classification will be reviewed in the ordinary course of business and can be reclassified if necessary.

Comparable Characteristics

Oversight / Accountability:

Dept sets policy, minister accountable to Parliament.

Sources Of Income:

Included in home dept estimate.

Setup & Position In Government:

Part of home dept, established by home dept, sometimes under legislation but without separate legal personality.

Duration:

Permanent.

Appointments:

Minister appoints CEO via a civil service commissioners appointment, and non-exec chair.

Staffing:

Civil servants.

Accounting:

Produce their own but consolidate with home dept.

Determinant Factors:
<p>Is it necessary for the Government to provide the service or function? Yes</p>
<p>Should the service be delivered or administered internally within a ministerial department? Externally</p>
<p>What degree of freedom from the Department is required to fulfil the body's function?" Accepts Direct Funding. Close Dept. Policy Alignment.</p>
<p>Administrative Categories available: Executive Agency</p>

2.3 Non Departmental Public Body

NDPBs have a role in the process of national government but are not part of a government department. They operate at arm's length from ministers, though a minister will be responsible to Parliament for the NDPBs. The category also includes NDPBs with advisory functions, and Independent Monitoring Boards ('IMBs' which are now included as department specific bodies). They are also set out below, as they can possess different characteristics.

Category Specific Aspects

Previously, there was a distinction between Executive and Tribunal NDPBs. However, as all new tribunal functions must be established within HMCTS, the Tribunal sub-category is not an available option. Legacy Tribunal NDPBs will remain in place, though for the purposes of this document they are not included, which allows for Executive NDPBs to be referred to only as 'NDPB'.

Examples

Arts Council England, Competition Appeals Tribunal.

Exceptions

There are three NDPBs that are also Crown entities, meaning they are not as separate from the Crown as other NDPBs. This has various effects, such as allowing them to employ civil servants.

These are included here as an explanation of the landscape – but are exceptions to the rule. As such new Crown NDPBs should not be established in this manner.

Their sources of income: included within home department estimate, usually delivered as grant in aid (though with levy or charges), less likely to alternative fund raising. Their staffing: civil servants.

Comparable Characteristics

Oversight / Accountability:

Dept. usually sets strategic framework, minister accountable to Parliament.

Sources Of Income:

From Dept. estimate, usually delivered as grant in aid; other sources can include levy powers and charitable donations.

Setup & Position In Government:

Established and sponsored by Dept. with own separate legal personality, outside of the Crown.

Duration:

At least three years.

Appointments:

Ministers normally appoint the chair and all non-executive members, and are consulted on the appointment of the CEO.

Staffing:

Public servants

Accounting:

Produce own, consolidated within home Dept.

Determinant Factors:
<p>Is it necessary for the Government to provide the service or function? Yes</p>
<p>Should the service be delivered or administered internally within a ministerial department? Externally</p>
<p>How much Independence from the department is required? Accepts Grant in Aid, Can Levy Fund, Some Operational Control over Policy</p>
<p>Administrative Categories available: Non Departmental Public Body</p>
<p>Options, dependent on function: NDPB</p>

2.3.1 NDPBs With Advisory Functions

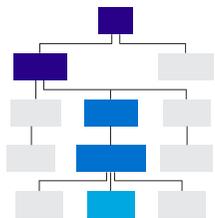
Category Specific Aspects

These NDPBs consist of external (non-civil service) experts who operate in a personal capacity to form boards or committees to advise ministers on particular policy areas. They are often supported by a small secretariat from the sponsoring department, which also provides funding. They provide independent specialist advice (free from political control) to departments. There are other forms of advisory entity that exist, such as Expert Committees, that operate similarly but as part of their department (see Chapter 3).

Examples

Advisory Council on the Misuse of Drugs, Boundary Commission for England.

Determinant Factors:



Comparable Characteristics

(where different to NDPBs above)

Oversight/Accountability:

Dept. usually sets strategic framework, advice is impartial and apolitical, with minister accountable to Parliament.

Sources Of Income:

Included in Dept. estimate.

Setup & Position In Government:

Independent of but established by Dept. without separate legal personality.

Appointments:

Minister appoints members.

Staffing:

Committee of Independent specialists (supported by Dept. civil servants as a secretariat).

Accounting:

Do not produce their own – any income or expenditure forms part of the Dept.'s accounts,

2.3.2 Independent Monitoring Boards

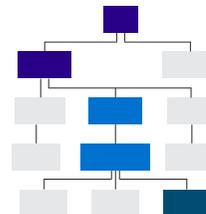
Category Specific Aspects

IMBs are statutory public bodies established by the Prison Act 1952 (and the Armed Forces Act 2006 for the sole military IMB) to monitor the welfare of prisoners in the UK to ensure that they are properly cared for within Prison and Immigration Centre rules, whilst in custody and detention. They are responsible for the state of prisons (and some detention centres), including their administration and the treatment of prisoners. Given the specific nature of IMBs they are better classed as Department specific (see Chapter 3).

Examples

HMPs Pentonville, Long Lartin and Wormwood Scrubs.

Determinant Factors:



Comparable Characteristics

(where different to NDPBs above)

Sources Of Income:

Included in Dept. estimate.

Setup & Position In Government:

Set up alongside new prisons, without separate legal personality.

Duration:

Dependent on their home prison.

Appointments:

Secretary of State appoints board.

Staffing:

Unpaid volunteers as board.

Accounting:

Do not produce their own – any income or expenditure forms part of the Dept.'s accounts,

2.4 Non Ministerial Department

NMDs operate similarly to normal government Departments in the functions they perform (though usually they are more specialised and not as wide ranging in the policy areas they cover). They generally cover matters for which direct political oversight is judged unnecessary or inappropriate. They are usually headed by a senior civil servant as Chief Executive, with an independent Chair and non-executive directors for the board. Some are headed by a permanent office holder, such as a Permanent Secretary or Second Permanent Secretary.

Category Specific Aspects

In some instances NMDs report directly to Parliament, instead of having a sponsoring Minister report on their behalf. However, as this is relatively uncommon, the NMD option is only rarely viewed as the best option when setting up new ALBs. HM Treasury's Managing Public Money guidance raises this issue of potentially limited accountability to Parliament. NMDs can sponsor their own public bodies (usually NDPBs).

Examples

HM Revenue & Customs, National Crime Agency, Competition and Markets Authority, Serious Fraud Office.

Exceptions

There are some examples of NMDs that also hold Executive Agency status, which has resulted in a lack of consistency between NMDs. Whilst in practice there is a dominant choice of governance structure, on paper there are conflicts between the two categories. As such this practice is to be avoided, and no future NMD should be given dual NMD and Executive Agency status. Existing multi-classified bodies will be reviewed in the ordinary course of business and have their classification reassessed if and where necessary.

Comparable Characteristics

Oversight / Accountability:

Sets own delivery policies, though Dept. can set the strategic framework, usually minister accountable to Parliament.

Sources Of Income:

Usually from own estimate; other sources can include levy powers.

Setup & Position In Government:

Usually established by the PM as a Dept. in its own right, with separate personality.

Duration:

Permanent.

Appointments:

Sponsoring minister usually appoints board members, though usually subject to pre-appointment scrutiny by parliament.

Staffing:

Civil servants.

Accounting:

Produce own accounts.

Determinant Factors:

Is it necessary for the Government to provide the service or function?

Yes

Should the service be delivered or administered internally within a ministerial department?

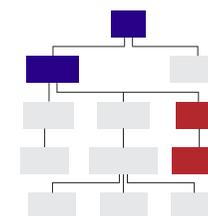
Externally

What degree of freedom from the Department is required to fulfil the body's function?

Funded from own estimate.
Greater operational and policy control.

Administrative Categories available:

Non Ministerial Department



Chapter Three

Non-Administratively Classified Government Entities

Chapter 3 | Non-Administratively Classified Government Entities

This chapter will cover the Government entities that fall outside of the main administratively classified categories of ALBs, (see Chapter 2). It is included for completeness and to provide a useful guide to some of the possible alternatives to ALBs. These are entities that, whilst distinct from regular department operations (and in some instances even staffed by external non-civil servants), are still administrated within a ministerial department. As such they do not operate at arm's length to ministers.

The following chart focuses on the questions that lead to these non-administratively classified government entities

3.1 Choices Of (Non-ALB) Ministerial Entity

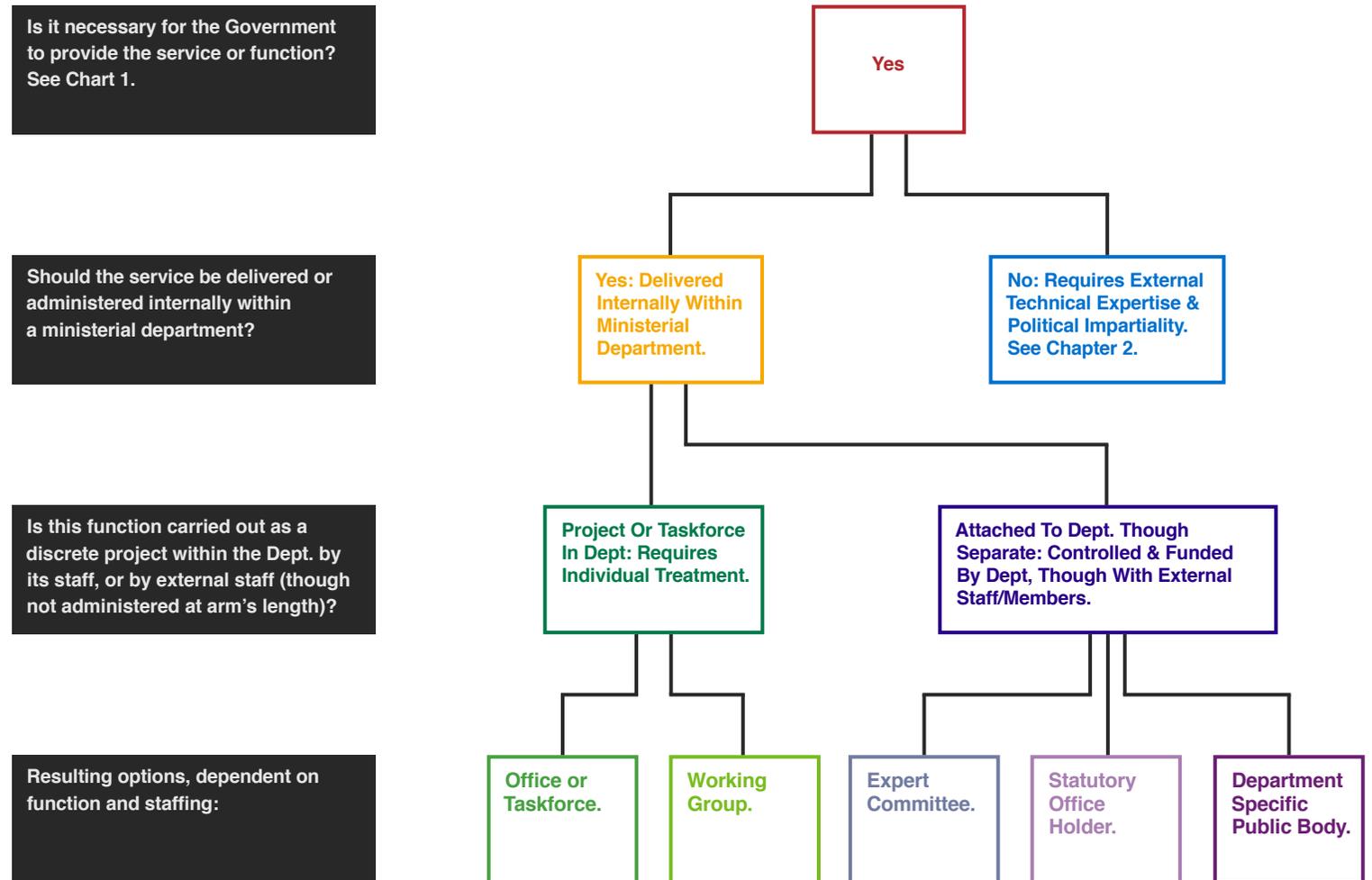
Once departments have considered the initial questions contained in the decision tree at Chart 1, the following choices will determine the best option for the ministerial entity.

Will the function or service provided within the department be:

By the department's civil servants (though it can bring in external support), but as a discrete project or taskforce; or

By external staff (public servants), as a discrete entity though not administered at arm's length.

Chart 3 Choices To Determine (Non-ALB) Ministerial Entity



There now follows a breakdown covering each of the non-administratively classified government options available.

3.2 Department's Office Or Taskforce

These are distinct entities that form part of government departments. They are usually set up for a specific project or initiative, with dedicated teams with Departments.

They do not have executive agency status (and do not have the governance structures or the operational autonomy of an executive agency). They are staffed by civil servants and work within the rules and processes of their relevant home department.

A small number of offices and taskforces are cross-cutting (and bring together staff and policy responsibilities from different departments). Some offices have non-executive Chairs and/or members who provide strategic direction, advice and leadership. These are usually appointed by ministers.

Category Specific Aspects

Smaller, variable duration though usually limited to less than three years, easier to set up (usually not requiring legislation, Parliamentary authorisation or estimate funding), with far more direct ministerial control and accountability than there would be for other types of public bodies like NDPBs.

Examples

Better Regulation Executive, Office of Tax Simplification

Comparable Characteristics

Oversight/accountability:

Part of Dept. as such sets own policy, minister accountable to Parliament.

Sources of Income:

Included in Dept. estimate.

Setup & Position In Government:

Part of Dept., set up at minister's discretion, without legislation or separate legal personality.

Duration:

Varies, though usually less than three years.

Appointments:

Minister or Dept. official to appoint the head (usually a civil servant) and board if there is one.

Staffing:

Civil servants, with external support if required.

Accounting:

Does not produce own, any income or expenditure included in Dept. accounts.

Determinant Factors:

Is it necessary for the Government to provide the service or function?

Yes

Should the service be delivered or administered internally within a ministerial department?

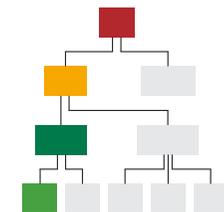
Internally

Is this function carried out as a discrete project within the Dept. by its staff, or by external staff?

Project or taskforce in Dept

Resulting option, dependent on function and staffing:

Office or Taskforce



3.3 Department's Working Group

Working groups are part of government departments. They are not independent advisory entities such as Advisory NDPBs or Expert Committees (both of which are operationally independent in terms of the advice they gather, analyse and present). Working groups comprise of Stakeholder and Public Sector groups.

Stakeholder Working Groups:

These are internal entities that advise departments on the basis of representation from specific sectors, industries, professions and communities. They comprise a majority of representatives of organisations and (generally) not individuals appointed in a personal capacity because of their specific skills and experience.

Public Sector Working Groups:

These are departmental or inter-departmental working groups comprising mainly of civil servants and or wider public servants that advise their departments on specific (sometimes cross departmental) issues. In both instances there can be an independent chair and independent members, but the majority must comprise of representatives / ex officios.

Category Specific Aspects

Smaller, more specific with flexibility on duration (it does not have to be time limited), easier to set up (not requiring legislation, Parliamentary authorisation or estimate funding), far more direct ministerial control and accountability than there would be for other types of public bodies like NDPBs.

Examples

Stakeholder Working Group on Unrecorded Public Rights of Way, and the Purchases Survey External Stakeholder Working Groups

Comparable Characteristics

Oversight / accountability:

Part of Dept. as such sets own policy, minister accountable to Parliament.

Sources of income:

Included in home Dept. estimate.

Setup & Position In Government:

Part of Dept., set up at minister's discretion, without legislation or separate legal personality.

Duration:

Varies, though usually less than three years.

Appointments:

Minister or Dept. official to appoint members (and chair if there is one).

Staffing:

Civil servants, with external support if required.

Accounting:

Does not produce own, any income or expenditure included in Dept. accounts.

Determinant Factors:
<p>Is it necessary for the Government to provide the service or function? Yes</p>
<p>Should the service be delivered or administered internally within a ministerial department? Internally</p>
<p>Is this function carried out as a discrete project within the Dept. by its staff, or by external staff? Project or taskforce in Dept</p>
<p>Resulting option, dependent on function and staffing: Working Group</p>
<pre> graph TD A[Red] --- B[Orange] A --- C[Grey] B --- D[Green] B --- E[Grey] C --- F[Grey] C --- G[Grey] D --- H[Light Green] D --- I[Grey] E --- J[Grey] E --- K[Grey] </pre>

3.4 Expert Committee

These are usually non-statutory groups, providing independent expert advice on key issues from within the department. Like many of the NDPBs that possess an advisory function, Expert Committees comprise of external (non-civil service) specialists that form committees to advise ministers on particular policy areas. However, they are not ALBs like NDPBs. They are funded from within a department budget, administrated and resourced by civil servants from within the department, and are not subject to the same levels of review or scrutiny that ALBs require.

It is important to note however that they and the advice they provide are still politically and operationally independent. Where there is political or operational control exercised over advisers, the expert committee format is unlikely to be appropriate. In such instances Departments might instead consider establishing an internal department advisory team, taskforce or office, or merely engaging external consultants on a specific contract.

Category Specific Aspects

Given the similarities in function between Expert Committees and NDPBs with advisory functions, the Cabinet Office has developed six 'indicators' that can be used to help differentiate between these two advisory entities. The indicators can be found in full at **Annex C**. They include: risk mitigation (covering risks to the advisory process); frequency and volume of the advice provided; size of committee and secretariat; duration; and whether or not the body has a statutory framework.

Examples

Expert Committee on Pesticides, and the Workplace Health Expert Committee.

Comparable Characteristics

Oversight / accountability:

Dept. usually sets strategic framework, advice is impartial and apolitical, with minister accountable to Parliament.

Sources of income:

Included in home Dept. estimate.

Setup & Position In Government:

Independent of, but established by and seated within Dept. without separate legal personality.

Duration:

Varies, though usually permanent.

Appointments:

Flexibility for Minister or Dept. officials to appoint members (and chair if there is one).

Staffing:

Independent external experts, supported by civil servants.

Accounting:

Does not produce own, any income or expenditure included in Dept. accounts.

Determinant Factors:
<p>Is it necessary for the Government to provide the service or function? Yes</p>
<p>Should the service be delivered or administered internally within a ministerial department? Internally</p>
<p>Is this function carried out as a discrete project within the Dept. by its staff, or by external staff? Attached to Dept. though separate</p>
<p>Resulting option, dependent on function and staffing: Expert Committee</p>
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3.5 Statutory Office Holder

A statutory office is a position established under legislation (in some instances by a prerogative Order in Council) and sometimes as a separate legal entity or corporation sole, with a specific remit to conduct activities or deliver services within the public sector but which is an individual and not an organisation. The statutory office is a position held by one person, the statutory office holder, though the office may be provided powers to request additional resources if required (these would usually be provided by a department or by Parliament) or to employ staff.

Category Specific Aspects

They can be set up by a ministerial department or on Parliament's behalf. When examining the governance arrangements of a statutory office consideration needs to be given to the individual elements of its legislative framework.

Examples

The CIC Regulator, Commissioner for Public Appointments.

Comparable Characteristics

Oversight/accountability:

If part of Dept., acts apolitically, with minister accountable to Parliament. If independent of Dept., reports directly to Parliament.

Sources of income:

Depending on who establishes, may be via grant in aid, or exceptionally own estimate.

Setup & Position In Government:

Set up either by legislation or prerogative, to work on behalf of the Crown or not, as appropriate. Can have separate legal personality as a corporation sole.

Duration:

Varies, though usually permanent.

Appointments:

Minister appoints Office Holder.

Staffing:

Sole Office Holder (public servant), can be supported by civil servants on Dept. loan or have powers to employ staff.

Accounting:

Produces own accounts.

Determinant Factors:

Is it necessary for the Government to provide the service or function?

Yes

Should the service be delivered or administered internally within a ministerial department?

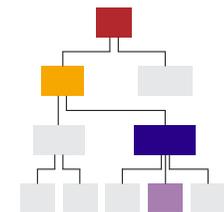
Internally

Is this function carried out as a discrete project within the Dept. by its staff, or by external staff?

Attached to Dept. though separate

Resulting option, dependent on function and staffing:

Statutory Office Holder



3.6 Department Specific Public Bodies

The Departments for Health and the Ministries of Justice and Defence each have their own sub-classification for two specific types of public body. Due to the National Accounts classification, existing legislative requirements and the nature of the functions or services that they carry out they are viewed as distinct public bodies, and not merely offices within a Department. However, the functions they provide and overall governance structures are incompatible with the main categories of ALB, precluding them from regular administrative classification. As they are highly specialised they are classified as Department specific public bodies. It is important to note that this is not the preferred model, and is reserved for only the choices listed in this Chapter. When establishing any new Department specific public body, consideration should be given to whether the function or service to be provided could be carried out by an existing entity rather than having to establish a new one.

3.6.1 Department of Health: Special Health Authorities

These are a form of NHS Trust and are administrated by NHS England (itself a NDPB of the Department of Health). These public bodies deliver services on behalf of the NHS. They are established by an order of the Secretary of State under the National Health Service Act 2006 and have national rather than regional effect. The Secretary of State exercises ministerial control over their activities, though funding is from Parliament not grant in aid. They are bodies corporate, with a board, and are staffed by public servants. This form is most appropriate for handling large operational activities relating to the NHS.

Examples

NHS Trust Development Authority, NHS Blood and Transplant

3.6.2 Ministry Of Justice & Ministry Of Defence: IMBS

Independent Monitoring Boards have already been discussed in Chapter 2. These are currently administratively classified as NDPBs, but are very much department specific and do not share all of the same comparable characteristics of the NDPB category. As such they can be viewed as Department specific public entities, as well as NDPBs.

Determinant Factors:
<p>Is it necessary for the Government to provide the service or function? Yes</p>
<p>Should the service be delivered or administered internally within a ministerial department? Internally</p>
<p>Is this function carried out as a discrete project within the Dept. by its staff, or by external staff? Attached to Dept. though separate</p>
<p>Resulting option, dependent on function and staffing: Specific Public Bodies</p>
<pre> graph TD A[Red] --- B[Yellow] A --- C[Grey] B --- D[Grey] B --- E[Dark Blue] C --- F[Grey] C --- G[Grey] E --- H[Grey] E --- I[Grey] E --- J[Purple] </pre>

Chapter Four

Non-Administratively Classified Parliamentary Entities

4.1 Parliament

Also known as the 'Legislature', Parliament is made up of three central elements: the House of Commons, the House of Lords and the Monarchy. The majority of its business occurs in the two Houses. It is the highest legislative authority in the UK, scrutinising the work of the government and examining, debating and approving new laws. Parliament also holds the power to set certain taxes and debate the important issues of the day.

Government

The Prime Minister and Ministers (who head departments) that make up the government are themselves drawn from Parliament. While government and Parliament work closely together, they are separate institutions with separate functions. Also known as the 'Executive', the government has responsibility for developing and implementing policy and for drafting laws.

Parliament and Public Bodies

Parliament impacts on the wider public bodies landscape in different ways. Primarily it examines and challenges the work of the government through questioning ministers, debating and committee work. Part of this scrutiny covers the activities of the government's public bodies (as can be seen in the Accountability characteristic covered in **Chapters 2 and 3**).

In some instances parliamentary bodies have been set up to assist in scrutinising the government, these report directly to Parliament (often via Parliamentary Committees).

Parliament also impacts on the funding of certain public bodies through its powers to check and approve Government spending. Specifically this covers departmental estimates (the public money that Parliament votes to each department from the exchequer) which in turn funds many public bodies, and own estimate (voted directly from the exchequer) that funds certain public bodies such as NMDs.

4.2 Parliamentary Bodies

These are public bodies set up by, and usually reporting directly to, Parliament (typically via one of its Committees) and not to a government department or minister. They often deliver functions or services that are viewed as of particular importance to Parliament, or requiring even greater distance from ministerial control. They are often set up with similar structures and powers as other public bodies, though their governance processes are usually more focussed on political independence and accountability to Parliament. Usually they will be staffed by public servants, with senior appointments made by or with Parliamentary involvement or oversight. Statutory Office Holders can be established as parliamentary bodies as well as by departments (see **Chapter 3**).

Examples

National Audit Office, Independent Parliamentary Standards Authority

Comparable Characteristics

Oversight / accountability:

Usually sets own policy and directly accountable to parliament.

Sources of income:

Usually has own estimate.

Setup and Position In Government:

Usually established by legislation with separate legal personality. Not part of the executive.

Duration:

Varies, though usually permanent.

Appointments:

Usually headed by statutory board, appointed by parliament.

Staffing:

Public servants, though can be supported by civil servants on Dept. loan.

Accounting:

Produces own accounts.

Chapter Five

**Non-Administratively Classified Local Government
Entities & Devolved Administration Entities**

This chapter will focus on local government and devolved administrations' public entities. In order to address these, it is useful to first look at their treatment under the ONS National Accounts (Sectoral) system of classification. As outlined in the Introduction, ONS sectorally classifies public entities into three categories: 'Central Government', 'Local Government' and 'Public Corporations'. Public corporations will be covered in Chapter 6. Local government will be addressed next and then the devolved administrations in Scotland, Wales and Northern Ireland (which are classified to Central Government).

Central Government covers all administrative departments of the State and other central agencies whose effect extends over the whole economic territory (in this case the whole of the UK).

Local government is defined in terms of the role an entity has over only a local (static and geographically defined) part of the economic territory.

5.1 Local Government

The sectoral classification includes public entities that are funded and administered by local government and not central government.

Local government make and carry out decisions on local services. Many parts of England have two tiers of local government: county councils and district, borough or city councils. In some parts of the country, there's just one tier providing all the functions, known as 'unitary authorities', (including cities, boroughs or county councils). As well as these, many areas also have parish or town councils.

Some of these have these have established their own public bodies: non-profit institutions controlled by local government and whose competence is restricted to the economic territories of the local government.

These are out of scope for this document, but are included here for completeness and to provide a better understanding of the wider public bodies landscape.

Category Specific Aspects

Local government public bodies vary widely in terms of size, duration, function and governance structure.

Their funding will usually come from the local government that has established and sponsors them, however, in some instances they may also raise commercial funding, and apply for central government grants.

Examples

Age Concern Wiltshire, Colchester Port, Transport for London.

Exceptions

It is worth noting there are some central government bodies that cover local government issues, however, as they have UK-wide effect, they are not classified to local government.

5.2 Devolved Administrations

Devolution in the UK created the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly. Varying levels of power have been transferred from the UK Parliament to the devolved legislatures.

Devolved & Reserved Powers

Devolved powers are those that were previously exercised by the UK Parliament but are now exercised by the devolved legislatures. These powers cover many domestic policy issues, which are exercised through specific law-making powers, for areas that include: education, culture, transport, the environment and health.

Some powers have been specifically reserved to the UK Parliament. These include, amongst others, defence and foreign policy.

The legislation establishing each devolved administration determines which powers are devolved or reserved.

Sectoral Classification

The underpinning EU legislation on sectoral classification differentiates between different forms of federal and state level government. However, the UK's system of devolved administration does not have the characteristics of a 'federal' system of government. Also, as there is no comparable devolved assembly or devolution of powers in England, the countries within the UK do not have the characteristics of separate 'states' as the largest areas into which the country can be politically or administratively divided. As such the ONS has determined that the devolved administrations fall within the Central Government classification.

Devolved Administrations' Public Bodies

As a result of the devolved administrations being sectorally classified to central government, their public bodies can (and generally tend to) follow similar categorisations to those covered within Chapters 2 and 3. However, as the powers to establish public bodies in devolved areas has been transferred to the devolved administrations, their ultimate form and governance structures will be determined by the devolved administrations themselves.

These devolved public bodies are out of scope for this document, but are included here for completeness and to provide a better understanding of the wider public bodies landscape.

Category Specific Aspects

The public bodies that are created by the devolved administrations should only have scope over the specific geographical area of their devolved administration.

They will vary in size, duration, function and governance structure. Their funding will come primarily from their sponsoring devolved administration, though in some instances they may also raise commercial funding, and apply for central government grants.

Some of these public bodies will have mixed functions – functions that relate to reserved matters and some which do not. An example of such a body with mixed functions is a Scottish local authority.

Examples

Scottish Further Education Unit, Belfast Health and Social Care Trust, Sports Council for Wales.

Exceptions

There are public bodies that have UK wide effect carrying out functions on reserved matters only, they are administrated by their sponsor departments in the UK Government.

There are cross-border public bodies that have UK wide effect carrying out (at least some) functions on matters that have been devolved in whole or in part. Whilst these are administrated by their home UK departments, there will be occasions when they must consult with the devolved administrations. Also any reports or legislative instruments relating to the cross-border public bodies that will be laid before the UK Parliament will also be laid before the affected devolved administration.

The Northern Ireland and Scotland Offices (departments of the UK Government) have their own ALBs which are not part of the devolved administrations.

Chapter Six

Public Corporations

6.1 ONS Sectoral Classification

As discussed in the Introduction, in the UK the ONS operates the system of National Accounts (or sectoral) classification, which is based on the European System of Accounts 1995 (which implements the United Nations System of National Accounts 1993). This sectoral classification allows Member States to develop an integrated, complete system of accounts that can be used to establish (and compare) significant economic activity.

The ONS categorises various entities that are subject to government control, these being central government entities, local government entities and public corporations. The ONS determines which public bodies are public corporations and the criteria they adopt has the potential to impact on any of the administratively classified ALBs, and even Local Government public bodies and Devolved Administration's public bodies.

A body will be classified as a public corporation where:

It is classified as a market body – a body that derives more than 50 per cent of its production cost from the sale of goods or services at economically significant prices (that is, prices that have a substantial influence

on the amounts of products that producers are willing to supply and on the amounts of products that purchasers wish to acquire) for all or most of the goods and services they produce. Some charge for regulatory activities, where these provide a significant benefit to the person paying the fee, for example through quality testing; and

It is controlled by central government, local government or other public corporations; and

It has substantial day to day operating independence so that it should be seen as an institutional unit separate from its parent department.

This mainly covers trading bodies, that either operate commercially or recover some or all of their costs from fees charged to customers. This category of sectoral classification normally only applies where 50 per cent or more of costs are met from such outside income. The 50 per cent criterion should be applied by looking over a range of years to avoid frequent reclassifications through minor fluctuations in one year which are not repeated or expected to be repeated in the future.

6.2 Trading Funds

Trading Funds were established by meeting the criteria within the Government Trading Funds Act 1973, and only occurred when over 50 per cent of the body's revenue consisted of receipts in respect of goods and services provided by the Trading Fund. They also needed to satisfy the sponsor department's minister and HM Treasury that establishing the fund would lead to improved efficiency and effectiveness in management of operations.

Trading funds are sectorally classified as public corporations. In future ALBs that should operate commercially will instead consider other commercial models and not apply for trading fund status. This will not preclude other non-ALB Trading Funds from being created, but will avoid the discrepancy over governance that occurs when an administratively classified ALB (especially EAs that are part of the Crown) are treated as public corporations due to their Trading Fund status. Specifically this covers HM Treasury's treatment of such bodies for budgetary and accountancy purposes against the administrative controls that Cabinet Office apply (for example) to EAs on the basis that they are part of a ministerial department and staffed by civil servants.

Existing ALB trading funds will be reviewed by their departments in the ordinary course of business. With each review also examining whether trading fund status is still required given actual business practices, and any viable alternative models should be considered. Where Trading Fund status has been reviewed and is still required, no changes to classification need to be made.

Chapter Seven

Ongoing Classification Issues

7.1 Multi-Classified ALBs

There are a few ALBs that hold more than one form of administrative classification, which may lead to confusion over which governance structure or funding model is most appropriate. The most common examples are NMDs that are also EAs. These are NMDs that were set up along the EA model, possibly as that was seen as a useful structure to adopt and / or as a means of applying for Trading Fund status.

Policy on Multiple Classified ALBs

No new multi-classified ALBs should be established. Existing multi-classified ALBs will be reviewed by their departments in the ordinary course of business, however, each review will examine if they still require more than one classification given actual business practices and if it causes any governance or funding problems. Adopting a single or alternative model will only be considered where it is appropriate to do so and does not significantly and adversely impact on the ALB's ability to fulfil its functions.

7.2 Unclassified ALBs

There are various public bodies that, while sharing many attributes and characteristics with ALBs, are currently unclassified within the administrative system. Also they clearly do not fall within the other categories of non-administratively classified: government, parliamentary, local government or devolved administration entities. In such instances these public bodies should be subject to departmental review with the aim of administratively classifying them wherever possible, however, there may be limited circumstances in which formal classification may not be possible or desirable. These are dependent on the following criteria:

Small & Temporary

Small and temporary public bodies can be set up to address a specific concern or issue. These will have a set end date, which is usually so soon after creation that formal classification would be a disproportionate and costly exercise that would not result in any clear benefit. Such bodies would still need to show an appropriate governance structure, and lines of accountability.

Awaiting ONS National Accounts Classification

Some currently unclassified ALBs may be awaiting National Accounts classification, which will have a direct impact on any administrative classification. Departments will be encouraged to notify the Public Bodies Reform Team and HM Treasury to advise on how classification should be addressed in the interim (while awaiting the outcome of the ONS). Once National Accounts classification has been determined, administrative classification should follow where it is appropriate to do so.

Awaiting Significant Structural Change

Some currently unclassified ALBs may be awaiting modification to their structure or governance which would impact on administrative classification. In such cases, it would be practical to await the outcome of the changes before formal classification, though Departments will be encouraged to notify the Public Bodies Reform Team to advise on how classification should be addressed in the interim.

Genuinely Unique & Unclassifiable

It is possible that for reasons associated with function or services, there may be a small number of ALBs that cannot be classified into one of the main categories without adversely impacting on the body's ability to fulfil those functions / deliver those services. Departments should contact the Public Bodies Reform Team to work with them to identify any viable alternative delivery models, and hopefully to ensure correct administrative classification can take place wherever possible. If this is not possible, then such unique and unclassifiable entities will be allowed to remain administratively unclassified, in exceptional circumstances, so long as they have appropriate governance and accountability structures in place.

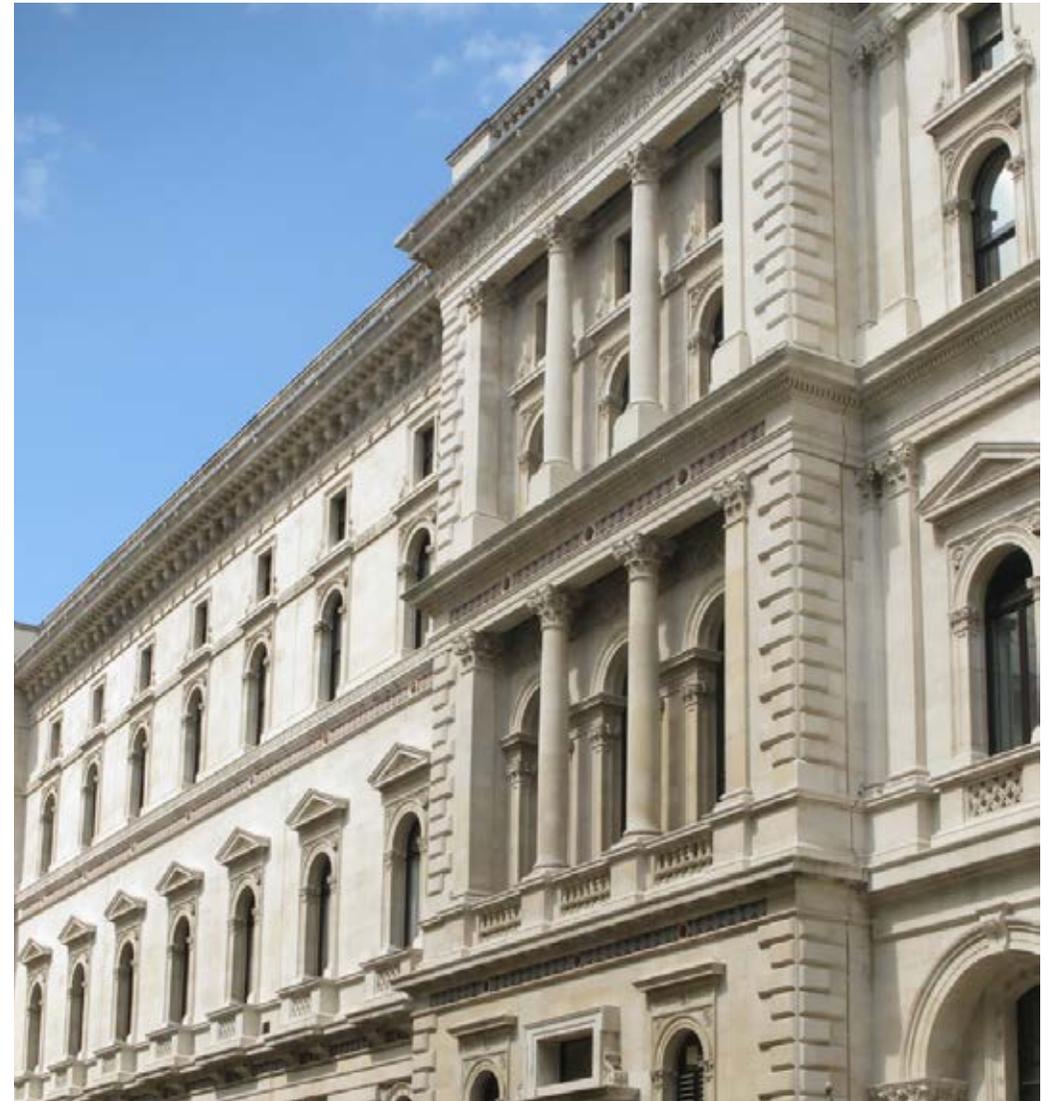
7.3 Legal Form

There has been a general misconception that companies (that are owned by the government) and ALBs are alternatives to one another. This is incorrect as the two are not mutually exclusive, indeed some public bodies are incorporated as companies. These descriptors refer to different attributes of an organisation. 'Arm's length body' or 'public body' signifies that government controls the general corporate policy of the organisation, while 'company' signifies that it is incorporated under and is subject to the Companies Act 2006. The government provides guidance for departments about public bodies (including set-up, governance, financial management and sponsorship), which applies equally to those public bodies that are companies as to those that are not. Additionally, the Companies Act 2006, Companies House and HM Treasury's Managing Public Money guidance all provide departments guidance on establishing and working with companies.

There are also other methods of incorporation, which have sometimes led to confusion. These include 'Royal Charter bodies', 'statutory corporations', and 'corporations sole'. These are merely means of incorporating an organisation or group of individuals, and each have their place within providing a legal

framework for certain types of public body, as well as other private sector organisations that are not in government. In addition to this are terms such as 'GovCo' which refers to companies that the government owns, and 'GOCOs' which are companies owned by the government but operated by non-government contractors. Neither these terms, nor the other forms of incorporation are mutually exclusive with ALBs.

Other concerns have been raised suggesting that government ownership of companies is new and novel, and that companies are less transparent and accountable than other sorts of arm's length body. Successive governments have owned a wide range of companies throughout the post-war period for a variety of reasons - it is not a new phenomenon. Also companies are not inherently less transparent and accountable than other sorts of public body. Each has its own particular arrangements so it is difficult to generalise, however, they are obliged to file annual accounts and other information at Companies House which is free for anyone to view. Indeed if these companies are administratively classified, the governance structures that apply to ALBs will still apply.



Annex A

Options Within The Comparable Characteristics

Annex A | Options Within The Comparable Characteristics

As discussed in the Introduction, this annex lists each of the comparable characteristics of the main categories of public bodies. Included are the options for each, these will help develop the unique combination of characteristics that define and differentiate the main categories.

A.1 Oversight & Accountability

This covers the level of ministerial oversight over the operational, strategic and policy functions of the public entity; and it covers the line of accounting, whether that is to a ministerial department or directly to Parliament.

Oversight options include:

Ministerial departmental control over strategy, policy and / or operations.

Public body alignment with ministerial department's strategy and / or policy, but greater operational freedom for public body.

Public body alignment with ministerial department strategy, but greater policy and operational freedom.

Greater independence for public body and freedom from ministerial department strategy.

Accountability options include:

The entity is directly accountable to officials within ministerial department; minister in turn accountable to Parliament.

The entity is directly accountable to the minister or secretary of state, minister in turn accountable to Parliament.

The entity is not sponsored by a ministerial department, though a nominated minister or secretary of state will be accountable for that public body to Parliament.

The entity is directly accountable to Parliament.

The entity is not accountable to Parliament or to a ministerial department (though possibly accountable to shareholders, or members, or via a specific contractual obligation).

A.2 Sources of funding

Where does the public entity obtain its funds, and what can it do with those funds. Some public entities may have multiple sources of funding.

Options include:

Direct Funding from Department (Supply Estimate) – occurs when a sponsoring or home department funds the public body directly from its own departmental estimate (the public money that Parliament votes to each department from the exchequer). This system of funding is indicative of significant departmental control over the public body (usually for bodies that are not separate legal entities and are part of their department).

Grant – Payments made by departments to outside bodies to reimburse expenditure on agreed items or functions, and often paid only on statutory conditions. This is where a sponsoring or home department funds the public body directly from its own departmental estimate, but is delivered as a discrete funding package for the financing of a narrowly defined, specific and agreed (with the department) activity - to be conducted by a public body.

Direct Taxation – is where the provision or delivery of services or functions is taxed, usually with the recipient / customers or even beneficiaries making the payment. Often there is a legal or regulatory requirement for the tax to be paid, with failure or refusal leading to possible legal sanctions. Direct taxation may be charged for a specific service or function, but usually any taxes raised will be paid to HMRC (as the primary tax authority within the UK) and not used by the public body directly.

Commercial Funding – is where a body charges its users a commercial rate for the service or function provided, where the service is discretionary and customers have private sector commercial / market alternatives. This open competition means that there is no government monopoly and the trading income received is truly commercial in nature and not a fee for a service or a levy.

Commercial Loans – is generally not an available option for most public bodies, as it causes a debt obligation to a non-public entity.

Charitable Donations & Bequeathments – is where a public body obtains funding from donations made by registered charities, or where the public body is registered as a charity and it receives donations from any source though it must be donated for a specific charitable purpose.

Own Estimate – is where parliament votes for the public body to receive funding directly from the exchequer and not from a department's estimate.

Grant in Aid – this is where a sponsoring or home department funds the public body directly from its own departmental estimate, but is specifically delivered as a discrete funding package delivered to a public body for the financing of a range of activities that the public body chooses within broad parameters agreed with the department. These are regular payments by departments to outside bodies (usually NDPBs) to finance their operating expenditure.

Loans from department – are financial packages that are repayable to the department and made on specific terms. These “voted loans” normally require legislation to authorise them.

Levy Funding – is where customers / users are charged a fee for the specific service or function provided, but where they have no private sector commercial / market alternatives. This lack of market forces defines this as a levy rather than trading income or a fee for a service. Although some customers may have the option not to use the service or function, levies can be imposed on a particular sector or class (eg via compulsory licensing). Levies are classified as taxation and go either to the exchequer or are retained to fund a specific service or function.

Fees and Charges - are where users of government services have to pay a fee or charge to receive that service, for example a driving licence, instead of the service being funded through taxation. They are usually set on a full cost-recovery basis and require legislation to authorise them. Unlike levies, they are not compulsory in nature.

A.3 Position within Government & process for setting up

Where does the public entity sit within the wider government, and how is it established (public entities can possess more than one of the options listed as they are not all mutually exclusive):

Position within government, options include:

Parliamentary – created by, directly funded by and responsible to Parliament

Separate from but supported by Department – receives staff on loan (usually as secretariat)

Separate from but sponsored by Department – only sponsored by minister

Part of Department – sits within ministerial department

Department – part of and set up by Government

Independent – no direct connection to Government, usually for certain types of public corporation

Process for setting up, options include:

Established by Department – set up by ministerial fiat

Established by Parliament – set up by Parliament

Statute – set up and operates under legislation

Separate Legal Personality – distinct from the Crown

A.4 Appointment & Management

How the public entity is managed and how that management structure is appointed:

Management options can be divided into executive and non-executive functions, and include:

Chief Executive

Non-Executive Board and Chair (can be statutory)

Government Officials / Senior Civil Servant

Committee members (usually of specialists)

Appoint options range from the following options:

Executive appoints

Non-executive appoints

Department official on behalf of Minister appoints

Direct ministerial appointment

Civil Service Commissioners appoint
Department official on behalf of Crown appoints

Parliament appoints

Committee members elect / appoint

Members elect / appoint

A.5 Status of Staff

Civil Servants – are staff employed by the Crown (appointed by departments or executive agencies). Their roles, grades and salaries are broadly comparable and whilst they usually work for one specific department or agency, they are able to apply for postings across most other areas of government.

The provisions governing a civil servant's employment relationship are influenced by civil-service specific rules and parameters. For some small public bodies their home departments may loan a number of civil servants to work for that public body, though their contract of employment is still with the Crown as appointed by the home department. All are subject to the Civil Service Code of Conduct.

Public Servants – are staff employed by public bodies that are usually not part of the Crown. There is some variation between the roles, grades and salaries that public servants have, as they are usually contracted more closely to a specific public body and not to a wider service as is the case with civil servants. They are however still public sector employees and usually subject to the body's own code of conduct where applicable.

Contractors – Generally contractors are either self-employed or employed by a third party, then contracted for specific services by the public body or department. This includes specialists hired under consultancy agreements to perform specific tasks or functions. Contractors are usually hired for a limited term in order to fulfil a particular business need. If there is a need for long-term hires then alternative models should be considered.

Secondees – staff on temporary loan from other employers to the public body, on set secondments. Their secondments may vary the terms of their regular employment in relation to their role, grade and salary for the duration of the secondment, and payment may come from their original employer or the public body currently hosting them. Secondees are usually subject to many (but not always all) of the same policies and procedures which apply to the public body's regular staff.

Private Sector Employees – are staff employed on contracts with employers outside of the public sector. Their terms and conditions may be different to public sector employees as their employer will have more freedom in relation to the employment terms which it can offer its staff. This is not an option for public bodies, but may be appropriate for some public corporations.

Others – unusually there may be other types of staff (such as volunteers), however, the options listed above are the principle choices for staffing.

A.6 Financial Accounts

The treatment of financial accounts can be influenced by the relationship to funding.

Options include:

Produces and publishes own accounts – these are not reflected elsewhere (ie within sponsoring department's accounts)

Produces own accounts – may publish as well, but these are consolidated within department's accounts.

Does not produce own accounts – any income and expenditure is part of home department's accounts

Annex B

Table Comparing Characteristics

Annex B | Table Comparing Characteristics

The following table illustrates the differences between the categories of public bodies dependent on their comparable characteristics

Entity	Relationship To Department		Income / Funding	Establishment			Senior Staffing Issues & Structure		Status of Staff	Financial Accounting
	Accountability	Oversight		Position	Setup	Duration	Management	Appointments		
Executive Agency	Minister accountable	Dept. sets policy	Included In Dept. Estimate	Part Of Dept. No separate legal personality	By Dept. Can be with legislation	Permanent	CEO, & Non-Exec Chair	Minister appoints CEO & Chair	Civil Servants	Produce own, Consolidated within Dept.
Non Departmental Public Body	Minister accountable	Dept. Usually sets strategic framework	From Dept. Usually via grant In aid	Has separate legal personality	By Dept. Various forms.	At least three years	CEO, & Non-Exec Chair	Minister appoints Chair & Non-Exec Board, consulted on CEO	Public Servants	Produce own, Consolidated within Dept.
NDPB with Advisory Function	Minister accountable	Dept. Usually sets strategic framework advice Is impartial and apolitical.	Included In Dept. Estimate	Within Dept. but no separate legal personality	Independent of but established by Dept.	At least three years	Committee of independent experts.(can have Chair)	Minister appoints members.	Independent Specialists (Supported By CS)	Do not produce own, Covered within Dept.
Independent Monitoring Board	Minister accountable	Dept. usually sets strategic framework	Included In Dept. Estimate	Independent to Dept. but no separate legal personality	On creation of new prison or detention centre	Depends on prison or detention centre	Board members	Secretary Of State appoints members	Unpaid volunteers	Do not produce own, Covered within Dept.
Non Ministerial Department	Minister usually accountable	Sets own policy, Dept. can set strategic framework	Usually from own Estimate	Usually As Dept. with separate legal personality	By Prime Minister	Permanent	CEO & Non-Exec Chair	Minister usually appoints Board, with Part. scrutiny	Civil Servants	Produces own accounts
Office of Department	Minister accountable	Part Of Dept. Sets own policy	Included In Dept. Estimate	Part Of Dept. No separate legal personality	By Dept.	Varies, usually less than three years	Usually Dept. official as head	Minister appoints Head (and Board if there is one)	Civil Servants	Do not produce own, Covered within Dept.
Working Group	Minister accountable	Part Of Dept. Sets own policy	Included In Dept. Estimate	Part Of Dept. No separate legal personality	Established by Dept.	Varies, usually less than three years	Usually members and Chair	Minister or official appoints members and Chair	Civil Servants (supported by external Non-CS)	Do not produce own, Covered within Dept.
Expert Committee	Minister accountable	Dept. usually sets strategic framework. Advice is impartial and apolitical.	Included In Dept. Estimate	Within Dept. no separate legal personality	Independent of but established by Dept.	Varies, usually permanent	Committee of experts (Can Have Chair)	Minister or Dept. Officials appoint members (and Chair)	Independent Specialists (Supported By CS)	Do not produce own, Covered within Dept.
Statutory Office Holder (Departmental)	Minister accountable	Part of Dept. acts apolitically	From Dept. via grant In aid	Independent with separate legal personality	By Dept. via legislation	Varies, usually permanent	Office Holder	Minister Or Dept. Officials appoint Office Holder	Public Servant (Supported By CS)	Produces own accounts
Statutory Office Holder (Parliamentary)	Office Holder directly accountable	Sets own policy	From own Estimate	Independent with separate legal personality	By Parliament, via legislation	Varies, usually permanent	Office Holder	Parliament appoints Office Holder	Public Servant	Produces own accounts
Parliamentary Body	Usually directly accountable	Sets own policy.	Usually from own Estimate	Independent with separate legal personality	Established by Parliament	Varies, usually permanent	Usually by statutory board	Parliament appoints	Public Servants	Produces own accounts

Annex C

Expert Committees & NDPBs With Advisory Functions

C.1 Comparative Indicators

Feature	Indicative of NDPB with advisory functions*	Indicative of Expert Committee*
Frequency and volume (of advice provided)	Typically high frequency and volume of advice. Constant requests and responses.	Typically lower frequency and volume of advice. Possibly periods of committee inactivity.
Risk Mitigation	Where there is a significant reputational or operational risk to the process of commissioning, developing or using the advice, due to the perception of a loss of independence (from a supposed increased likelihood of interference from home departments). Specifically where there is a clear break between the advice provided and any subsequent policy development. This could be determined by examining whether or not Parliament would be likely to scrutinise the advice provided or process of commissioning that advice.	Where there is a reduced/negligible reputational or operational risk to the advice associated with its commissioning, development or use. (This does not cover or negate the risk of not appointing independent experts)
Size of committee**	Where there could be more than 5 committee members standing at any given time. Where more than one committee member is needed to cover the same issue under scrutiny, and / or individual members cannot cover multiple issues (due to specialist skills required for each issue).	Where fewer than 10 committee members could be required to be standing at any given time. Where only a single committee member is required to cover each issue under scrutiny and / or multiple discrete issues can be resolved by a single committee member. Also where any number of temporary committee members can be appointed on an ad hoc basis, for specific projects / commissions.
Duration	The body must be active for at least three years.	There is no time limit on duration, allowing for shorter terms where appropriate / desirable, though usually Expert Committees tend to be permanent.
Size of the secretariat***	Generally where the secretariat could be greater than 2 FTEs. Where the ANDPB's staff / secretariat do more than administration – for example, if they are involved in research, analysis or policy development. Noting, that if additional staff are required to conduct delivery (eg investigation work), then perhaps regular NDPB might be a better model – such as the HSE.	Generally where the secretariat is usually fewer than 5 FTEs. Where the Expert Committee does not require additional staff to conduct research, analysis or policy development (such activities can be carried out by the home department).
Statutory framework	There can be underlying legislation. This will be especially evident if the legislation requires advice that could only be provided by a body with the characteristics of an ANDPB. No separate legal personality.	Typically (though not always) there is no underlying legislation. Alternatively, where there is legislation, it will not require advice that could only be provided by a body with the characteristics of an ANDPB. No separate legal personality.

* To be aware, these features are only indicative of which classification may be suitable.

** If the committee has between 5 and 10 members, the other features should be relied upon to indicate which category may be suitable.

*** If the secretariat has between 2 and 5 staff / secretariat, the other features should be relied upon to indicate which category may be suitable.

C.2 Impact On Governance

Feature	Impact on NDPB with advisory functions	Impact on Expert Committee
Establishment	Set up as a NDPB – therefore follows relevant Cabinet Office guidance.	Set up as Expert Committee – does not need to follow guidance on establishing NDPBs (CO collects name and information on its advisory function)
Reviews	As an NDPB will be subject to a regular (at least once in each Parliamentary cycle) Tailored Review process.	Not subject to a regular formal review (though departments can still review as they see fit).
Commissions	As an NDPB will be subject to CO commissions for public bodies data	As an expert committee is unlikely to be included in CO commissions for public bodies data.
Governance Documentation	Will require a Framework Document / Memorandum of Understanding and a Terms of Reference document.	Does not require (though can still have) a Framework Document or MOU; will still require a Terms of Reference document.
Board	Structure of Board flexible (may not be required).	Structure of Board flexible (usually not required).
Appointments	Appointments by Minister (OCPA principles applying)	Ministerial/Departmental appointments (details to be agreed with CO Public Appointments Team on a case by case basis – where reclassifying from an existing NDPB with advisory function)
Relationship	Committee members are independent of home department.	Committee members are independent of home department.
Expertise	The best suited candidates are chosen as Committee members to provide advice in the field required.	The best suited candidates are chosen as Committee members to provide advice in the field required.
Evidence / Advice	High quality, impartial (and where needed) and expert advice, based on relevant evidence.	High quality, impartial (and where needed) and expert advice, based on relevant evidence.
Transparency / Openness	NDPBs with advisory functions are encouraged to be as open as possible on process and methodology, and where appropriate fully transparent on advice.	Expert Committees are encouraged to be as open as possible on process and methodology, and fully transparent on advice.