



National Audit Office

Report

by the Comptroller
and Auditor General

**Department for Business, Innovation & Skills, Ministry of Justice,
Department for Environment, Food & Rural Affairs,
Department for Culture, Media & Sport and Cabinet Office**

Departments' oversight of arm's-length bodies: a comparative study

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Departments' oversight of arm's-length bodies: a comparative study

Report by the Comptroller and Auditor General

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Sir Amyas Morse KCB
Comptroller and Auditor General
National Audit Office

30 June 2016

This report compares and contrasts the approaches of four departments to oversight of their arm's-length bodies.

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Key facts

£25bn

National Audit Office (NAO) estimate of the funding provided by the four departments to the 116 arm's-length bodies (ALBs) covered by this report, in 2014-15

144,000

NAO estimate of the number of staff employed by the 116 ALBs covered by this report, in 2014-15

9,200

staff employed in the four core departments in 2014-15

- 24** NAO qualifications of ALBs' accounts between 2010 and 2015 in the four departments covered by this report (40 across all departments)
- 355** public appointments, including reappointments, made by the four departments to ALBs in 2014-15
- 28%** percentage of ALBs that were partially clear or not clear about their department's objectives in relation to their organisation's area of work
- 80%** percentage of ALBs in our survey who reported that the current relationship with their department was very or moderately effective in helping them to deliver their objectives, compared to 69% 18 months ago
- 52%** percentage of ALBs reporting that oversight of their organisation has increased in the past 18 months

Summary

1 This report is about how departments oversee and manage the relationship with their arm's-length bodies (ALBs). ALB is a commonly used term covering a wide range of public bodies, including non-ministerial departments, non-departmental public bodies (NDPBs), executive agencies and other bodies, such as public corporations. The scale and role of ALBs vary hugely. ALBs range from large executive agencies, like HM Courts & Tribunals Service, to smaller non-departmental public bodies, such as the Gambling Commission.

2 There has been considerable debate about what is and what is not an ALB, and there is no single list of all the ALBs across government. Both the Office for National Statistics (ONS) and the Cabinet Office classify central government public bodies. The ONS determines how a body should be classified for the national accounts, including whether it sits in central government; the Cabinet Office further classifies central government bodies for administrative purposes. The Cabinet Office oversees the public bodies' landscape, and provides support and guidance to departments in relation to the creation, governance and oversight of ALBs. It also leads on the process for reviewing whether ALBs should continue to exist. Since 2010, the Cabinet Office has led the Public Bodies Reform Programme, which we have previously reported on. Through this it has successfully reduced the number of ALBs across government, bringing some services back into departments, and moving others outside of government. Our December 2015 report *Companies in government* identified that, since 2010, there has been an increase in the number of companies in government at the same time as a reduction in the number of public bodies.

3 In 2014, the Public Administration Select Committee (PASC) reviewed the state of accountability for arm's-length bodies. It found inconsistency, overlaps, confusion and clutter. Since 2015, the Cabinet Office has focused on streamlining and reforming the ALB landscape. It has reviewed the classification of arm's-length bodies, publishing recommendations in April 2016 together with new guidance on classifying ALBs. It has also expanded its triennial review programme which has focused previously on just one form of ALB, the non-departmental public body, but since February 2016, covers a broader range of bodies.

4 The Cabinet Office reported in *Public Bodies 2015* that there were more than 450 ALBs, (executive agencies, NDPBs and non-ministerial departments) spending a total of some £205 billion, (including NHS England but excluding HM Revenue & Customs and public corporations). Bodies that have been identified as ALBs typically meet at least one of the following three Cabinet Office tests: (i) they perform a technical function; (ii) their activities require political impartiality; or (iii) they need to act independently to establish facts.

5 Departments rely on ALBs to carry out a range of important functions, many of which are vital to delivering against departments' strategic objectives. ALBs often play a critical role in delivering services, regulating or inspecting others, and giving technical advice to and on behalf of departments. Nearly all departments oversee ALBs, and their specific roles mean they often need to operate with varying degrees of independence. But departmental accounting officers remain ultimately accountable to Parliament for the ALBs they oversee.

6 As a general observation, getting the best from ALBs means balancing assurance and control with an appropriate degree of independence consistent with an ALB's function, for example freedom to form impartial judgements and apply technical or operational expertise. This is, in itself, not an easy balance to strike. But there are other contextual pressures on departments, such as the need to reduce costs, which may encourage departments to make decisions that are based on factors other than balancing necessary independence and control. And if independence reduces too far, the benefits which ALBs are intended to bring might be restricted, and the very point of having an ALB compromised. Effective and proportionate oversight arrangements are therefore critical in enabling ALBs to deliver value for money.

Scope of the report

7 This report builds on our earlier work, and that of PASC, and others, on how to get the best from ALBs. It considers four departments that oversee large numbers of ALBs:

- Department for Business, Innovation & Skills (BIS);
- Ministry of Justice (MoJ);
- Department for Environment, Food & Rural Affairs (DEFRA); and
- Department for Culture, Media & Sport (DCMS).

8 These departments, including their ALBs, spent around £40 billion in 2014-15, with ALBs receiving funding of around £25 billion. We compared and contrasted how the four departments oversee their ALBs, drawing out comparative insights rather than comparing the departments directly on every aspect of their oversight. We also considered the role of the Cabinet Office in overseeing the public bodies landscape and providing advice and guidance to departments. We examine three areas critical to effective oversight of ALBs, namely:

- clarity about the purpose and accountabilities of ALBs;
- taking a proportionate approach to the oversight of ALBs; and
- maximising value from ALBs.

9 Our methodology included interviews with officials and non-executive directors from the four departments and 12 case study ALBs; focus groups with ALB staff; a survey of 116 ALBs overseen by the four departments; review of relevant documents and data; and interviews with the Cabinet Office.

Key findings

On being clear about purpose and accountabilities

10 There is no collective understanding of what type of oversight is appropriate and cost effective for different types of bodies. Interpretation of what an ALB is differs between the four departments and there is no single list of ALBs across government. The Cabinet Office's Public Bodies directory has been extended to cover a broader range of ALBs, but still excludes some public bodies. The prevailing confusion hampers a consistent approach to understanding what oversight approaches are most appropriate in different circumstances. The four departments have evolved their oversight arrangements in response to pressures such as increasing financial constraint, initiatives to improve transparency and wider public service reforms. While there have been gradual improvements in approach, a lack of data means there is limited understanding of the costs and benefits of the different approaches (paragraphs 1.2, 1.4, 2.3, 2.4 and 3.16).

11 Accountabilities, roles and responsibilities for ALBs are not always clear, risking confusion and tensions. Given the varying degrees of independence that different ALBs have, it is essential that both departments and ALBs are clear about who is responsible for what. Framework documents between departments and ALBs should clearly set out the terms of the relationship and be updated regularly. Nine of the framework documents for our 12 case study ALBs had been updated in the last three years, as suggested by HM Treasury and Cabinet Office. Only one had been updated in the past year, and two ALBs, Kew and the Environment Agency, did not have one. These two DEFRA ALBs had draft framework documents with supporting management statements and financial memoranda in place. The relationships between departments and ALBs were also not adequately described by accountability system statements, which we have previously recommended all departments should have to provide clarity to Parliament. Only DEFRA has an accountability system statement covering its ALBs (paragraphs 2.5 to 2.8).

12 The public appointments process is a time-consuming challenge for departments and ALBs, and delays create risks for the effective governance of ALBs. The power to appoint and remove board members of ALBs is a key lever in departments' oversight arrangements. But ALBs find the appointments process burdensome and lengthy. This creates a risk that capable individuals may be put off by the bureaucracy involved and increases the risks of vacancies impacting on ALBs decision-making. Departments are keenly aware that appointments present an issue for ALBs. Across the ALBs we surveyed, 44% reported that departments' day-to-day oversight of appointments had increased; this was 67% for DCMS ALBs. While decisions are ultimately made by ministers, with some appointments reviewed by the Prime Minister, the departments have taken steps to better coordinate appointments through central teams to help minimise delays (paragraphs 2.13 to 2.15).

On taking a proportionate approach to oversight

13 All four departments consider the scale of risk in overseeing their ALBs, though approaches vary, and the capability of ALBs to manage risks is not considered systematically.

ALBs operate at a distance from departments and different types of ALB may present different risks. While most ALBs have their own governance arrangements, which can provide assurance, departments must make an informed judgement about the extent of oversight that is necessary. BIS, MoJ and DCMS all use a structured risk-based approach, informed by an overall assessment of risk in each of their ALBs, although they interpret and assess risk differently and don't systematically consider the capability of ALBs to manage those risks. DCMS takes a light-touch approach to oversight, placing less emphasis on process and more on developing relationships at a senior level. BIS is the only department that includes 'opportunities' as a category in its risk assessment, identifying where ALBs may have potential to have greater impact. DEFRA is developing its approach to oversight through its transformation programme, seeking to integrate DEFRA strategic risks with ALBs' operations (paragraphs 2.10, 2.12, 3.2 to 3.5 and 3.11).

14 Departments can undermine good relationships with ALBs by frequent, often duplicated, requests for information.

Although 87% of the ALBs we surveyed felt the frequency of contact with departments was 'the right amount', 52% felt oversight had increased in the last 18 months. We heard concerns that departments often contacted ALBs to request information that was already held by the department, or available in published documents such as annual reports. Other common concerns included poor coordination between different parts of the department, a lack of clarity about why departments were requesting information or how it had been used, and departments not recognising the cost of responding to requests (paragraphs 3.8 and 3.9).

15 Increasingly, oversight is focused on financial and administrative issues rather than the quality of services delivered, which risks missing opportunities to deliver greater value.

While an increased focus on financial oversight is understandable when budgets are pressured, this may mean oversight is not focused on the areas of greatest strategic risk to the ALB. This was particularly stark in MoJ following the introduction of emergency spending controls in October 2015. These have required ALBs to submit detailed weekly returns on spending, consuming significant senior management time and implying a lack of trust in existing ALB governance arrangements. By better balancing attention across other areas departments could be able to extract greater value from ALBs (paragraphs 3.14 and 3.15).

On maximising value

16 Departments are missing opportunities to exploit the skills and expertise that exist within ALBs. ALBs are often at the front line of delivering policy and therefore have deep expertise and understanding that could be exploited in both designing and implementing policy. Despite this, ALBs felt they were not sufficiently involved in policy discussions, though there were some exceptions. The considerable skills and experience of non-executive directors within ALBs are also not routinely exploited across ALBs and departments. Secondments between ALBs and departments are another way to help develop mutual understanding, but they are only used sporadically (paragraphs 4.4 to 4.6).

17 Many ALBs do not fully understand how their work aligns with departments' objectives, which risks limiting the contribution they can make. A quarter of surveyed ALBs were only partially clear what departments' objectives were relating to their area of work, and a further 3% were not clear. This was most pronounced in MoJ where 42% were partially or not clear. Recently published single departmental plans do not adequately reflect the contribution of ALBs to departmental objectives. BIS and DEFRA are currently undertaking transformation programmes: BIS is discussing the impact of this with its ALBs, while DEFRA is developing its programme in partnership with its ALBs. This may help to explain why all of DEFRA's ALBs considered they had been helped to understand the Department's strategic direction in the last 18 months, compared with only 53% of MoJ ALBs. Overall, 36% of ALBs surveyed wanted to better understand their department's strategic direction (paragraphs 2.9, 4.2 and 4.3).

18 While departments have established mechanisms to encourage collaboration across ALBs, these are still developing. All four departments bring together senior staff from ALBs to consider current issues. These meetings have focused mostly on departments giving information and encouraging networking, and views on their value were mixed. All four departments are seeking to make engagement more discussion-based, with more focus on sharing ideas and promoting collaboration. We also saw some good examples of departments encouraging collaboration on specific issues in a targeted way and DEFRA is building closer relationships with its ALBs as part of its transformation programme. While 64% of ALBs surveyed had been supported in sharing good practice and working collaboratively, 30% had not, and 47% wanted more support from departments in this area (paragraphs 4.8 to 4.11).

19 The Cabinet Office has more to do to develop greater coherence and consistency in the oversight of ALBs. It is welcome that the Cabinet Office has recently published guidance on the classification of ALBs and developed a new, more inclusive and strategic, programme of reviews of public bodies. Over time this has the potential to bring greater coherence and consistency to the ALB landscape. The Cabinet Office has developed a 'sponsorship specialism competency framework', supported by a training programme. It has also established a peer network of 'sponsors' across Whitehall to address the low profile of sponsorship skills in the civil service. But as our findings show, there are still areas where greater central support is needed to both identify and disseminate effective practice (paragraph 4.13).

Conclusion

20 The arm's-length body landscape remains confused and incoherent. There is no single list of all ALBs across government nor a common understanding of when ALBs should be used or what type of ALB is most appropriate for particular circumstances. Different departments define ALBs in different ways and some ALBs are uncertain about how they relate to their department's objectives. While the Cabinet Office is building on its Public Bodies Reform Programme and taking further steps to address this, the prevailing inconsistency hampers a coherent approach to overseeing ALBs that is consistent with their purpose.

21 Across the four departments, approaches to oversight of ALBs have evolved in response to internal and external pressures. All four departments use different approaches, but without a consistent overarching framework that draws on learning from departments' experience. While we are not arguing for a 'one size fits all' approach, it seems clear that the broad range of approaches cannot all be equally good at getting value from ALBs. The one consistent feature is the extent to which oversight is focusing on compliance and control, as opposed to achieving greater value from the relationship. There are, however, examples of departments adopting a more strategic approach through greater involvement of more senior staff and selective, targeted collaboration with and between ALBs. There is also a real appetite to learn and adapt approaches to oversight. The Cabinet Office needs to work collectively with departments to build on this momentum. It should take the lead in drawing together existing work, and identifying the most effective approaches and under what circumstances they can best be applied, to ensure oversight improves value for money.

Recommendations

22 Although our findings are based on an analysis of the oversight approaches used across four departments, they have wider relevance to all departments that oversee ALBs. Differing circumstances within individual departments and across ALBs precludes a one size fits all approach, but the Cabinet Office should:

- a** review the effectiveness of existing mechanisms for sharing good practice and developing capability in the oversight of ALBs; and
- b** work with departments to better understand the costs and benefits of different approaches, and develop and implement a guiding framework for effective oversight based on the following principles:
 - **clarity of purpose** and an appropriate form and structure to reflect that purpose;
 - **clear alignment of objectives** between single departmental plans, through framework documents and performance frameworks, to those of ALBs; these objectives should be central to oversight arrangements;

- **a balanced approach** that focuses effort on the wider risks to achieving departmental and ALB objectives as well as financial risk;
- **a proportionate and transparent approach** to oversight based on the role and purpose of the ALB, their contribution to departmental objectives, a thorough understanding of risk, and a consideration of the ALB's capability to manage this;
- **streamlined processes** that avoid overlap with ALBs' own governance arrangements, do not duplicate requests and recognise the costs of reporting arrangements for ALBs; and
- **maximise opportunities** to provide greater value by involving ALBs in policy development and operational decision-making where relevant, identifying where targeted support is most in demand and facilitating targeted links between ALBs to exploit their skills and knowledge, and leveraging the experience and expertise of non-executive directors.

Part One

Introduction

1.1 Although arm's-length body (ALB) is a commonly used term, there is no single list of ALBs across government, nor a common understanding of when they should be used as a delivery mechanism. According to HM Treasury's guidance, *Managing public money*, ALBs are "central government bodies that carry out discrete functions on behalf of departments, but which are controlled or owned by them. They include executive agencies, non-departmental public bodies (NDPBs) and government-owned companies".¹

1.2 Effective oversight of ALBs is essential for improving value for money. It allows departments to anticipate service failures and manage their impact on users. It also maximises the scope for learning across families of ALBs and departments. With increasing pressure on administrative spending and the need to find up to £20 billion of efficiency savings by 2019-20, departments are changing the way their ALBs are organised and looking to exploit potential improvements in efficiency. Against this backdrop, the four departments we examined have evolved their approach to overseeing ALBs in response to, and in anticipation of, a range of pressures such as increasing financial constraint, initiatives to improve transparency and wider public service reforms (**Figure 1** on pages 14 and 15).

1.3 Effective oversight is also necessary for principal accounting officers to be able to assure themselves that spending is as Parliament intended. The departmental accounting officer operates at the head of a system of accountability, even though there may be separate accounting officers for individual ALBs.² Of the 93 qualifications that we have issued since 2010, almost half have been in ALBs (24 ALB account qualifications across the four departments covered by this report).

1.4 The Cabinet Office oversees the public bodies landscape. We reported on its Public Bodies Reform Programme in 2014.³ Its public bodies reform team provides support and guidance to departments in relation to creation, governance and 'sponsorship' of public bodies. It relies on departments to follow its guidelines and to establish appropriate and robust 'sponsorship' arrangements for ALBs. The Cabinet Office also owns the process for reviewing ALBs. It produces an annual Public Bodies report, which aims to provide greater transparency about public bodies.

¹ HM Treasury, *Managing public money*, August 2015.

² Comptroller and Auditor General, *Accountability to Parliament for taxpayers' money*, Session 2015-16, HC 849, National Audit Office, February 2016.

³ Comptroller and Auditor General, *Progress on public bodies reform*, Session 2013-14, HC 1048, National Audit Office, February 2014.

This is not, however, a comprehensive list of all ALBs. For example it does not include public corporations or statutory/non-statutory post-holders such as inspectorates. In *Public Bodies 2015*⁴ the Cabinet Office reported that there were more than 450 ALBs, with a total gross spend of some £205 billion (including NHS England but excluding HM Revenue & Customs and public corporations).

This study

1.5 This report follows our earlier work,⁵ and that of the Public Administration Select Committee, the Institute for Government and the Public Chairs' Forum, on how to get the best from ALBs.^{6,7} It also builds on observations made by the government's lead non-executive that not all departmental boards have clear oversight of their ALBs, directly increasing the risk of service failures. He set greater strategic oversight of ALB service delivery as one of the key priorities for non-executives across government.⁸

1.6 We compare and contrast approaches to overseeing ALBs in four departments: the Department for Business, Innovation & Skills (BIS), the Ministry of Justice (MoJ), the Department for Environment, Food & Rural Affairs (DEFRA), and the Department for Culture, Media & Sport (DCMS). We also consider the role of the Cabinet Office in overseeing the public bodies landscape and providing advice and guidance to departments.

1.7 We focus on these four departments as they are responsible for large numbers of ALBs, carrying out a diverse range of functions. They cover a broad range of different bodies including non-ministerial departments, executive agencies, executive non-departmental public bodies (NDPBs), and other bodies such as inspectorates and public corporations (**Figure 2** on pages 16 to 19). Not all of these bodies are considered ALBs by all departments, but for the purposes of this report we have applied a broad definition. For the four departments, this covers 116 ALBs.⁹ These ALBs collectively:

- received around £25 billion funding from the four departments in 2014-15¹⁰; and
- employed around 144,000 staff, where the core departments' staffing is very small by comparison (9,200 staff) (**Figure 3** on page 20).

4 Cabinet Office, *Public Bodies 2015*.

5 Comptroller and Auditor General, *Progress on Public Bodies Reform*, Session 2013-14, HC 1048, National Audit Office, February 2014.

6 Institute for Government, *It Takes Two. How to create effective relationships between government and arm's-length bodies*, March 2012.

7 Institute for Government, *Read Before Burning*, July 2010.

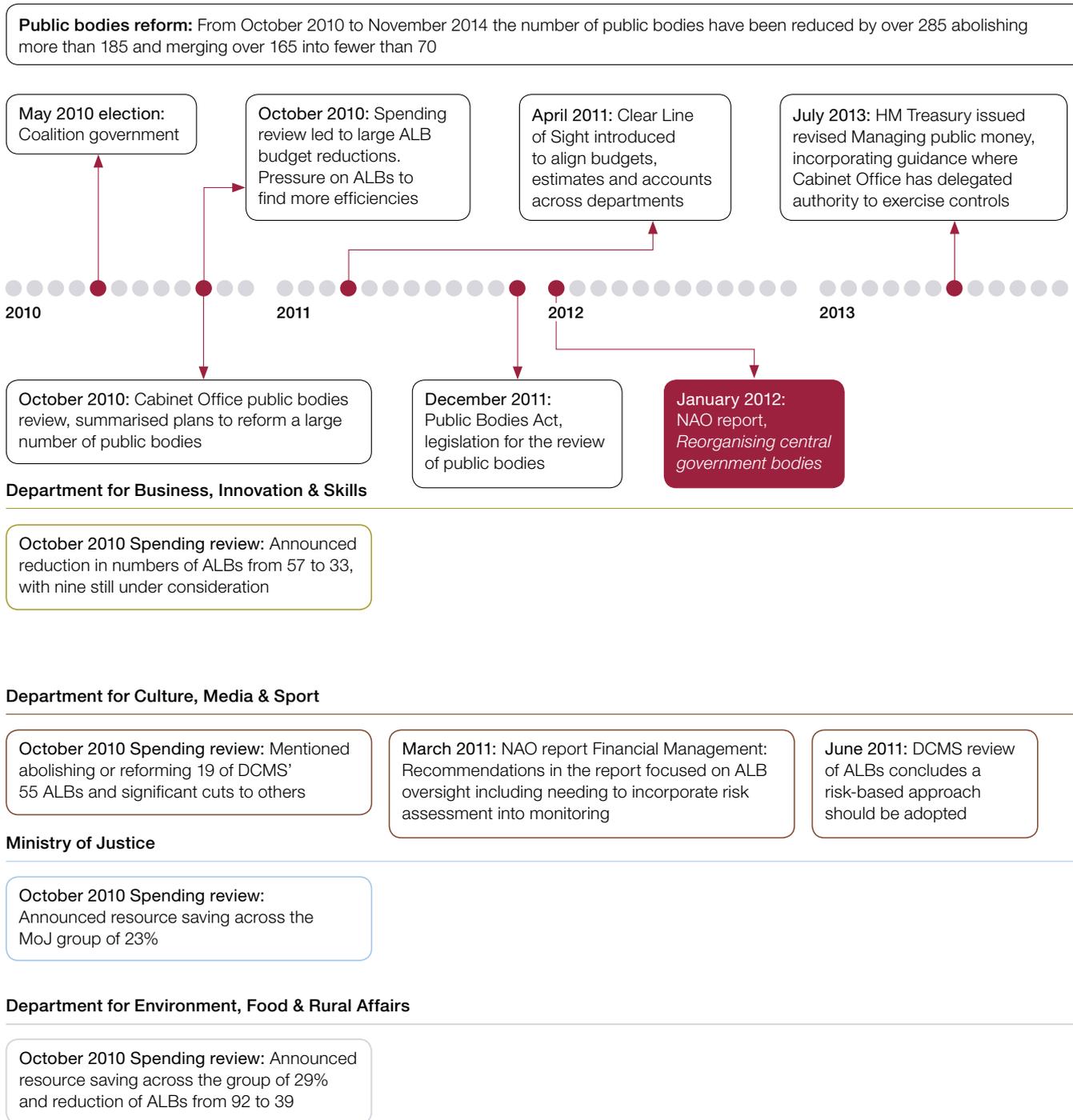
8 The Government Lead Non-Executive's Annual Report, 2014-15.

9 See Appendix Two for an explanation of the ALB population covered by this report.

10 National Audit Office estimate using arm's-length bodies' accounts, comprising funding of £13.1 billion (Department for Business, Innovation & Skills), £6.4 billion (Ministry of Justice), £4.0 billion (Department for Environment, Food & Rural Affairs) and £1.3 billion (Department for Culture, Media & Sport).

Figure 1

Common developments in ALB oversight 2010 to 2016, and developments specific to departments



Source: National Audit Office review of key documentation and announcements relating to public bodies between 2010–2016

Public bodies reform 2015 to 2020 includes strengthening the review programme for public bodies, concentrating on securing efficiency savings

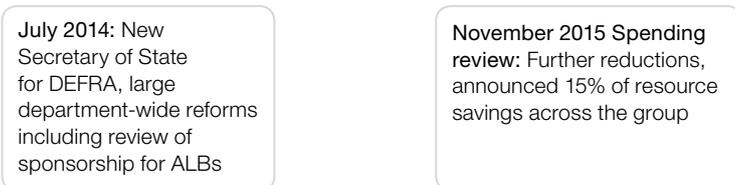
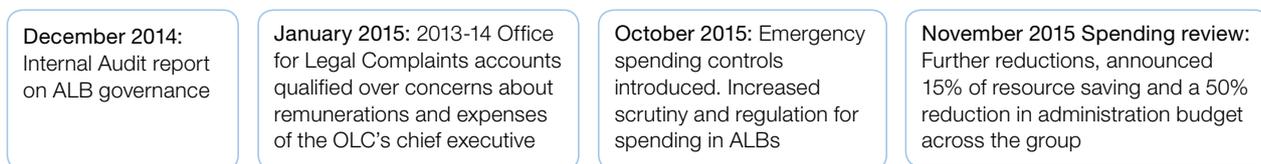
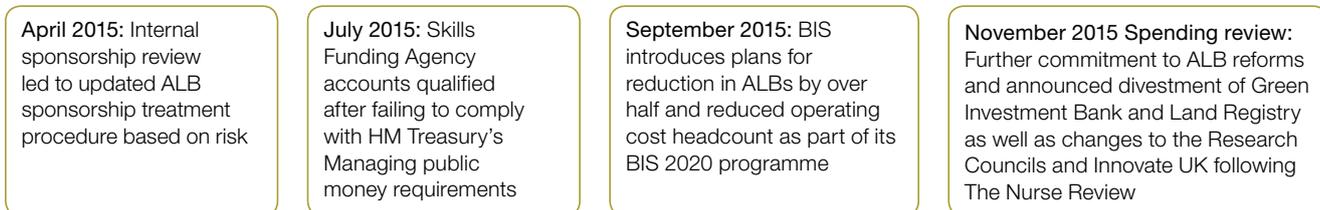
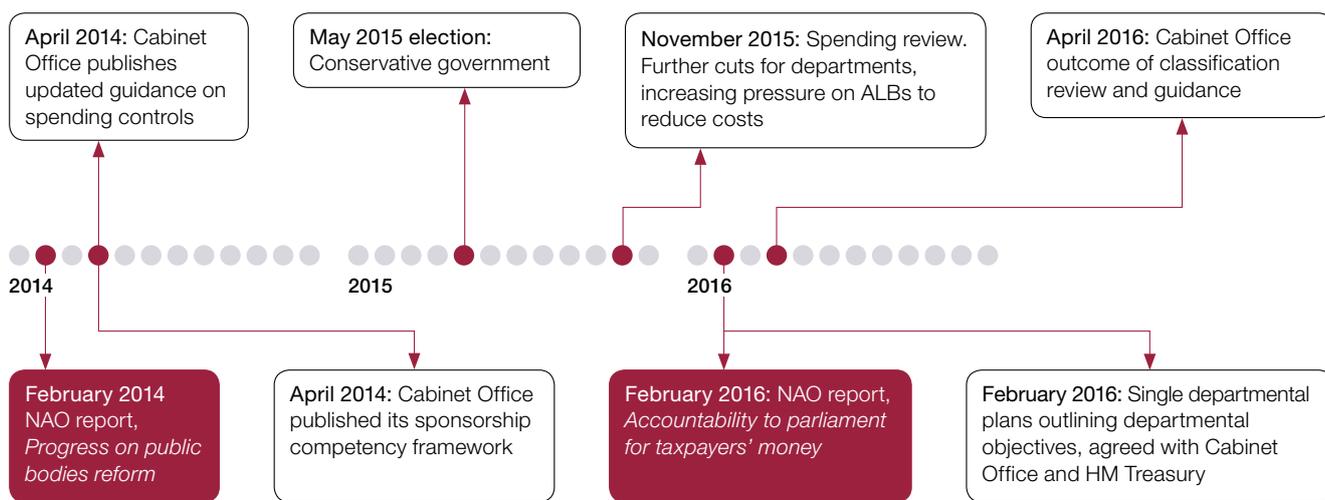
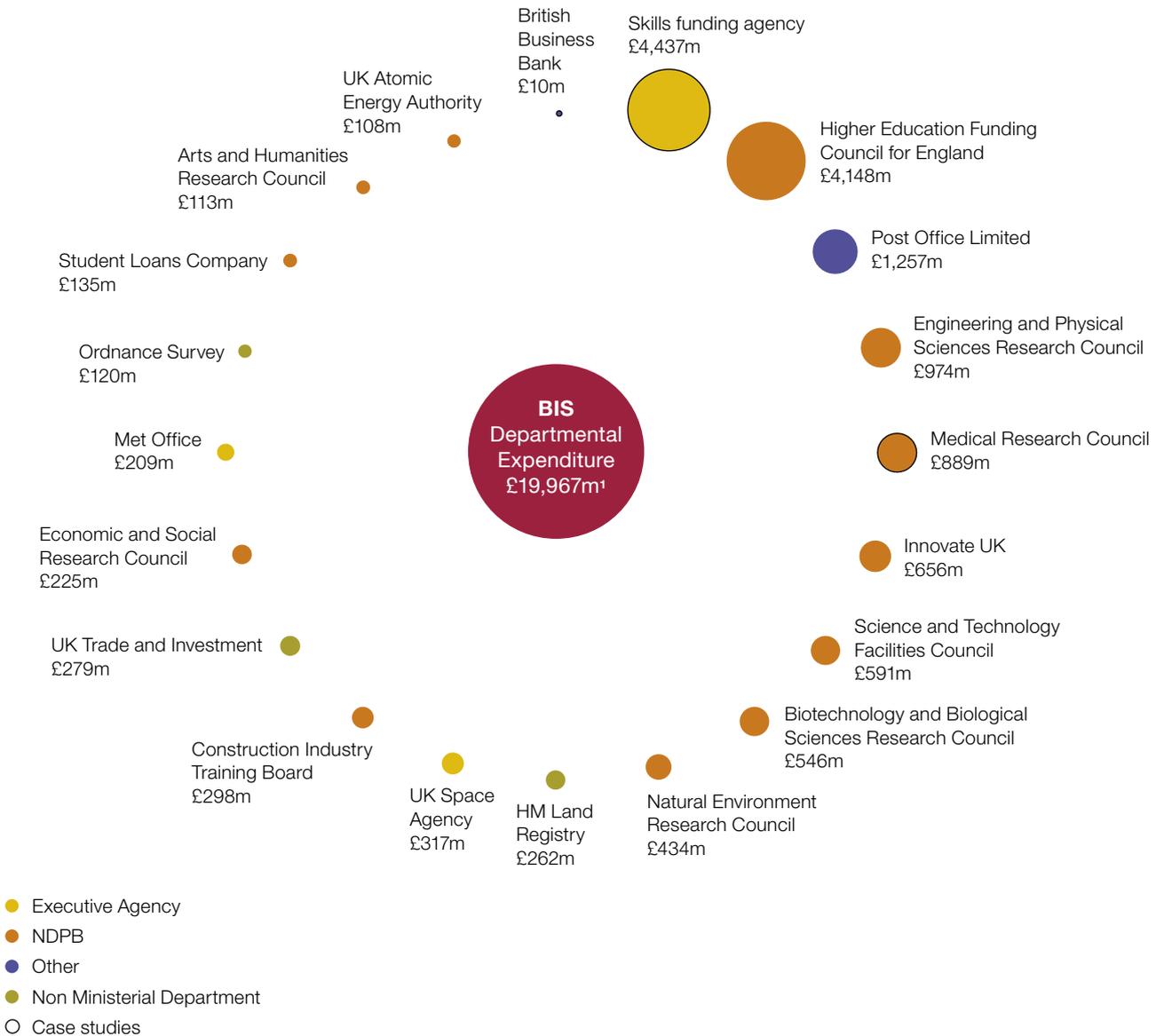


Figure 2

The four departments covered by this report and their arm's-length bodies



Notes

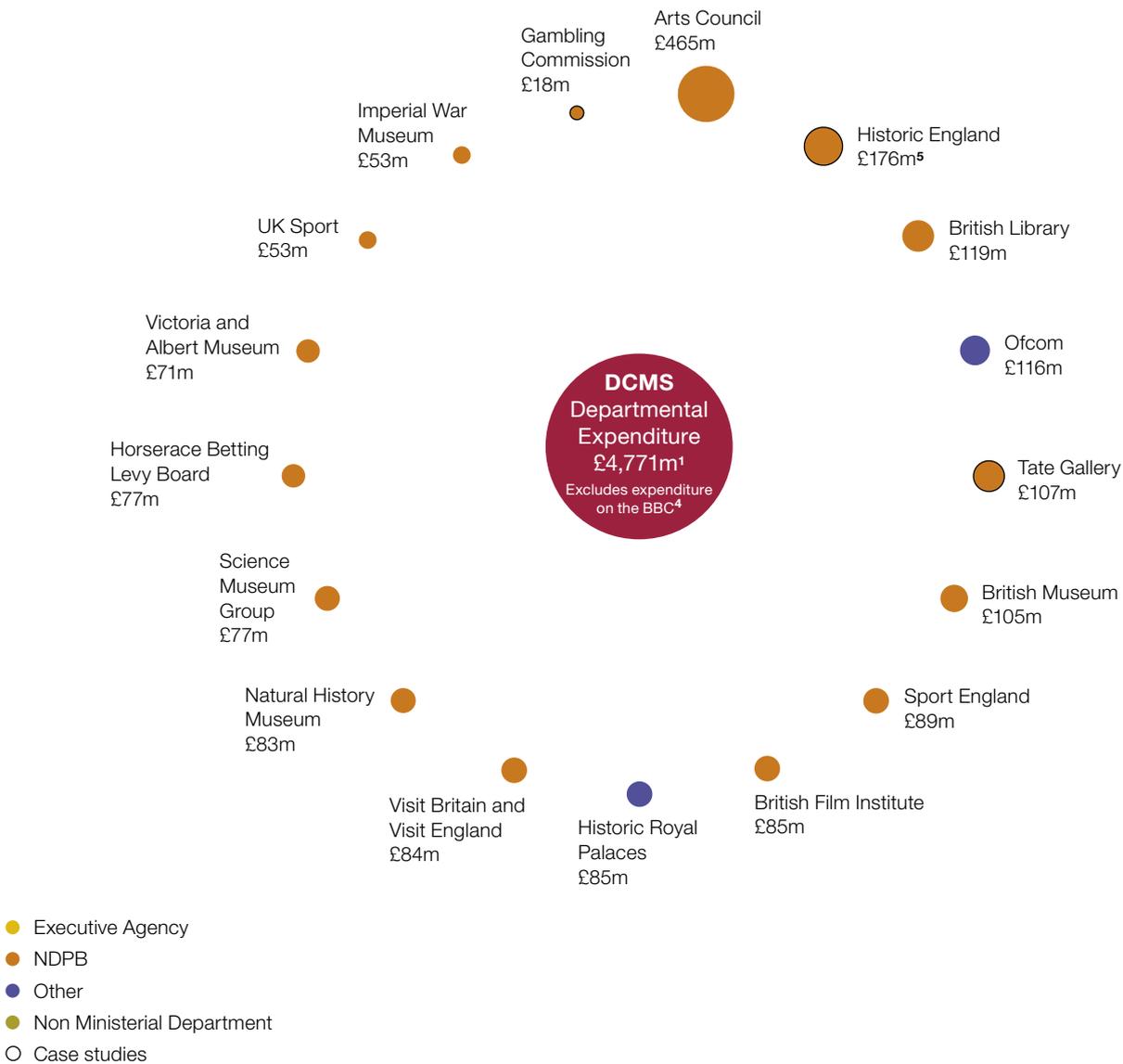
- 1 Total departmental group expenditure taken from 2014-15 departmental accounts. Bubble sizes are not comparable between departments.
- 2 ALBs are included in this figure where they have expenditure of over £100 million (BIS), £10 million (MoJ), £50 million (DCMS) and £10 million (DEFRA), and are part of our survey population. All case study ALBs are included in this figure irrespective of expenditure. The National Park Authorities have not been included in the DEFRA diagram.
- 3 Data for ALBs represent total gross expenditure from 2014-15 accounts (or year ending December 2014 where applicable). Bubble sizes are not comparable between departments.
- 4 BBC expenditure included in the DCMS 2014-15 Resource Account of £4,204 million is not included in the DCMS Departmental Expenditure as it is not part of the scope of the study.
- 5 The figure for Historic England shows English Heritage expenditure from 2014-15.

Source: National Audit Office analysis of Department and arm's-length bodies 2014-15 accounts



Figure 2 *continued*

The four departments covered by this report and their arm's-length bodies



Notes

- 1 Total departmental group expenditure taken from 2014-15 departmental accounts. Bubble sizes are not comparable between departments.
- 2 ALBs are included in this figure where they have expenditure of over £100 million (BIS), £10 million (MoJ), £50 million (DCMS) and £10 million (DEFRA), and are part of our survey population. All case study ALBs are included in this figure irrespective of expenditure. The National Park Authorities have not been included in the DEFRA diagram.
- 3 Data for ALBs represent total gross expenditure from 2014-15 accounts (or year ending December 2014 where applicable). Bubble sizes are not comparable between departments.
- 4 BBC expenditure included in the DCMS 2014-15 Resource Account of £4,204 million is not included in the DCMS Departmental Expenditure as it is not part of the scope of the study.
- 5 The figure for Historic England shows English Heritage expenditure from 2014-15.

Source: National Audit Office analysis of Department and arm's-length bodies 2014-15 accounts

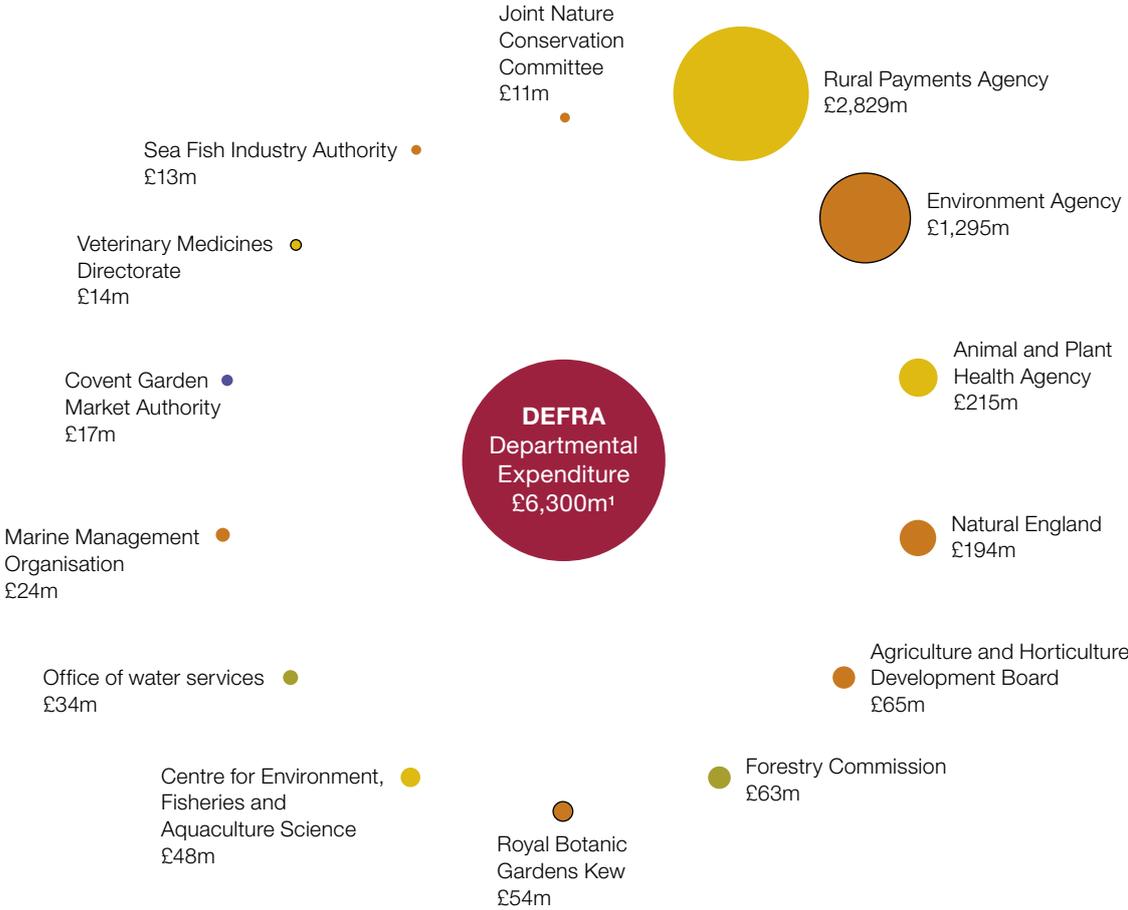


Figure 3

Department core staff compared with staff in ALBs (full-time equivalent)



Notes

- 1 Core figures to the nearest 10 FTE, ALB figures to the nearest 1000 FTE.
- 2 Core data from 2014-15 department accounts. The ALB figure is an estimate for the 116 ALBs in our survey population based on data from ALB 2014-15 accounts.

Source: Department and arm's-length bodies 2014-15 accounts

1.8 For this report, we selected topics to provide insight into oversight arrangements for ALBs, rather than providing a comprehensive comparison across every aspect of the departments' approach. Any lessons will also be relevant to other departments that oversee ALBs, and also to the centre of government. The rest of this report covers:

- being clear about the purpose and accountabilities of ALBs (Part Two);
- taking a proportionate approach to the oversight of ALBs (Part Three); and
- maximising value from ALBs (Part Four).

Part Two

Being clear about the purpose and accountabilities of arm's-length bodies

2.1 For the oversight relationship to work effectively, all parties need to be clear about what arm's-length bodies (ALBs) are, what they do, what approach to oversight is consistent with their purpose, and how effective governance is upheld by an efficient appointments process. This part examines:

- the relationship between ALB definition and oversight;
- clarity about ALBs' purpose;
- consistency between oversight and purpose; and
- public appointments.

The relationship between ALB definition and oversight

2.2 In 2014, the Public Administration Select Committee found that “arm's-length government is confused and opaque”, and that it had been presented with “no evidence that [the Public Bodies Reform Programme] has increased accountability”.¹¹ The nature of the relationship between a department and an ALB necessarily varies depending on the role and function of the body, and how ‘arm's-length’ it is. For example an executive agency is dedicated to carrying out a particular function and is constitutionally part of a department, while an independent inspector or a regulator will need to be set up to be, and be seen to be, independent. But current classifications do not reflect different degrees of control by departments.¹²

2.3 A review and guidance from the Cabinet Office published in April 2016 acknowledged that the public bodies landscape is complex and confusing, and sought to address the issue of ALB classification.^{13,14} It concluded that in future the classification of a public body should be determined by the degree of freedom it requires to perform its functions. It recommended that in future any new public bodies should be set up under one of three main categories – executive agencies, non-departmental public bodies (NDPBs), and non-ministerial departments. Existing arrangements have developed over many years, and the Cabinet Office expects that existing bodies will adapt to this new framework over time.

¹¹ Public Administration Select Committee, *Who's Accountable? Relationships between Government and arm's-length bodies*, First Report of Session 2014-15, HC 110, November 2014.

¹² Institute for Government, *Read Before Burning*, July 2010.

¹³ Cabinet Office, *Report on the Outcome of the Classification Review*, April 2016.

¹⁴ Cabinet Office, *Classification Of Public Bodies: Guidance For Departments*, April 2016.

2.4 Without clear definitions, different departments interpret classifications differently leading to a lack of consistency in how they oversee ALBs with similar functions and status. For example:

- the four departments refer to their ALBs using different language: MoJ and DCMS refer to 'arm's-length bodies', while DEFRA refers to 'delivery bodies' and BIS to 'partner organisations';
- MoJ oversees most ALBs differently from its three largest executive agencies; and
- bodies with regulatory roles have been set up as different types of ALBs: the Gambling Commission (DCMS) and the Environment Agency (DEFRA) are executive NDPBs; the Veterinary Medicines Directorate (DEFRA) is an executive agency; Ofwat and the Competition and Markets Authority are non-ministerial departments; and Ofcom is a statutory corporation.

Clarity about ALBs' purpose

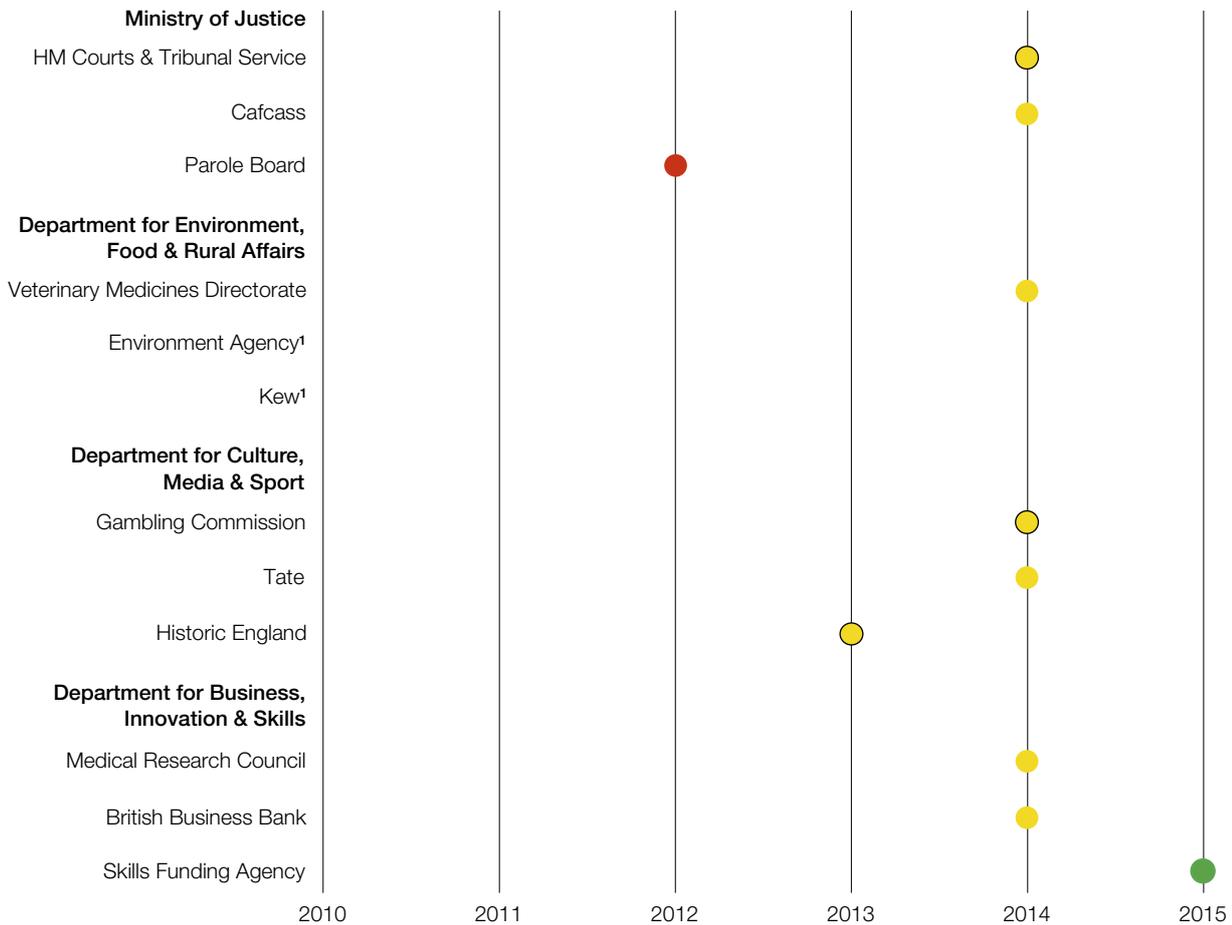
2.5 Where arrangements and responsibilities between organisations are not clear, this can lead to tensions and even service failures. The purpose of an ALB, along with lines of responsibility, accountability, and governance and oversight arrangements should be stated in a framework document.¹⁵

2.6 We selected 12 case study ALBs across the four departments and found framework documents had not always been regularly updated (**Figure 4**). Nine of the agreements had been updated in the last three years, as suggested by HM Treasury and the Cabinet Office.¹⁶ Only one had been updated in the last year. Two ALBs, Kew and the Environment Agency, did not have a framework document in place. DEFRA has draft framework documents with these ALBs, supported by management statements and financial memoranda from around 2004. DEFRA has recognised that for all its bodies, governance documents including framework agreements will need revision as part of its transformation programme. Kew has been negotiating an agreement with DEFRA for three years. The out-of-date basis of this agreement has caused a lack of clarity on roles and responsibilities between Kew and DEFRA, for example about how issues such as increasing entrance prices for Kew should be resolved. Even where framework documents do exist, in some instances departments may not follow through on the oversight arrangements they have set up (**Figure 5** on page 24).

¹⁵ Framework documents set out the accountabilities and relationships of arm's-length bodies with their sponsor departments, as explained in HM Treasury, *Managing public money*, 2015.

¹⁶ HM Treasury and Cabinet Office, *Corporate governance in central government departments, Code of good practice 2011*.

Figure 4
 Framework documents for our 12 case study ALBs



- Framework agreement published in the last year
- Framework agreement published 1–3 years ago
- Framework agreement published 3+ years ago
- Framework document has not been updated since the appointment of the current chief executive

Note

1 Royal Botanic Gardens Kew and the Environment Agency do not have finalised framework agreements in place. The Department for Environment, Food & Rural Affairs has produced draft agreements for both organisations and these remain to be finalised.

Source: Framework documents between departments and arm's-length bodies

Figure 5

The Courts Reform Programme

The courts and tribunals system processes over four million cases every year and is currently largely paper-based. HM Courts & Tribunals Service (HMCTS) is an executive agency of the MoJ. It is responsible for implementing, from April 2016, an ambitious £737 million reform programme intended to produce anticipated savings of £211 million a year.

MoJ and HMCTS agreed a framework document in July 2014, setting out their respective responsibilities. In practice, however, MoJ's close day-to-day oversight of HMCTS does not reflect the relationship described in the framework document. This is in part a consequence of additional spending controls introduced in October 2015 (paragraph 3.15), but it has caused confusion about the respective roles and responsibilities of HMCTS and MoJ and risked slow decision-making. This is particularly concerning given the need for quick decisions and clear accountability in a change programme as large and ambitious as the Court Reform Programme.

One example of the operational impact of the current relationship is the impact on the role of the HMCTS chief executive officer (CEO). The former CEO was spending the majority of her time on upward management, meaning that less time was available to lead the programme and run HMCTS. MoJ is currently reviewing its level of control and the delegated authority of HMCTS, and clarifying the roles and accountability of the HMCTS board. MoJ and HMCTS have agreed to implement a number of changes with the aim of providing a streamlined framework within which HMCTS can deliver more effectively.

Source: National Audit Office, Ministry of Justice and HM Courts & Tribunals Service

2.7 Arrangements for accountability and oversight can also be set out in other documents such as:

- departments' accountability system statements; and
- single departmental plans.

2.8 Our recent report *Accountability to Parliament for taxpayers' money* recommended that all departments should have an **accountability system statement** in place. These should cover all accountability relationships across government so that Parliament can hold accounting officers and delivery bodies to account.¹⁷ In May 2016, the Committee of Public Accounts recommended all departments prepare accountability system statements with their next annual report and accounts.¹⁸ Of the four departments, only DEFRA currently has an accountability system statement.¹⁹ This provides accountability structures for its ALBs in detail. It is important that accountability structures are adapted to reflect changes to the oversight and infrastructure of ALBs, so that these structures are clear. For example, DEFRA is building closer relationships with its ALBs as part of its transformation programme. It has included representatives from its four biggest ALBs in senior governance arrangements across DEFRA; its departmental board includes chairs of the Environment Agency and Natural England; its Audit and Risk Committee includes chairs from the four ALBs, and its Executive Committee includes CEOs from the four ALBs. DEFRA has recognised the importance of actively looking at ALB governance during its transformation programme.

¹⁷ Comptroller and Auditor General, *Accountability to Parliament for taxpayers' money*, Session 2015-16, HC 849, National Audit Office, February 2016.

¹⁸ Committee of Public Accounts, *Accountability to Parliament for taxpayers' money*, Thirty-ninth Report of Session 2015-16, HC 732, May 2016.

¹⁹ Department for Environment, Food & Rural Affairs, *Accountability System Statement*, July 2014.

2.9 In February 2016, Departments published **single departmental plans** (SDPs) describing the government's objectives for the 2015 to 2020 Parliament. Each plan contains a similar sentence on working with the Cabinet Office to reform ALBs. Some ALBs felt they had not been involved where SDPs related to their area of work. For example, DCMS did not consider it was necessary to ask the Gambling Commission to contribute to its single departmental plan, whereas the Commission considered this a missed opportunity as the plan covered gambling and other areas relevant to the Commission's work. The BIS, DEFRA and MoJ plans all included some priorities where the lead official was from an ALB. However, across the four departments, priorities were not mapped consistently to ALBs, and the plans did not adequately reflect the breadth of contribution made by ALBs.

Consistency between oversight and purpose

2.10 ALBs operate to a greater or lesser extent at a distance from ministers and departments. Oversight arrangements need to recognise this to avoid constraining or compromising ALBs' ability to deliver their objectives. Most ALBs have their own governance arrangements and boards, including non-executives, which can provide assurance. But departments have to make a judgement about the extent of oversight and control that is appropriate for particular bodies. For example, departments have greater control over the organisation and management of executive agencies because, unlike NDPBs, they are designated business units within departments and are not separate legal entities.^{20,21} Ultimately, departments may choose to reorganise functions into a core department, for example as the Home Office and Department for Work & Pensions have done. In February 2014, we expressed concerns that, while bringing functions into a core department may have the advantage of improving departmental control, transparency may be reduced and it may be more difficult for Parliament to identify and hold accountable officials who manage those functions.²²

2.11 Departments therefore face challenges for different types of bodies in striking an appropriate balance between control, and allowing the right degree of freedom (depending on the function of a body), while also having sufficient oversight. Conflicts can arise in seeking to get the balance right (**Figure 6** overleaf). We surveyed 116 ALBs across the four departments to explore their perspectives on oversight regimes (Appendix Two). Of those ALBs that responded, 14% said that greater autonomy was the one thing that would improve their relationship with the department. This was particularly the case for MoJ ALBs (44%).

20 Public Administration Select Committee, *Who's accountable? Relationships between Government and arm's-length bodies*, First Report of Session 2014-15, HC 110, November 2014.

21 Cabinet Office, *Classification Of Public Bodies: Guidance For Departments*, April 2016.

22 Comptroller and Auditor General, *Progress on public bodies reform*, Session 2013-14, HC 1048, National Audit Office, February 2014.

Figure 6

Oversight challenges for particular bodies

Example – HM Inspectorate of Prisons

In December 2015, HM Chief Inspector of Prisons wrote to the permanent secretary of the MoJ about the process of applying MoJ's emergency spending controls to the work of the inspectorate, which he considered had unacceptable consequences for the independent delivery of his statutory functions. He considered that MoJ's day-to-day control of spending affected his determination of how inspections should be carried out, how his inspection programme was organised, and how he controlled the quality of his reports. He considered this disrupted his ability to carry out his functions and potentially compromised his ability to meet his objectives, acting independently.

Source: HM Chief Inspector of Prisons letter to Ministry of Justice, December 2015

2.12 There are, however, examples where departments have made judgements about the type of oversight that is proportionate and appropriate:

- DCMS decided to take a light-touch approach to overseeing ALBs. This followed NAO work that found it did not have a consistent approach and needed to determine the appropriate level of oversight given its reduced resources following the 2010 Spending Review.²³ This has involved placing less emphasis on process and more on developing relationships at a senior level.
- DEFRA has involved ALBs in its decision-making. It is integrating more closely its ALBs through its 'DEFRA Group transformational change programme', while maintaining the statutory independence of its ALBs.
- BIS has flexed its approach to the British Business Bank to recognise its investment role and its objectives, by allowing the Bank financial freedom to carry forward underspends where it can make investments in a following year, which could provide better value for money.

Public appointments

2.13 A key lever departments have in overseeing ALBs is the power to appoint and remove ALB board members. Ministers are responsible for appointments, which are regulated by the Commissioner for Public Appointments. But it is important that the public have confidence that the appointments system is efficient, transparent and fair.²⁴ In 2014-15, the four departments made 355 appointments to ALBs including reappointments, ranging from 40²⁵ at MoJ to 128 at DCMS.²⁶ The current process involves many steps including advertising, shortlisting, panel interviews, potentially with subsequent interviews by ministers. Some appointments are reviewed by the Prime Minister.

23 Comptroller and Auditor General, *Financial Management, Department for Culture, Media & Sport, Session 2010-11*, HC 821, National Audit Office, March 2011.

24 Better Public Appointments, *A review of the public appointments process*, Sir Gerry Grimstone, March 2016.

25 The Ministry of Justice figure excludes 669 appointments made to regional bodies such as the Independent Monitoring Boards and Advisory Committees for Justices of the Peace.

26 Departmental Resource Accounts and information provided to the National Audit Office.

2.14 In his March 2016 review of public appointments, Sir Gerry Grimstone identified that “too many appointments take far too long to conclude which is both inefficient and can deter good candidates from applying”.²⁷ Our work confirmed that the appointments process is a time-consuming challenge for both ALBs and departments, that risks causing tensions, constraining effective governance and oversight of ALBs. Departments and ALBs identified three key issues with the appointments process:

- it is lengthy, creating the risk that applications are lost from capable individuals put off by the time and bureaucracy involved;
- it takes up a substantial amount of departmental and ALB time over a sustained period; and
- delays can result in loss of expertise and additional costs (**Figure 7**).

2.15 In 2014-15, the Commissioner for Public Appointments noted concerns across some departments about “the length of time taken to bring competitions to a conclusion and the lack of communication with candidates about the reasons for delay”.²⁸ In 2014-15, DCMS received a red rating from the Commissioner against the Commissioner’s code of practice. DCMS responded by appointing a senior owner of the selection processes. BIS and MoJ also have central teams in place to allow them to better manage appointments. DEFRA’s public appointments team provides central oversight of the teams that manage appointments, and it will in future take more responsibility for running the appointments process. Sir Gerry Grimstone’s recent review of public appointments made a series of recommendations to improve the appointments process.²⁹ However, it is too early to say what the impact of these will be on ALBs. We found departments’ day-to-day oversight of appointments had increased for 44% of ALBs, particularly those overseen by DCMS (**Figure 8** overleaf).

Figure 7

Appointments – The Gambling Commission

The Gambling Commission (the Commission) regulates the commercial gambling sector and the National Lottery. It currently has 11 board members (commissioners) including the CEO. During 2014-15, the CEO began discussions with DCMS about reappointing the chairman (term ending March 2016) and reappointing two commissioners (terms ending December 2015). The two commissioners had corporate finance and digital business backgrounds which had helped inform the regulatory framework as the National Lottery goes through a digital transformation. The two commissioners were not reappointed and the chairman’s appointment was extended for four months. While a number of very experienced individuals have recently been appointed to the board, the Commission considers it a significant challenge for non-executives to get up to speed in a complex and fast-moving market. By Christmas 2016 only one member of the Commission will have been on the board for more than 21 months, increasing the Commission’s exposure to continuity risks. The Commission has incurred extra costs as it decided to employ some former commissioners as consultants on a fixed-term basis to try to mitigate these continuity risks.

Source: National Audit Office and the Gambling Commission

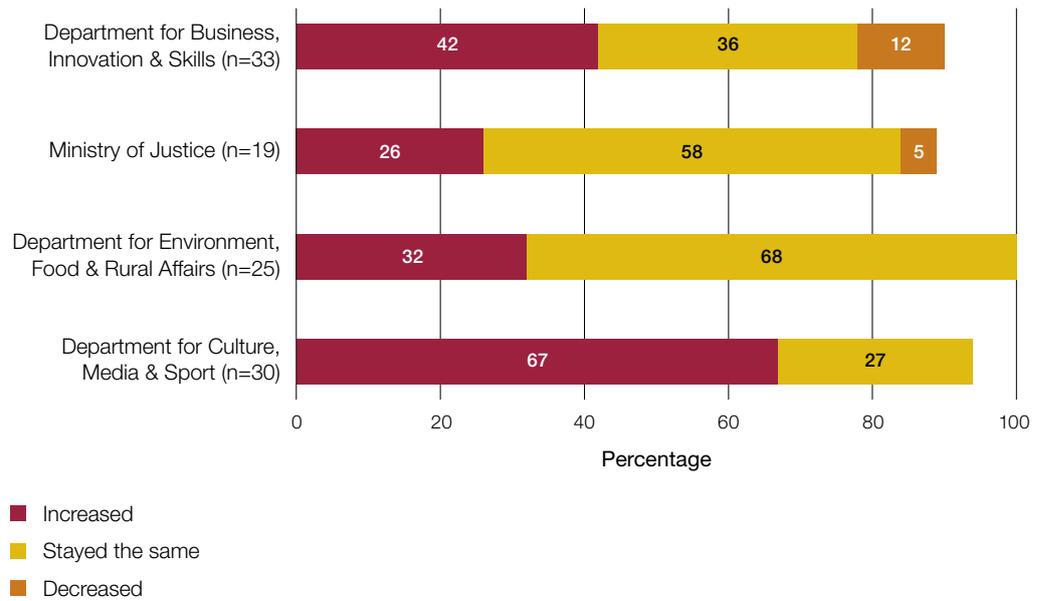
27 Better Public Appointments, *A review of the public appointments process*, Sir Gerry Grimstone, March 2016.

28 The Commissioner for Public Appointments, Annual Report 2014-15.

29 Better Public Appointments, *A review of the public appointments process*, Sir Gerry Grimstone, March 2016.

Figure 8

In the last 18 months has the department's day-to-day oversight of making public appointments in your organisation...?



Notes

- 1 Bars do not add to 100% as some ALBs selected 'Don't know' or 'Not applicable'.
- 2 n= the number of ALB survey responses for this question.

Source: National Audit Office survey

Part Three

Taking a proportionate approach to the oversight of arm's-length bodies

3.1 With resources constrained, departments are increasingly adopting risk-based approaches to oversight that are proportionate to the risks that the arm's-length body (ALB) poses to the department.³⁰ This part examines:

- how departments understand and assess ALB risk;
- the actions they take having assessed risk; and
- the focus of departmental oversight of ALBs.

Understanding and assessing ALB risk

3.2 All four departments we examined consider the scale of risk in their ALBs, though approaches vary (**Figure 9** overleaf). BIS, MoJ, and DCMS use risk-based approaches to oversight informed by an overall assessment of risk in each of their ALBs, but they interpret risk differently, and use different methods, categories and rating systems.

3.3 DEFRA takes a different approach. It is, through its transformation programme, in the process of developing its approach to oversight, by seeking to integrate DEFRA strategic risks with ownership of operational risks by ALBs. DEFRA's four largest ALBs are represented on its executive committee and its board monitors DEFRA's largest 10 ALBs in delivering DEFRA's strategic priorities. DEFRA is developing a group-wide risk strategy, and in June 2016 held a risk workshop for all executive committee members and non-executive directors to agree the strategic risks to the department.

3.4 BIS and DCMS use a number of categories of risk and score each ALB across these categories to produce an overall assessment. By contrast, MoJ assesses risk by considering 'intrinsic' risk and 'dynamic' risk (**Figure 10** on page 31). Only BIS includes 'opportunities' as a category in its assessment to identify where the ALB may have potential to have a greater impact.

³⁰ HM Treasury and Cabinet Office. *Corporate governance in central government departments: Code of good practice 2011*.

Figure 9

Departments' approach to understanding and assessing ALB risk

	Department for Business, Innovation & Skills	Department for Culture, Media & Sport	Ministry of Justice ¹	Department for Environment, Food & Rural Affairs ²
Overall assessment made of ALB risk	✓	✓	✓	✓
Risk assessed collaboratively with ALB	✓	X	✓	✓
Overall assessment shared with ALB	✓	X	✓	X
Risk assessments made at least annually	✓	✓	✓	✓
Score risk across categories to produce an overall assessment ³	✓	✓	X	✓
Includes 'opportunities' as a category in its assessment	✓	X	X	X
Considers capability of ALB in its assessment	✓	✓	✓	✓
Considers inherent and fluctuating risks in its assessment	X	X	✓	X
Timescale for impacts of risks assessed	X	✓	X	X
Senior level forum for approving ALB risk assessment ⁴	✓	✓	✓	X

Notes

- 1 MoJ method is not applied to National Offender Management Service, Legal Aid Agency or HM Courts & Tribunals Service, which are not part of the ALB governance arrangements at MoJ.
- 2 DEFRA produce a 'heat map' based on ALB governance statements which is reviewed by Internal Audit.
- 3 The categories of risk assessed are – BIS: operational performance, financial management, policy delivery, risk management, organisational capacity and capability, management behaviours, internal governance and opportunities. DCMS: financial & legal, operational, organisational and reputational. DEFRA: compliance with governance codes, effectiveness of governance arrangements, effectiveness of board performance, effectiveness of risk management, effectiveness of internal controls, critical business models, significant unresolved issues, whistleblowing.
- 4 The forums are – BIS: Performance, Finance and Risk Committee chaired by a director general, DCMS: ALB Governance Board chaired by a director and MoJ: The Ministry's executive committee.

Source: National Audit Office review of departments' arm's-length body risk assessment documents

Figure 10**Assessment of ALB risk at the Ministry of Justice**

Apart from MoJ's largest executive agencies (the National Offender Management Service, HM Courts & Tribunals Service, and the Legal Aid Agency), MoJ ALBs are covered by MoJ's sponsorship model, overseen by its ALB Governance Division. MoJ is unique in explicitly distinguishing between inherent and fluctuating risk to inform its oversight arrangements. The level of oversight is determined through an annual impact assessment, to provide assurance to the principal accounting officer that the arrangements in place reflect both the needs of the individual ALB and the Ministry. It defines:

- **intrinsic risks** – these relate to the function and structure of the ALB and are reviewed annually. Those bodies with highest intrinsic risks (large budgets, significant potential reputational impact, likely to have own accounting officer, significant human resource, IT and estate support requirements) are rated as high risk (level 3) and will receive the highest level of oversight from the Ministry; and
- **dynamic risks** – these include current operational performance, financial management, capacity and capability and delivery environment. Dynamic risks determine the frequency of business assurance meetings with the ALB.

Source: Ministry of Justice Sponsorship Model

3.5 Once assessed for individual ALBs, MoJ, BIS and DCMS moderate and collate ALB risks to produce overall ratings which are then confirmed by senior staff to determine oversight arrangements (Figure 9). MoJ and BIS assess risk collaboratively with their ALBs. They also include feedback from ALBs on oversight arrangements in their risk assessment processes. This approach has the benefit of transparency for ALBs about the department's oversight arrangements, allowing a shared understanding. By contrast DCMS does not assess risk in collaboration with ALBs and does not explicitly inform ALBs of the outcome. Nor does it routinely ask for its ALBs' risk registers or minutes from ALB board meetings. DEFRA collates risk ratings for ALBs based on their governance statements to show a 'heat map' of ALB risks, and internal audit examines these ratings, but they are not routinely used by those responsible for overseeing ALBs.

3.6 All four departments, however, recognise the importance of deploying a range of approaches to complement their formal assessments of risk. These might include regular meetings at senior levels and attending ALB boards and audit committees as observers. Good relationships are important in supporting open dialogues around risk, and where this operated well ALBs recognised it as a strength. For example, Historic England and Tate (DCMS) reported honest discussion of risks and issues between the ALB and the department as they arise, enabled by a good two way working relationship with DCMS. Departments also have systems for communicating with their ALBs in response to specific risks. For example, BIS wrote to all ALB accounting officers in July 2015, following NAO qualification of the accounts of the Skills Funding Agency, to share relevant lessons.

Actions departments take having assessed risk

3.7 For oversight of ALBs to be proportionate, the assessment of risk needs to translate into a differentiated approach to monitoring and intervening. Balancing the appropriate level of oversight is challenging and even where bodies are assessed as low risk they can still present big problems. For example, MoJ had rated the Office for Legal Complaints (OLC), which helps resolve legal service disputes, as low risk. But during 2014, a whistleblower raised concerns about expense claims and credit card spending by the OLC's chief executive. A review by the OLC and MoJ identified that OLC had incurred significant 'irregular' spending since its creation in 2009, that is spending outside that approved by Parliament. It found a general lack of appropriate oversight, approval and control of the chief executive's expenses, and that the OLC had also paid unauthorised benefits to the chief executive, other senior members of staff, and to all staff. Irregular spending amounted to £245,000 in 2014-15. The OLC now has an action plan in place to address the shortcomings identified in the review.

3.8 On the other hand, we found that departments often undermined otherwise good relationships with ALBs by frequent, often duplicated, requests for information from departmental officials outside their regular contacts. We heard examples of departments contacting ALBs to request information which was already held by the department or available in an ALB's published annual report. ALBs identified problems from poor coordination between different parts of the department, lack of communication around the purpose of requests and little understanding of the cost of responding to requests. They also felt departments did not regularly provide feedback about how information requested was used.

3.9 Overall, 52% of ALBs across the four departments felt that day-to-day oversight of their activities had increased in the past 18 months, ranging from 24% of DEFRA ALBs to 70% of BIS ALBs.³¹ ALBs at greater remove from departments, NDPBs, were more likely to have perceived an increase in day-to-day oversight than executive agencies. The vast majority (87%) of ALBs considered the frequency of contact the department had with their ALB in the last 18 months was 'the right amount', although for BIS and MoJ a significant minority of ALBs (18% and 21% respectively) considered the frequency of contact was 'too much'. No DCMS ALBs considered the amount of contact was too much, though at 7% it had the largest percentage of ALBs considering their frequency of contact with the department was too little.

³¹ This is perhaps not surprising given the significance of ALBs for these departments, and ALB account qualifications (see paragraph 1.3 and 1.7).

3.10 All the departments attend ALB boards and audit committees as part of their oversight (**Figure 11**). DCMS does this more rarely, reflecting its light-touch approach, but is considering the potential advantages of attending ALB boards more regularly. Some ALBs reported that departments attending boards could be beneficial to both departments and ALBs, but that it could also inhibit frank discussions and depends on continuity and the seniority of the attendee. Departments can use attendance as a means of seeking feedback from ALBs. For example, BIS representation on the audit committees of the British Business Bank and the Skills Funding Agency allows BIS to understand the risks faced by these ALBs. MoJ attendance at the Parole Board's audit and risk committee provided constructive challenge to board members and offered a MoJ perspective.

3.11 When assessing risk the departments generally consider actions taken by ALBs to mitigate risks. All consider the capability of ALBs, although this is not systematic or clearly documented. For example, MoJ may identify a large budget as being a high intrinsic risk but it does not then link this to an assessment of ALBs' financial management capability. MoJ would, however, expect to reduce the frequency of monitoring meetings for more capable bodies. Similarly DCMS expects to intervene less in bodies where it considers capability is higher. But without a systematic and transparent approach to assessing ALBs' capability, it is not always clear which party is best placed to manage identified risks. DEFRA is taking steps to address this and in May 2016, as part of its transformation programme, it convened senior DEFRA executives and non-executives to agree risks to DEFRA's strategic objectives and which ALBs would manage the operational risks.

Figure 11

Departmental attendance at ALBs' boards

	Total ALBs in our study	Department attends ALBs' boards as a			Department attends ALBs' audit committees as a		
		Board member	Observer	Ad hoc basis	Member	Observer	Ad hoc basis
Department for Culture, Media & Sport	36	0	6	0	0	1	0
Department for Business, Innovation & Skills	35	14	18	1	6	11	1
Department for Environment, Food & Rural Affairs	26	4	2	12	0	5	14
Ministry of Justice	19	1	4	6	0	8	0

Note

1 MoJ observers at audit committees include internal audit attendance at the National Offender Management Service, HM Courts & Tribunal Service, Legal Aid Agency, Criminal Cases Review Commission audit committee in their role as Group Chief Internal Auditor for the MoJ.

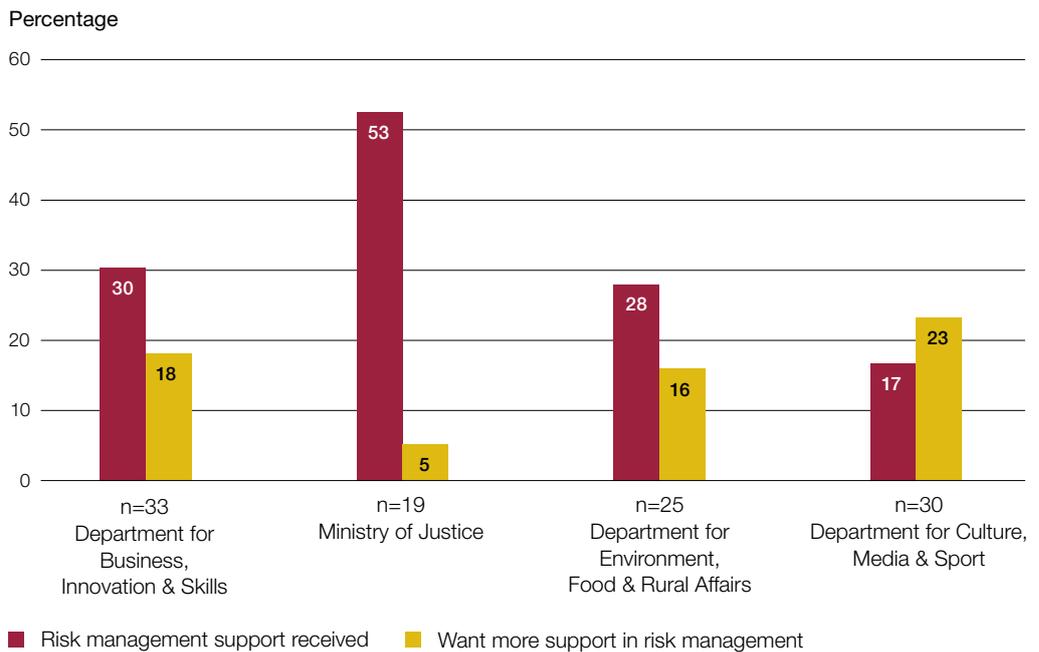
Source: Provided by departments to the National Audit Office

3.12 Interestingly, we found that ALBs had an appetite for more support on risk management, particularly among DCMS ALBs (**Figure 12**). Fewest DCMS ALBs had received support on risk management in the past 18 months.

3.13 Although well practiced in assessing individual risks in ALBs, departments do not routinely take account of system risk. Risks in one organisation can have consequences for elsewhere in the family of ALBs, or indeed, in other departments. For example, MoJ's emergency controls over recruitment of staff have constrained the Parole Board's operational capacity to process more case work, with potential consequences across the criminal justice system. DCMS considers on a case-by-case basis, through its ALB Governance Board, whether risks it identifies in individual ALBs have a system-wide impact.

Figure 12

Percentage of ALBs which have received support from the department on risk management in the past 18 months and demand for support with risk management in the future



Note

1 n= the number of ALB survey responses for this question.

Source: National Audit Office survey of arm's-length bodies

3.14 Oversight was more likely to have increased in relation to financial matters and appointments rather than areas such as quality of services delivered or skills and capability of ALB staff (**Figure 13**). While placing a disproportionate weight on financial oversight when budgets are under pressure is understandable, this may mean effort is not focused on the areas of highest strategic risk for the ALB. For example, Cafcass considered that much of MoJ's oversight was focused on its finances with less challenge applied to its performance indicators and delivery outcomes where it has agreed with MoJ its intrinsic risks are. The oversight of relatively small amounts of ALB administrative spending has had the unintended effect of displacing focus from achievement of ALBs' outcomes. A better balance of attention across other areas could enable departments to extract greater value from their ALBs.

Figure 13

Areas of greatest and least change in oversight

Percentage of ALBs reporting an increase in oversight in relation to the following areas in the past 18 months

Areas	Total survey population n=107 (%)	Department for Business, Innovation & Skills n=33 (%)	Department for Culture, Media & Sport n=30 (%)	Department for Environment, Food & Rural Affairs n=25 (%)	Ministry of Justice n=19 (%)
Spending	49 ●	48 ●	37 ●	44 ●	74 ●
Financial management	46 ●	39 ●	50 ●	36 ●	63 ●
Making public appointments, including non-executive appointments	44 ●	42 ●	67 ●	32 ●	26 ●
Reduction of costs	40 ●	42 ●	23 ●	32 ●	74 ●
Governance arrangements	40 ●	58 ●	23 ●	28 ●	53 ●
Application of Cabinet Office spending controls	34 ●	36 ●	20 ●	24 ●	63 ●
Collaboration with other organisations	32 ●	48 ●	30 ●	24 ●	16 ●
Capital Projects	29 ●	30 ●	40 ●	20 ●	21 ●
Procurement	27 ●	48 ●	10 ●	18 ●	32 ●
Accountability	24 ●	36 ●	13 ●	12 ●	37 ●
Objective-setting and reporting on your organisation's performance	24 ●	36 ●	20 ●	20 ●	16 ●
Range of services delivered	16 ●	18 ●	17 ●	8 ●	21 ●
Risk management	13 ●	15 ●	7 ●	8 ●	26 ●
Transparency	13 ●	9 ●	10 ●	24 ●	11 ●
Quality of services delivered	7 ●	15 ●	3 ●	4 ●	5 ●
Skills and capability of your organisation's staff	5 ●	3 ●	7 ●	0 ●	11 ●

● The five areas with the greatest percentage of ALBs reporting an increase.

● The five areas with the lowest percentage of ALBs reporting an increase.

Note

1 n= the number of ALB survey responses for this question.

Source: National Audit Office survey of arm's-length bodies

3.15 MoJ in particular has faced challenges in this area since introducing emergency spending controls in October 2015 in response to budgetary pressures. These controls have been applied to discretionary spending across the Ministry and its ALBs irrespective of the assessed level of risk or financial management capability of the ALB. The controls require all spending on travel, consultancy and catering to be signed off by the relevant director general and reviewed by the permanent secretary and lead non-executive director. This consumed considerable senior staff time and ALBs felt the controls implied a lack of trust in ALBs' existing governance arrangements.

3.16 None of the departments are well placed to understand how cost effective their oversight arrangements are. None had estimated the costs and benefits of their current oversight arrangements. BIS has started to estimate the number of staff involved in overseeing ALBs as part of its ongoing transformation programme.

Part Four

Maximising value from arm's-length bodies

4.1 In this part, we consider the actions departments and the Cabinet Office are taking to improve oversight capability and to strengthen the relationships with and between arm's-length bodies (ALBs). We consider:

- how departments collaborate with their ALBs;
- how departments encourage ALBs to collaborate with each other; and
- the role of the Cabinet Office.

Collaboration with ALBs

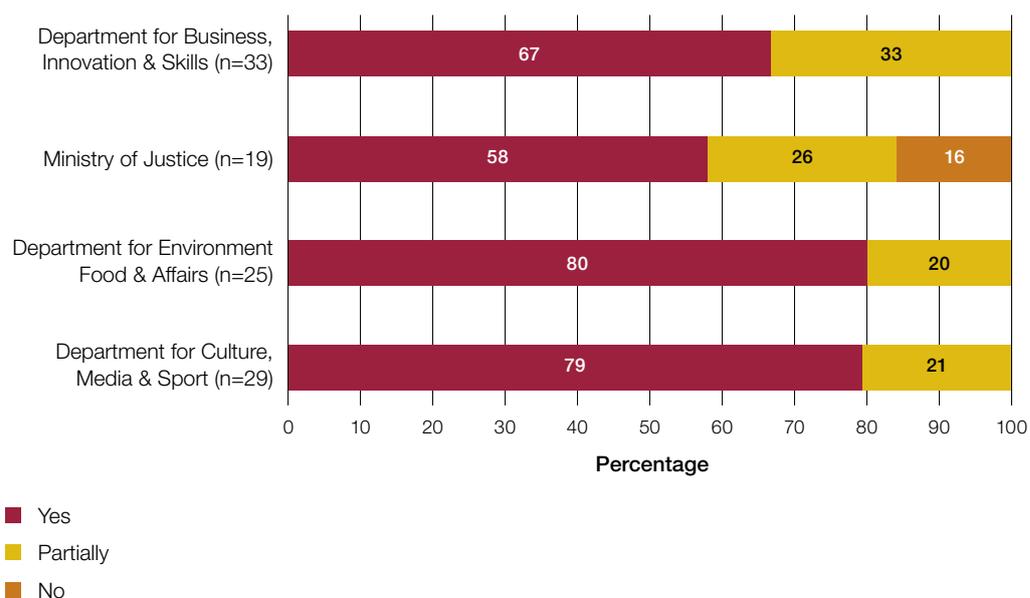
4.2 ALBs are often the delivery arms of departments and are vital to achieving departmental objectives. To get the most from their ALBs, and for ALBs to get the most from their departments, there needs to be a good understanding of the strategic aims of the department. It is therefore concerning that one quarter of surveyed ALBs across the four departments were only 'partially clear' what the department's objectives were relating to their work, with a further 3% 'not clear'. This was particularly stark in MoJ where 42% of ALBs were 'partially' or 'not clear' (**Figure 14** overleaf).

4.3 This understanding is even more important at time of change. BIS and DEFRA are currently undertaking transformation programmes. BIS is discussing the impact of this with its ALBs, while DEFRA is developing its programme with its ALBs. As a reflection of this, all of DEFRA's surveyed ALBs considered they had been helped to understand the department's strategic direction in the last 18 months, compared to only 53% of MoJ ALBs (**Figure 15** on page 39). Overall, 36% of ALBs surveyed wanted more help to understand their department's strategic direction.

4.4 If departments fail to work collaboratively with their ALBs, they risk missing opportunities to improve value for money. Only 64% of surveyed ALBs considered their department had sought feedback on how they could help support the department (**Figure 16** on page 40). As ALBs are often at the front line of service delivery, they have valuable experience and deep expertise that could be exploited in designing and implementing policy. Despite this, many ALBs feel they are not sufficiently involved in policy discussions. A positive example is the Parole Board, which has become more involved in policy discussions following the creation of the Parole Review Board, which brings together relevant bodies to discuss the effective operation of the parole system.

Figure 14

Are you clear what the department's objectives are in relation to your organisation's area of work?

**Note**

1 n= the number of ALB survey responses for this question.

Source: National Audit Office survey of arm's-length bodies

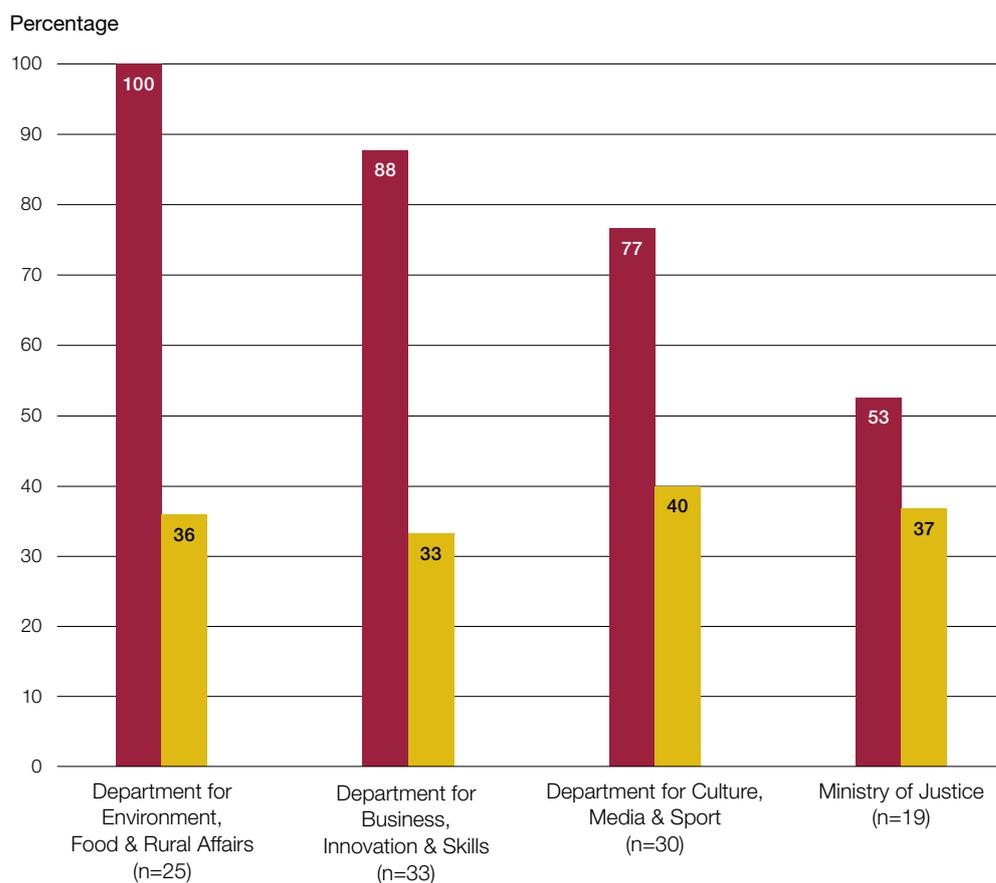
4.5 Secondments between departments and ALBs can help develop better understanding and spark collaboration, but these are currently only used sporadically. For example, Historic England has 10 staff seconded to DCMS, to help build knowledge of how the Department works, and to develop networks. It also helps identify when policy developments may affect the ALB. DCMS benefits by gaining expertise on the heritage sector.

4.6 Departments can also help develop understanding between ALBs by exploiting the skills and experience of non-executive directors (NEDs) of both departments and ALBs, and departmental boards should consider how NEDs' insights can be harnessed.³² This includes whether departmental boards and audit and risk committees have appropriate oversight of ALBs, and how boards oversee priorities in single departmental plans delivered through ALBs. We found that departments are beginning to address induction training for ALB NEDs, but it is not well established. Although their time is highly limited, NEDs consider departments could make more use of their skills, knowledge and expertise across ALBs. NEDs also have a role to play in contributing to tailored and functional reviews of ALBs, supporting accountability and supporting ALB boards in NED recruitment.

32 HM Treasury, *Managing public money*, August 2015.

Figure 15

In the last 18 months has your organisation received support from the department to understand its strategic direction?



- Has received support on understanding the department's strategic direction
- Would like more support understanding the department's strategic direction

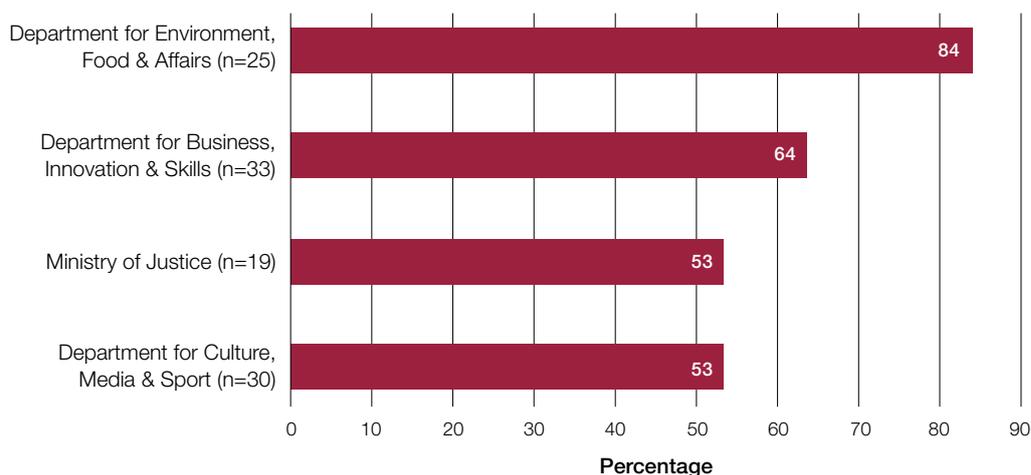
Note

1 n= the number of ALB survey responses for this question.

Source: National Audit Office survey of arm's-length bodies

Figure 16

In the last 18 months has the department sought feedback on how your organisation can help it achieve its objectives more effectively?



■ Yes

Notes

1 n= the number of ALB survey responses for this question.

Source: National Audit Office survey of arm's-length bodies

4.7 Almost half of ALBs surveyed considered their departmental contacts had enough expertise to get the most value from the department's relationship with them. But around one quarter considered that to improve the effectiveness of their relationship departments needed greater knowledge of what their organisation does and its operating environment or better continuity of departmental contacts. A lack of continuity and high turnover of departmental sponsors can be disruptive for ALBs, and create uncertainty about who to contact on specific issues. Some ALBs feel they spend disproportionate time educating sponsor teams about their business, although MoJ, BIS and DCMS do offer induction training for new sponsors. This raises issues for the civil service model of sponsorship which relies on building transferable skills, rather than ways to maintain corporate memory about ALBs.

Encouraging ALBs to collaborate with each other

4.8 Developing effective collaborative relationships across ALBs can help both departments and ALBs. All four departments bring together senior staff from their ALBs. These meetings have mostly focused on departments giving information and providing opportunities for networking. BIS, DEFRA and DCMS also convene ALB finance directors, and DCMS uses an ALB extranet to communicate with its ALBs. These mechanisms are still being developed by departments, and we heard mixed views on their value. All four departments are seeking to make engagement more discussion-based, with a greater focus on sharing ideas and collaborating on specific issues.

4.9 In February 2016, DEFRA brought together its senior leaders from across the DEFRA group for the first time in a so-called 'Big Room' event (**Figure 17**) as part of its aim to build closer relationships with its ALBs (paragraph 2.8). This considered resource allocation across the DEFRA group and the production of a single business plan. This is likely to explain why the vast majority of DEFRA ALBs felt they had been consulted on how they could support DEFRA (Figure 16).

4.10 Sixty-four per cent of ALBs surveyed had received support from their department on sharing good practice and working collaboratively, while 30% had not – 73% of BIS ALBs had received this support (**Figure 18** overleaf). Of those ALBs that had received support 77% found it 'very' or 'moderately helpful' and 47% of all ALBs surveyed said they would like more support on sharing good practice and working collaboratively. This suggests that ALBs are keen to learn from each other and for departments to facilitate this.

4.11 ALBs felt collaboration was most effective where departments had encouraged sharing practice on a specific, targeted issue. For example, MoJ asked Cafcass to advise the Youth Justice Board on the operation of its board and to advise the Parole Board on holding open board meetings. ALBs also welcomed opportunities to collaborate on areas such as sharing accommodation or leases with other ALBs.

4.12 The opportunity for greater collaboration and reduced costs through sharing of ALB back office functions can be an attractive proposition for departments. The private sector and local authorities typically claim over 20% annual cost savings through shared services. It has not, however, been straightforward to deliver value for money from shared services in government.³³ We found ALBs were not always convinced shared services proposed by departments would provide sufficient benefits to them compared with existing systems.

Figure 17 DEFRA 'Big Room'

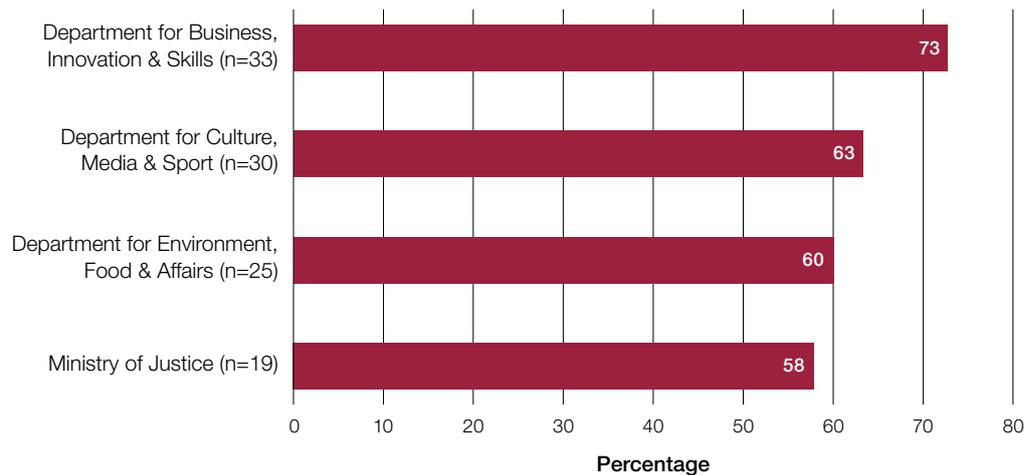
DEFRA borrowed the idea for its 'Big Room' event from one of its ALBs, the Environment Agency. It brought together all senior leaders across the DEFRA group, including ministers. Its purpose was to build the first business plan in a collaborative way, setting out the DEFRA group's outcomes, resources and milestones in one place. Discussion focused on understanding the DEFRA strategy and how it will be delivered within the Spending Review 2015 settlement. Each strategic objective was discussed and agreements reached on how outcomes could be achieved with the resources and time frames available. DEFRA is integrating the agreements from the 'Big Room' event into its first DEFRA group business plan to be published later in 2016.

Source: National Audit Office and Department for Environment, Food & Rural Affairs

³³ Comptroller and Auditor General, *Efficiency and reform in government corporate functions through shared service centres*, Session 2010–2012, HC 1790, National Audit Office, March 2012.

Figure 18

Percentage of ALBs who have received support on sharing good practice and working collaboratively with other organisations

**Note**

1 n= the number of ALB survey responses for this question.

Source: National Audit Office survey of arm's-length bodies

The role of the Cabinet Office

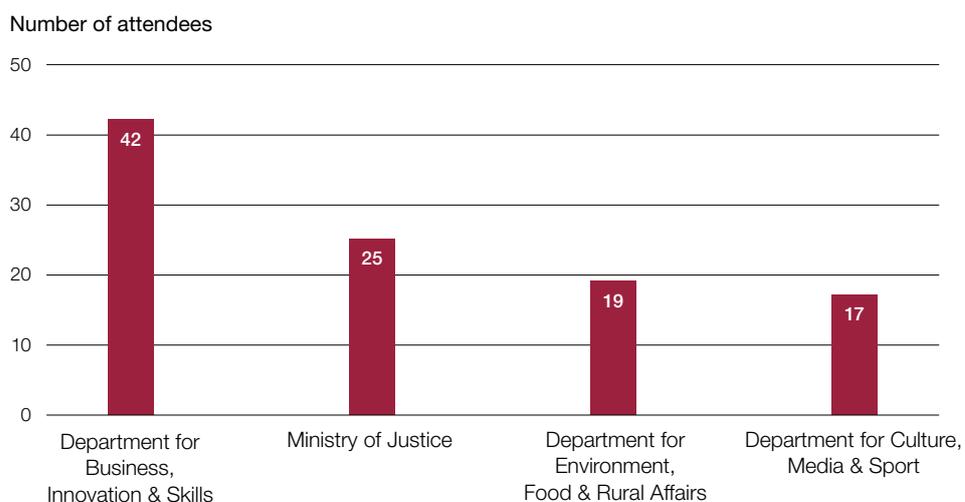
4.13 The Cabinet Office has an important role to play in encouraging the improvement of oversight approaches across government. It works with departments to support the creation, governance and oversight of ALBs and has introduced a number of initiatives. The National Audit Office, Public Administration Select Committee and others have commented on the progress of these initiatives (paragraph 1.6), which include:

- **a cross-Whitehall sponsorship peer network**, established in 2012. The Cabinet Office appointed a cross-Whitehall sponsorship champion, a director general in MoJ, to raise the profile and strengthen sponsorship across departments. The champion does not chair a cross-government forum. Rather the approach to collaboration is to share practice and learning through events with the peer network, the Public Chairs Forum and Association of Chief Executives.
- **a sponsorship specialism competency framework**, developed, with the help of MoJ and launched in April 2014, to help to improve capability of sponsors within departments. It covers six competency areas including relationship management, assurance and risk management, and public appointments.

- **courses on sponsorship** introduced in 2014 with support from Civil Service Learning. These aimed to address the low profile sponsorship has typically had in the civil service. Take-up of sponsorship courses has varied considerably (**Figure 19**). The Cabinet Office paused further courses from October 2015.
- **classification guidance for ALBs** – this should provide greater consistency in categorisation of ALBs, which could help support a more coherent approach to overseeing ALBs (see paragraph 2.3).
- **'functional and tailored reviews' of public bodies**, announced in December 2015, to focus on how groups of public bodies can be merged, share back offices or work better together. While previous reviews were limited to non-departmental public bodies, the new approach will include executive agencies and non-ministerial departments. Reviews will cover several ALBs with similar or related functions. The aim is for each ALB to be reviewed in the life of each parliament.

Figure 19

Cabinet Office training events attended February 2014 to October 2015

**Note**

- 1 There were 236 attendances at the training events across all government departments between February 2014 and October 2015. Of the 236, 103 were from the four departments in our study (shown above).

Source: Cabinet Office courses attendance data February 2014 to October 2015

Appendix One

Our audit approach

1 We compared and contrasted the approaches to oversight of their arm's-length bodies (ALBs) across four departments to give a comparative assessment. We also considered the role of the Cabinet Office. In particular we considered:

- departments' governance arrangements for oversight of ALBs;
- departments' action in relation to information and understanding of risk in ALBs;
- departments' collaborative working with and across ALBs to achieve objectives; and
- departments' capability to get the most from their relationships with ALBs.

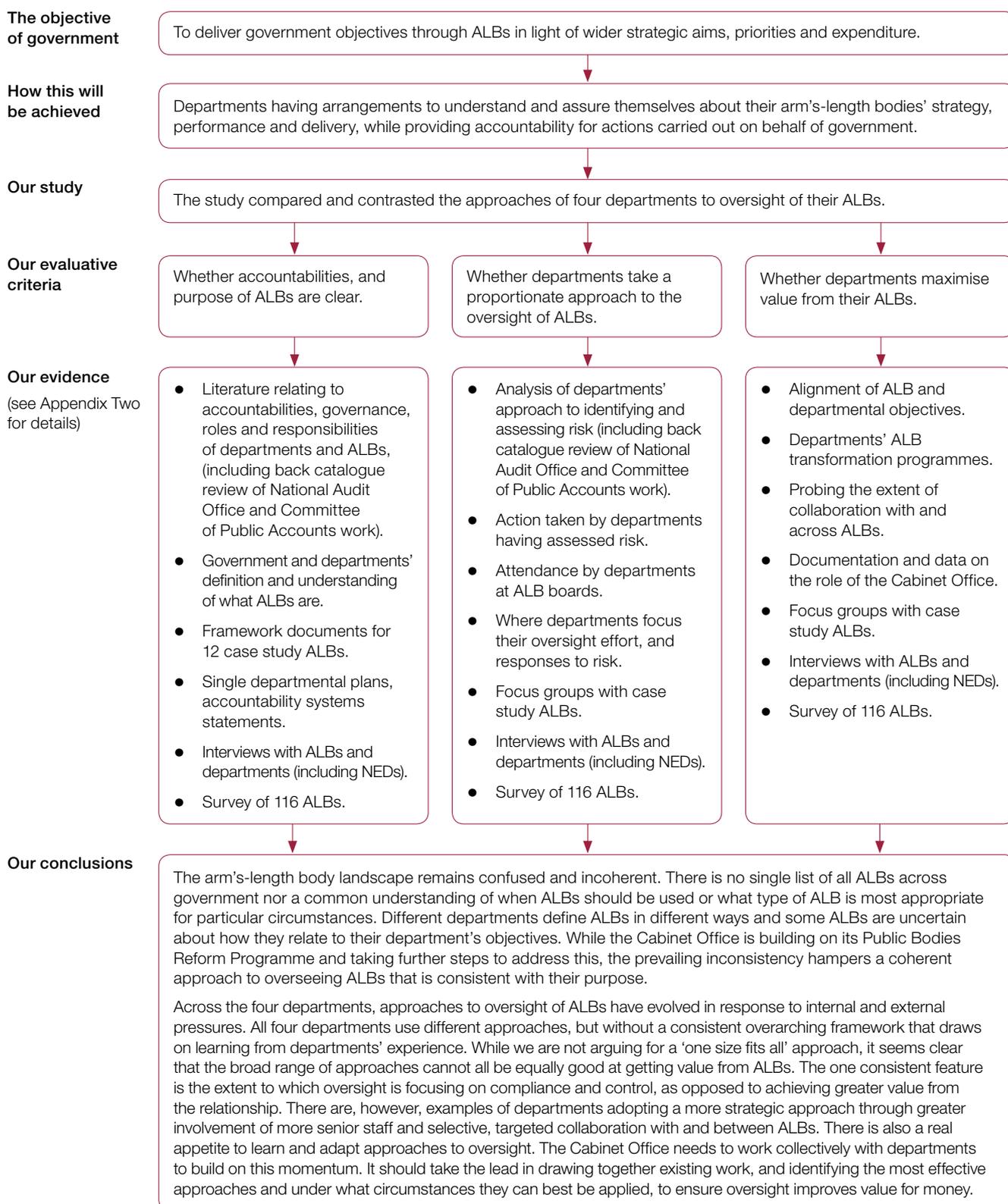
2 We analysed:

- clarity about purpose and accountabilities of ALBs;
- whether departments take a proportionate approach to oversight of ALBs; and
- maximising the value of ALBs.

3 Our audit approach is summarised in **Figure 20**. Our evidence base is described in Appendix Two.

Figure 20

Our audit approach



Appendix Two

Our evidence base

1 We reached our conclusions after analysing evidence collected between January and April 2016.

2 We applied a comparative analytical framework with evaluative criteria to compare the effectiveness with which four departments oversee their arm's-length bodies. Our audit approach is outlined in Appendix One.

3 We focused our comparative analysis on four departments which had large numbers of ALBs, funding them significant sums, and with large numbers of staff in the ALB family. We:

- carried out 35 semi-structured interviews across the four departments with officials with responsibilities for oversight of ALBs, including: board member or similar with oversight responsibility for ALBs and their performance; non-executive board member with ALB responsibility, or non-executive chair of audit committee; official running day-to-day oversight including for performance information, governance arrangements, appointments; internal audit head; finance teams with oversight of ALBs; and officials working in capability of sponsorship functions, training, strategy, and links to the centre (Cabinet Office);
- examined official documents, including ALB oversight models, performance and risk reporting, internal audit, accountability system statements, single departmental plans;
- drew on expertise of relevant NAO client area teams undertaking ongoing audit activity with these departments and ALB clients; and
- for each department, selected three case studies (12 in total) to examine their experience and practice of oversight by the department.
- These case studies were:
 - BIS: The British Business Bank (other); The Medical Research Council (NDPB); The Skills Funding Agency (executive agency).
 - MoJ: Children and Family Advice and Support Service (Cafcass) (NDPB); HM Courts & Tribunals Service (executive agency); The Parole Board (NDPB).

- DEFRA: The Environment Agency (NDPB); Royal Botanic Gardens, Kew (NDPB); Veterinary Medicines Directorate (executive agency).
- DCMS: The Gambling Commission (NDPB); Historic England (NDPB); Tate (NDPB).

4 In addition:

- Our case study examinations consisted of 27 interviews with the chief executive (or chief operating officer), the chair or other non-executive. We examined official documents such as framework agreements. We also convened two focus groups to bring together senior officials at operational level from the ALBs to examine common oversight issues across the ALBs.
- In departments, we also interviewed officials with sponsorship and policy responsibility for these ALBs.
- We interviewed key officials in the Cabinet Office Public Reform Group and with responsibility for cross-Whitehall sponsorship development.
- We also reviewed literature on ALB oversight more broadly, and consulted other experts/stakeholders including: the Institute for Government; The Public Chairs Forum; the Association of Chief Executives; and
- We carried out a survey across 116 ALBs in the four departments, agreeing our survey population with the departments (see below and Figure 21). We achieved a 95% response rate as follows:
 - BIS (97%); MoJ (100%); DEFRA (100%); and DCMS (86%).

5 In determining our survey population we considered the following:

- We used the Cabinet Office Public Bodies Directory 2014 as a base.
- The classification of the organisation as a public sector body (by the Office for National Statistics), according to the ONS October 2015 Public Sector Classification Guide. We also considered the department's Annual Resource Account to add in any bodies not captured by the Public Bodies Directory 2014.
- The sponsor department is accountable for the activities of this organisation to Parliament (in the sense that a department or its ministers could have to respond to questions about the ALB's activities to Parliament).

- 6 We made some exclusions, for instance:
- Subsidiaries of ALBs the department sponsors or organisations funded entirely through its ALBs are not included (ie. our analysis covered the top layer of sponsorship).
 - Departments have a number of smaller advisory NDPBs which often do not directly employ staff or have their own premises and have a very small administration budget. We excluded these, with some exceptions agreed with departments.
 - We took departments' advice on the inclusion of some bodies. For instance, some NDPBs are established as companies, but government also owns or has an interest in companies for other reasons and departments count some of these bodies as ALBs.³⁴

The four main types of body included in our survey population were therefore:

- Executive agencies, NDPBs (mainly executive NDPBs), non-ministerial departments and other bodies including public corporations.

Figure 21

Types of ALB in our survey population

Department	Executive Agency	Non-departmental public bodies	Non-ministerial department	Other	Total
Department for Business, Innovation & Skills	6	18	4	7	35
Department for Culture, Media & Sport	1	30	1	4	36
Ministry of Justice	5	7	0	7	19
Department for Environment, Food & Rural Affairs	4	9	2	11	26
Total	16	64	7	29	116

Note

1 'Other' refers to a range of types of bodies, such as public corporations, statutory/non-statutory office holders and national parks authorities.

Source: National Audit Office

34 Our December 2015 report *Companies in government* identified that, since 2010, there has been an increase in the number of companies in government at the same time as a reduction in the number of public bodies.

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