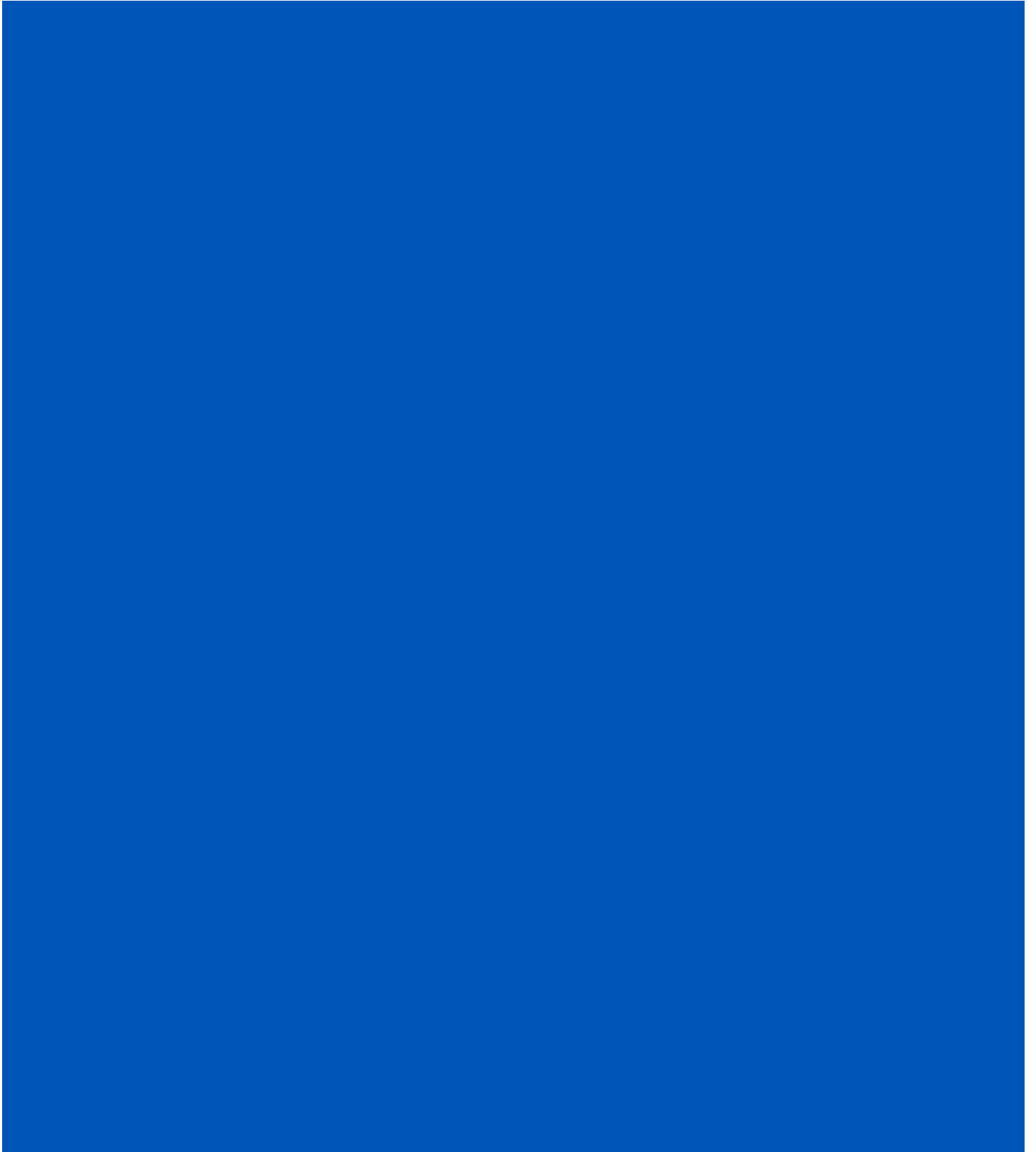




Cabinet Office

Report on the Outcome of the Classification Review





Foreword

Public bodies play a vital role in the delivery of public services and government priorities and are the most common interface between the public and government. The work to streamline public bodies, reduce costs and improve transparency and accountability is our priority.

While public bodies have undergone significant reform, the landscape remains complex and confusing. A simpler landscape would promote transparency and accountability and lay the foundation for further transformation. The current classification system is a barrier to this. In recognition the Coalition Government commissioned a review, and its findings are summarised in this report. I welcome its recommendations.

The report endorses the guiding principle that the classification of a public body should be determined by the degree of freedom it requires and recommends changes to the current framework. In future there will only be three main categories of bodies – Executive Agency, Non-Departmental Public Body and Non-Ministerial Department – which will be comparable, mutually exclusive and comprehensively cover the landscape. Government guidance will be updated to ensure that these changes are applied consistently.

Any new bodies should be set up within this framework and, where necessary, existing bodies will adapt to it over time. The report also recommends ways by which this change can be accelerated. Removing the classification from certain advisory bodies and eliminating multiple classifications are examples of actions we can take through our programme of reviews to clarify the landscape and deliver real improvements.

I am grateful to departments, public bodies, academia and other external organisations who participated in this review; your contributions were invaluable to this report.

I look forward to continuing to work with you as we take forward the wider transformation agenda.

The Rt Hon Matt Hancock MP
Minister for the Cabinet Office & Paymaster General

Summary Of Conclusions & Recommendations

The Review Concluded That:

An effective classification system should:

- Facilitate wider transformation of the arm's length body (ALB) landscape by promoting efficiency, effectiveness, transparency and accountability
- Promote good and timely decision-making when bodies are set up, merged, changed or abolished
- Aid public and internal understanding of relationships between ALBs and government ministers
- Provide a clear, intelligible map of the landscape

The current classification system is not fit for purpose – it lacks clarity, is unnecessarily complex and is difficult to understand and apply.

There are some relatively straightforward, pragmatic steps that will materially improve the current classification system, so that in future it operates more effectively.

The Review Therefore Recommends That:

We make the following changes to the classification framework to be applied to new bodies when set up and to existing bodies over time as appropriate:

- Reduce the number of types of central government ALBs to the three main categories - Executive Agency (EA), Non-Departmental Public Body (NDPB) and Non-Ministerial Department (NMD)
- Attribute to the three categories characteristics which are comparable, mutually exclusive and comprehensively cover the central government ALB landscape
- Introduce naming conventions which are aligned with the categories
- Endorse as a guiding principle that the category into which a body is classified should be determined by the degree of freedom that body needs from ministerial control to perform its functions

We take the following actions to simplify, rationalise and clarify the existing classifications landscape:

- Classify bodies which are currently unclassified where appropriate
- Reconstitute advisory NDPBs as expert committees where appropriate
- Re-classify NMDs that do not demonstrate the key characteristics of the NMD category as part of the departments' ALB transformation plans
- Review the classification of ALBs with trading fund (TF) status as part of the departments' ALB transformation plans

We publish a comprehensive handbook on ALBs and strengthen and promote the role of Cabinet Office (CO) as a centre of excellence for early stage and proactive organisational design to ensure best practice when bodies are set up, merged, changed or abolished.

We collect data on the functions of ALBs and their legal status to improve our understanding of the ALB landscape.

Background To The Review

Issues relating to classification impact upon our ability to implement change, generate a high volume of casework and give rise to nugatory activity by officials and public bodies, for example when exploring the potential for alternative delivery models. Concerns about the current classification system have been raised by external commentators, including the Institute for Government (IfG) and Professors Matthew Flinders (University of Sheffield) and Chris Skelcher (University of Birmingham), leading academics in the field of public administration. In 2014 the Public Administration Select Committee (PASC) undertook an inquiry into the 'Accountability of quangos and public bodies'. The subsequent report, 'Who's accountable? Relationships between Government and arm's length bodies' ('the PASC report') found that the existing system was complex, confusing and inconsistent. In its response in March 2015 the Government acknowledged these points and committed to addressing them in its review of the classification system.

Scope Of The Review

Applying the current boundaries of the administrative classification system, this review largely concerned those bodies which are classified in the National Accounts as central government or have TF status.

Outside the scope were:

- bodies classified in the National Accounts as central government, but which are department specific, such as academies and foundation trusts;
- other entities classified in the National Accounts as central government, but which are not ALBs, such as office holders and parliamentary bodies; and
- bodies not classified in the National Accounts as central government, save for those bodies which have TF status.

We note that some external commentators suggested that elements of this wider landscape, such as public corporations, could potentially be brought within the CO classification system. Although out of scope of this review, we acknowledge that this may warrant further investigation at a later stage, involving the appropriate policy teams.

About The Review

The review of the administrative classification of ALBs was launched on 6 November 2014 with the publication of a Discussion Paper <https://www.gov.uk/government/publications/administrative-classification-of-public-bodies-review>

The review's aim was to:

- examine the current system, looking at whether the framework and process of classification were fit for purpose; and
- make recommendations that would deliver tangible benefits.

The review team actively engaged departmental sponsorship and policy teams, chairs and chief executives of ALBs, academics and the IfG. In total the team received 55 written responses to the Discussion Paper and gathered further evidence through desk research and meetings with key stakeholders.

Between January and April 2015, following some initial analysis of the data, the review team held a series of workshops with stakeholders. In these sessions the team explored with participants:

- Issues relating to the framework and process of classification; and
- potential reforms or improvements to the system.

Over the summer the review team tested the emerging findings and recommendations and also commissioned some research from Professors Flinders and Skelcher into two areas identified as requiring more in depth examination. Professor Flinders and his team examined the NMD classification, and Professor Skelcher and his team looked at advisory NDPBs (ANDPBs) and the impact of designating them as expert committees. (This research was undertaken as part of the 'Shrinking the State' project, which was funded by an Economic and Social Research Council grant). The outcome of this additional research has been fed into the overall findings.

Findings & Conclusions

There was broad agreement that the current classification system was not fit for purpose – it lacked clarity, was unnecessarily complex and was difficult to understand. There were a range of views about what changes should be made to the system to address these issues. Some external commentators, such as the IfG, have for some time proposed the introduction of a new taxonomy. The majority of stakeholders, while recognising the weaknesses in the current system and supporting the case for reform, questioned whether such a radical overhaul would achieve better outcomes and also whether it would be proportionate.

The review team concluded that the weight of evidence gathered in the review supported an evolutionary approach in which some relatively straightforward, pragmatic steps would materially improve the current classification system, so that in future it operates to:

- Facilitate wider transformation of the ALB landscape by promoting efficiency, effectiveness, transparency and accountability
- Promote good and timely decision-making when bodies are set up, merged, changed or abolished
- Aid public and internal understanding of relationships between ALBs and government ministers
- Provide a clear, intelligible map of the landscape

There follows a summary of the issues identified by the review team and the conclusions reached based on the evidence gathered in the review.

I. Classification Framework

The review team identified three main issues with the current framework: a lack of clarity about the guiding principle for grouping bodies; confusion about the categories and sub categories; and poor understanding of the process of classification.

A. Guiding Principle

At the workshops the review team found that participants were not clear about what principle currently guided decisions on classification, but agreed that it should relate to the length of the arm between the body and its sponsoring department.

Having considered the evidence carefully the review team decided to endorse as a guiding principle that the category into which a body is classified should be determined by the degree of freedom that body needs from ministerial control to perform its functions. In reaching this conclusion, the review team considered and took account of the following proposals, while choosing not to adopt them in full.

Classification Following Function

IfG has proposed for some years a new taxonomy which more closely matches the category into which a body is classified to its function. At the workshops participants were invited to consider this. There was scepticism about how this would work in practice in view of the large number of multi-functional bodies. There was also concern about the disruption that would be caused during implementation with participants questioning whether it would be a proportionate response: implementation would take several years; might require new legislation; would involve a major change programme; and would take up significant resources at a time when such resources would already be stretched.

A number of the participants agreed, however, that the existence of bodies which appeared to have similar functions, but which had different classifications for no apparent reason was confusing and inconsistent. To get a better understanding of this, the review team concluded that it would be useful to collect comprehensive data on the functions of ALBs. This would allow the landscape to be viewed through a functional lens and would potentially drive closer alignment between classification and function.

Classification Following Legal Status

The PASC report recommended that Government adopt a taxonomy of public bodies which sets out the legal status of each type. Although the review team agreed that legal status was relevant to the classification decision, it rejected this proposal on the basis that legal status should not override the principle that classification should reflect the degree of freedom a body has from ministerial control.

The review team noted that this was an area of increasing interest. It concluded that, in order to improve understanding, it would be useful to collect data centrally on legal status.

B. Categories

A lack of clarity about the guiding principle contributed to widespread confusion about how the three main categories within the framework (EA, NDPB and NMD) differed from one other.

CO's 2012 'Categories of Public Bodies: A Guide for Departments' provides a description of each of the categories. The characteristics listed for each category, however, are not wholly comprehensive, consistent or comparable, so that the applicability of categories to ALBs is neither mutually exclusive nor collectively exhaustive; some ALBs arguably fit into more than one category and others fit none. Perhaps unsurprisingly, therefore, in the workshops many stakeholders had difficulty identifying the characteristics of the different categories and expressed the view that in some instances the categories appeared interchangeable. The consistent flow of casework relating to classification and the undue amount of time spent by officials exploring alternative models before discounting them, is evidence of the practical impact of this confusion.

Furthermore, the way the framework has been applied has not been consistent. This has resulted in anomalies which have further undermined the integrity of the system as a whole. The existence of multi- and un-classified bodies, although relatively small in number, were frequently given as examples during the review of where the system appeared not to be working. On examination of the individual bodies the review team was able to trace how these exceptions had arisen. Most bodies with more than one classification were those NMDs which had adopted

the EA structure as a best practice model. Where bodies had not been given a classification, it was often because they were temporary or waiting for National Accounts classification or genuinely unique in nature. The review team explored this issue at the workshops. There was general agreement that exceptions, such as multi- and un-classified bodies, confused the landscape, undermined the classification system and should be eliminated as far as possible. A number of participants warned, however, that it was important to maintain some flexibility in the system in order to accommodate a diverse range of models, especially in the current context of ALB reform.

The review team concluded that to address these issues the number of types of ALBs should be reduced to the three main categories – EA, NDPB and NMD. Furthermore each of the three categories should be attributed characteristics which are comparable, mutually exclusive and comprehensively cover the central government ALB landscape. These changes to the framework should apply to new bodies when they are set up and should ensure that bodies that do not fit within the framework are only created in exceptional circumstances. In relation to existing bodies the framework should be applied over time and as appropriate, subject to the recommendations contained in this report, so that gradually the landscape will be simplified, rationalised and clarified.

Nomenclature

The nomenclature of the current framework has been raised as an issue, particularly by external commentators. It has been argued that using the negative to describe categories as in the case of NDPBs and NMDs was unclear and inaccurate. The fact that the names of individual bodies sometimes appeared to contradict their classification magnified the confusion. The review team accepted that a new nomenclature could help to clarify and more accurately describe the landscape, but noted that it would be costly to implement. It concluded, therefore, that naming conventions which are aligned with the categories should be introduced for new bodies. The existing nomenclature should, however, remain for the time being on the basis that no clear evidence was produced in the review that the benefits of change would outweigh the costs of implementation.

C. Process

The review team found that the problems with the framework were compounded by a lack of understanding about the process of classification when setting up new bodies or modifying existing ones. The approach varied across departments and was not systematic. Sometimes the Public Bodies Reform Team was engaged by officials at an early stage, but other times it was approached late on in the process. This wasted time and effort, when officials had to revise their plans, and increased the risk of creating bodies which did not have the most appropriate governance structures. The review team concluded, therefore, that any changes to the framework would need to be accompanied by improved, more comprehensive guidance. It was also essential that CO strengthened and promoted its role as a centre of excellence for early stage and proactive organisational design.

II. Specific Classification Issues

In addition to the general weaknesses in the classification framework, the review team identified a number of specific issues.

A. Advisory Non-Departmental Public Bodies

In 2010 almost one third of the UK's 900 public bodies were ANDPBs. Through the reform programme ANDPBs had the highest rate of closure or merger. Alongside this some departments, notably the Department of Health (DH) and Department for Environment, Food & Rural Affairs (Defra), reconstituted some of their ANDPBs as expert committees.

Notwithstanding these significant reforms, ANDPBs still represent almost one third of NDPBs (141/450 'Public Bodies 2014'). While some have a significant annual budget, over three quarters have an annual spend of less than £50,000. A number of stakeholders, including the IfG, asserted that the classification of some of these smaller entities as NDPBs distorted the overall ALB landscape and created a misleading impression of its size and complexity. It was suggested there was scope to build on the approach adopted by some departments already and reconstitute more ANDPBs as expert committees. Furthermore, there was feedback at the workshops that the requirements placed on some of these smaller entities due to their classification as NDPBs were disproportionate to their size and cost. These requirements related to a range of governance issues, including reporting, reviews, appointments and documentation. One example cited was of an ANDPB where the cost of the triennial review exceeded its annual budget.

Having identified the potential for reform in this area, the review team commissioned some research. Professor Skelcher and his team examined in a sample of departments the changes that had occurred to the organisation and sponsorship of advisory functions and the consequences of these changes since 2010.

Though the evidence was variable, the most cited benefit for these reforms was that of efficiency. The choice between advisory NDPBs and expert committees allowed a more proportionate approach to the production of advice and to the governance of advisory bodies. Related to this the lack of NDPB status could ease the process of appointing members, especially the time involved. The most cited criticisms of the reforms were lack of

communication from the centre, leaving some bodies feeling downgraded, and problems associated with the migration to Gov.uk. In most cases interviewees did not think that the relationship with the host departments and stakeholders had changed following reconstitution as expert committees. Some interviewees, usually members of advisory bodies or secretariats and sponsors, were concerned about increased risks to independence and transparency of advice, but there was no evidence that this was borne out in practice.

On the basis of this evidence the review team concluded that all departments should consider re-constituting their ANDPBs as expert committees, where appropriate, so that only those bodies that require NDPB status remain in that category.

B. NMDs

The NMD category has for some time attracted criticism. IfG in its report 'The Strange Case of Non Ministerial Departments' (2013) described NMDs as an 'incoherent grouping' and identified a number of issues, including: confusion of accountability; dual NMD/EA classification; unclear relationship with departments; and the fact that other bodies, which are not NMDs, perform similar functions. Within the category, however, the report did recognise that there were a number of NMDs which shared distinct characteristics and which set great store by their independence from ministers and direct accountability to Parliament. The report, therefore, recommended these NMDs should form a new category of 'public interest body', while those NMDs with a strong ministerial relationship should generally become executive agencies or part of the department.

Desk research undertaken by the review team confirmed that the NMD landscape lacked consistency. In many cases the rationale for classification as a NMD, rather than as a NDPB or EA was not clear, particularly where the NMD had a dual classification. This issue was compounded by the fact that there is limited guidance on NMDs. Although CO's 'Categories of Public Bodies: A Guide for Departments' states that it will be exceptional for new NMDs to be created, some have been set up over the last few years.

To explore these issues in more depth, the review team commissioned Professor Flinders and his colleagues

to undertake some research. The methodology for the research included case studies and a survey conducted across a number of NMDs.

The diversity and lack of consistency of the category again came up as a key theme with a finding that the governance of NMDs tended to be blurred and organisationally specific. Their assessment was that it was not the existence of significant organisational diversity that was necessarily the problem, but the fact that NMDs existed without being embedded in a clear and consistent governance framework. To address this they suggested: improving the guidance on NMDs, in particular in relation to governance and accountability, to offer greater clarity and consistency; ensuring each NMD had in place a comprehensive framework document to make clear how, or to whom, the NMD was accountable; and extending the CO public bodies review programme to NMDs.

Having considered and taken account of all the evidence and stakeholder views, the review team concluded that the NMD category continued to serve a purpose in that it provided a higher degree of freedom from ministerial control than the other categories in the framework and was therefore necessary for the performance of some functions. The circumstances when it would be justified to create a body with this status would, however, be exceptional. Bodies that were currently classified as NMDs, but did not require that degree of freedom from ministerial control to perform their functions should be re-classified, and bodies with dual NMD/EA status should have their dual status removed. To facilitate these changes updated NMD guidance should be issued and the classification of each NMD should be reviewed.

C. Trading Funds & Commercial Or Other Innovative Models

Although there are currently only 11 ALBs with TF status, they came up repeatedly in the course of the review. Stakeholders saw them as adding to the complexity of the landscape and did not fully understand the different approach taken by HM Treasury (HMT) and CO. On the one hand HMT treats most TFs for budgetary and accountancy purposes as public corporations on the basis that they are classified as such by ONS. They are therefore mainly outside of budgets for Treasury purposes. On the other hand CO deals with TFs administratively as EAs on the basis that they are generally part of the parent department and staffed by civil servants. This could lead to confusion where it was not clear what aspect of the TF was under

discussion – budgetary impact or administrative control.

In the context of developing new commercial bodies, expert opinion received during the review was that TFs were an outdated model. Officials did not always appreciate this, however, and would sometimes explore making a body into a TF, before discovering that there were better ways of achieving their objectives, such as using a government company. Stakeholders agreed that it was important to clarify this, but warned that care should be taken that the operation of existing TFs should not be jeopardised where the model continued to work well.

On the basis of this evidence, the review team concluded that the time was right to undertake a review of the classification of ALBs with TF status. Furthermore, guidance should clarify that the creation of new ALBs with TF status should be avoided and that there are other ways of structuring public corporations that are preferable.

III. Other Issues Linked To Classification

The review team identified a certain amount of confusion about the interplay between administrative classification and other policy areas – National Accounts classification, central government controls and the requirements under ‘Managing Public Money’ (MPM), and sponsorship. The review team found that issues relating to these policy areas were sometimes wrongly attributed to the classification system and therefore, to avoid this confusion, guidance on ALBs should include appropriate signposts.

A. National Accounts Classification

Responses to the Discussion Paper, as well as feedback at the workshops and stakeholder meetings, revealed a lack of understanding among some stakeholders of the National Accounts classification system and how it interacts with the administrative system. A common misconception was that re-classification under the National Accounts system (and the consequences that flow from that) could be mitigated or avoided by re-classification under the administrative system. This generated nugatory activity and served to add to the confusion about the system more generally.

B. Controls & Requirements Of Managing Public Money

Spending controls and the guidance contained in MPM came up as key themes throughout the review. In particular some stakeholders sought confirmation that controls and MPM applied equally across all categories of central government ALBs. The review team notes that the Government is committed to the continuation of controls as a vital part of overall public expenditure control, but that it welcomes feedback from stakeholders and continually seeks ways to improve and evolve their operation. Looking to the future the Government’s aim is for there to be more up-front engagement, with greater visibility of planned expenditure, more collaboration between ALBs and the centre, and the application of clear Functional Standards. (Functional Standards represent a coherent set of requirements for how specific functional activities, such as running an IT procurement or designing a digital service are undertaken across government. They will be based on the views and experience of a body of subject matter experts on good practice in specific functional areas). The intent is, over time, to propagate good functional practice across government.

C. Sponsorship

Finally, the sponsoring relationship between departments and their ALBs was a recurring theme in the responses to the Discussion Paper, the workshops and stakeholder meetings. The issues raised included the level of oversight, which ranged from a perception of neglect to micro-management, lack of access to ministers and senior civil servants, and tensions in strategy and policy development. Feedback suggested that the classification system, based on the principle that the classification of an ALB should relate to the degree of freedom a body needs from ministerial control to perform its functions, could support the sponsoring relationship by helping to clarify the lines of accountability. Other factors, however, such as the framework document and the capability of the sponsor, were deemed to be more important.

Recommendations

Recommendation 1:

We recommend that the following changes are made to the classification framework to be applied to new bodies when set up and to existing bodies over time as appropriate:

- Reduce the number of types of central government ALBs to the three main categories – EA, NDPB and NMD
- Attribute to the three categories characteristics which are comparable, mutually exclusive and comprehensively cover the central government ALB landscape
- Introduce naming conventions which are aligned with the categories
- Endorse as a guiding principle that the category into which a body is classified should be determined by the degree of freedom that body needs from ministerial control to perform its functions

The changes to the classification framework are set out in the new guidance for departments which accompanies this report.

Recommendation 2:

Applying the updated framework, we recommend that the following actions are taken to simplify, rationalise and clarify the existing landscape:

- Classify bodies which are currently unclassified where appropriate

While recognising that some unclassified bodies may have unique governance arrangements, we anticipate that a number of these bodies will fit within the updated framework.

- Reconstitute ANDPBs as expert committees where appropriate

Although there are advisory bodies which will continue to require NDPB status, there are a large number that would be more suitably constituted as expert committees. We have already engaged with departments about this recommendation with a view to proceeding at pace with implementation.

- Re-classify NMDs as part of the departments' ALB transformation plans

NMDs which do not demonstrate the key characteristics of the category should be re-classified and bodies with dual NMD/EA status should be given a single classification. This process of review and re-classification will be undertaken as part of the departments' ALB transformation plans.

- Review classification of ALBs with TF status as part of the departments' ALB transformation plans

While recognising that the model may continue to work well for some bodies, we consider the time is right to undertake a review of the classification of ALBs with TF status as part of the departments' ALB transformation plans.

Recommendation 3:

We recommend the following actions are taken to ensure best practice when bodies are set up, merged, changed or dissolved:

Publish a handbook on ALBs to include:

- current government policy
- existing guidance, updated and codified
- additional guidance, such as on NMDs
- signposts and links to related issues, such as commercial models, including TFs, ONS classification, central government controls and MPM
- a toolkit with exemplars of good practice, such as framework documents and memoranda of understanding

To minimise delay this handbook should be published in phases. As mentioned earlier, the new guidance on classification, which forms the first part of the handbook, accompanies this report.

- Strengthen and promote the role of CO as a centre of excellence for early stage and pro-active organisational design

Recommendation 4:

We recommend that the following actions are taken to improve our understanding and thereby facilitate wider transformation of the ALB landscape:

- Collect data on the functions of ALBs
- Collect data on the legal status of ALBs

We propose that the first request for this data is made by the end of 2016, for example as part of the public bodies' reporting process.

The implementation of these measures marks the start of a journey towards a simplified and more transparent ALB landscape, where the classification system operates to:

- Facilitate wider transformation of the ALB landscape by promoting efficiency, effectiveness, transparency and accountability
- Promote good and timely decision-making when bodies are set up, merged, changed or abolished
- Aid public and internal understanding of relationships between ALBs and government ministers
- Provide a clear, intelligible map of the landscape

As that journey progresses and as our understanding of the ALB landscape improves, we should anticipate further changes.

