

SELECT COMMITTEE WRITTEN SUBMISSION

Reform Think Tank's submission to the Public Administration and Constitutional Affairs Committee's Public Bodies Inquiry

About Reform

Reform is established as the leading Westminster think tank for public service reform. We believe that the State has a fundamental role to play in enabling individuals, families and communities to thrive. But our vision is one in which the State delivers only the services that it is best placed to deliver, within sound public finances, and where both decision-making and delivery is devolved to the most appropriate level. We are committed to driving systemic change that will deliver better outcomes for all.

We are determinedly independent and strictly non-party in our approach. This is reflected in our cross-party Advisory Board and our events programme which seeks to convene likeminded reformers from across the political spectrum.

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About Reform's 'Reimagining Whitehall' programme

Reform's 'Reimagining Whitehall' programme is directly researching many of the key questions raised by the Committee in this inquiry. This submission draws on evidence gathered for a forthcoming *Reform* publication on the future of public bodies.

This evidence submission sets out our key findings and insights, to help inform the Committee's approach to this vital issue.

What is the Government's policy on Public Bodies and where in government should it reside? What oversight of the overall landscape of Public Bodies should the Cabinet Office exercise? What have lessons have been learnt from the previous Government's Public Bodies Review Programme and what actions are being taken as a result?

1. The Cabinet Office is responsible for large parts of the overall Public Bodies landscape, including the approval of new public bodies (alongside the Treasury), how public bodies are classified, the Public Bodies Review Programme, and best practice for sponsoring and setting up public bodies.
2. In interviews for an upcoming research report, *Reform* heard that there are particular oversight gaps in the quality assurance of the Public Bodies Review Programme, how public bodies are classified and in the process for setting up new public bodies.
3. A 2021 report by the National Audit Office found that public body reviews focus “too narrowly on governance arrangements” and do not address wider considerations, such as how the public body delivers its functions or how effective the public body is overall.¹ Senior officials told *Reform* in interviews that there is almost no strategic clarity from the centre of government about what public body reviews are for, nor are there clear standards for how the recommendations of reviews should be tracked and used for accountability.
4. A specialist team should be established in the Cabinet Office to coordinate and provide dedicated resource for the completion of tailored reviews. Staff recruited to this team should have professional skills that are relevant to the review process (e.g. in data and digital, audit and risk management) and there should be a budget for the team to commission external expertise to support reviews. It should also work with the Government Lead Non-Executive Director to maintain a list of departmental Non-Executive Directors who could independently Chair tailored reviews. This list should be referred to, by default, when choosing who to appoint to lead a tailored review. In the rare case that a suitable candidate from among the current pool of departmental NEDs is not available, an external appointment should be made to Chair the review.
5. The Cabinet Office's ability to exercise effective oversight is constrained by three additional factors. First, as the Committee has noted, there is no single, consolidated list of all public bodies sponsored by government. Second, many public bodies with effectively the same function (e.g. regulation, public service inspection, distributing grant funding) belong to different classifications and therefore have different levels of independence, governance structures and accountability channels. Third, public bodies, including some in the process of being set up by the new Government, are created outside of the Cabinet Office's classification system, as ‘non-classified’ public bodies. This means that reporting and tracking processes used by the Cabinet Office do not apply to public bodies on a uniform basis.
6. In its last Public Body Review Programme, the Cabinet Office committed to review every public body by the end of 2020. By its own admission, this objective was “overly

¹ National Audit Office, *Central Oversight of Arm's-length Bodies*, 2021.

ambitious” and two-thirds of reviews were not completed by December 2020.² The new review programme, which began in 2022, has not made faster progress (though it no longer aims to review all public bodies). It has reviewed less than 10 per cent of public bodies, on average, each year.³

7. In 2024, several departments did not make plans to review any of the public bodies they sponsor, including the Cabinet Office and Department of Environment, Food and Rural Affairs.⁴ Other departments only had plans to review one public body.⁵
8. Before this review cycle, the National Audit Office noted that, since the staff to carry out public body reviews are usually provided by the departments that sponsor them, reviews often lack an external perspective, which can impact on the “objectivity and rigour” of its assessments.⁶
9. Interviewees for *Reform*’s forthcoming publication confirmed that this is still the case, and suggested, more plainly, that public body reviews suffer from serious conflicts of interest. *Reform* heard particularly worrying examples of people working in the department’s public body sponsorship team also being called to write chapters for an independent review of a public body they sponsor, in effect, directly commenting on its performance in an official capacity.
10. *Reform* also heard examples of reviews carried by a sponsor department not to provide critical oversight, but as a “stick” to challenge the independence of the public bodies they sponsor. *Reform* was alarmed to hear that reviews had sometimes been used as an implicit threat when the department did not agree with their public body on a substantive policy issue, unrelated to its performance.
11. It is unclear that government is aware of the scale of this issue or is working to address conflicts of interest that are endemic to the review programme.

Are there adequate governance and transparency requirements set out for all types of Public Bodies and are they applied consistently?

12. Transparency requirements and governance standards are woefully ill-suited to ensuring effective delivery across different types of ALB.
13. Officials told us that it is a “nightmare” understanding what remit public bodies have and why, that a culture has emerged in which many public bodies think they can “do whatever they want”, and that “no one really knows who is accountable for these things”.
14. Across the board, there is considerable variation in what information public bodies choose to make public, how this is used by departments, and a total lack of clarity

² Ibid.

³ Cabinet Office, ‘Public Bodies Review Programme’, 2024.

⁴ Cabinet Office, ‘List of Public Bodies for Review in 2024/25’, 2024.

⁵ Ibid.

⁶ National Audit Office, *Central Oversight of Arm’s-length Bodies*.

about how tailored reviews and other accountability processes are used to improve how public bodies function.

15. Permanent secretaries have previously commented on the variable detail of performance information provided by public bodies, and how much of this information is readily accessible by the public.⁷ *Reform* has heard in interviews for a forthcoming publication that sponsorship teams in departments often lack the capability needed to support public bodies to develop more insightful performance information.
16. Worse, the unfocused approach taken by some sponsorship teams is actively counterproductive – generating ‘makework’ that requires public bodies to complete burdensome administrative tasks and fulfil unnecessary data requests.
17. Additionally, senior officials told *Reform* that some very basic elements of governance, such as issuing annual letters to the Chairs of public bodies confirming their remit, or publishing the results of public body reviews in a timely and transparent way, do not occur on a regular basis. Taken together, these features of the system are inadequate for effective oversight of public bodies by Ministers or Parliament.

Are the three tests applied to whether Public Bodies should continue or new ones be established appropriate? Are they applied consistently?

18. The Cabinet Office’s three tests are meant to provide strategic clarity for when public bodies should be created outside of ministerial departments. In the context of parliamentary sovereignty, the Cabinet Office’s tests can only ever be a limited constraint on the creation of new public bodies. But it is nevertheless important that the tests establish clarity on why Ministers believe a public body should exist independent from direct political accountability.
19. *Reform* believes that the three tests are trying to perform two roles at once.
20. They are firstly a way of ensuring that entities which need to operate (or been seen to operate without political interference) are strictly independent. For example, Ofcom as the regulator of broadcast media or various appeals tribunals. They also enable the creation of public bodies whose credibility is inseparable from their ability to produce independent information, such as the Met Office and the UK Statistics Authority. This principle is captured in the first two Cabinet Office tests: “Is this a function which needs to be, and be seen to be, delivered with political impartiality?”; and “Is this a function that needs to be delivered independently of ministers to establish facts and/or figures with integrity?”.
21. The tests secondly imply a judgement about what kinds of complex delivery function can exist within a department, and what capabilities it is feasible for a Ministerial department to develop internally. This is captured by the first test, “Is this a technical function, which requires external expertise to deliver?”. The first test is unlike the other two, in that it treats independence as a means to an end, not as a requirement for the public body to deliver its primary function.

⁷ Committee of Public Accounts, *Departments’ Oversight of Arm’s-Length Bodies*, 2016.

22. There are pockets of Whitehall, however, that show it is possible to create highly unusual and sophisticated capabilities within a Ministerial department.
23. The AI Safety Institute, for example, has been able to develop a highly specialist teams of software engineers, and operational leads, using significant pay flexibility and different hiring practices, and creating a different brand from the rest of its department, without being set up as a public body.⁸
24. It is very likely the AI Safety Institute would have met the Cabinet Office's first test – but, despite benefitting from technical expertise, to date it remains a part of the Department for Science, Innovation and Technology, and did not require setting up separate governance channels to be established. In less than 18 months, it has already made significant contributions to AI Safety⁹
25. It is not therefore clear that the test of a “technical function” is sufficient by itself as a justification for creating a new public body.
26. Creating entities that are independent of ministers, who are ultimately responsible for the performance of the State, is not a decision that should be taken lightly. The current “no viable alternative” criterion in Cabinet Office guidance is therefore essential, alongside the two tests which require independence for public bodies to carry out their primary function.
27. The first test for public body creation should therefore be scrapped and the Cabinet Office should instead provide guidance for establishing “Specialist Units” – along the lines of the AI Safety Institute – within departments, to perform technical functions that are likely to require external and specialist expertise.
28. Despite stated policy that public bodies should only be created when the Cabinet Office's three tests have been met, and even then as a “last resort”, the tests are not consistently applied, and in some cases are simply retrofitted around a decision that had already been taken to establish a new public body.¹⁰
29. Given the overwhelming incentives that exist to create new public bodies as a high visibility fix to a political challenge, and inconsistent application of the Cabinet Office's tests, Ministers should take greater responsibility in not setting up or agreeing to set up new public bodies.
30. Senior officials told *Reform* that they had never heard of a case put forward to the Cabinet Office for a new public body that had not been approved. Of the business cases for new public bodies reviewed by the National Audit Office in 2021, “none ... provided all the details required” and two did not even address the three tests.¹¹

⁸ Anastasia Bektimirova and Herbie Bradley, ‘The Codemakers’, Blog, The Entrepreneurs Network, 31 January 2025.

⁹ Ibid.

¹⁰ National Audit Office, *Central Oversight of Arm's-length Bodies*.

¹¹ National Audit Office.

What formal and informal means do ministers have to influence Public Bodies' work and are these deployed appropriately? Where should ministerial attention best be directed? Is oversight by other bodies such as Parliament sufficient?

31. The complexity of the public body landscape, and breadth of responsibilities and powers they hold, means that ministers are often unaware of the formal and informal channels of influence they have over specific public bodies.
32. The remit of public bodies is often enshrined in primary legislation. Where this legislation provides for narrow powers, or powers that are open to interpretation, it can be difficult for public bodies to adapt according to changing government priorities. Sponsorship teams in departments often find themselves referring back to primary legislation to check their powers over specific public bodies, which are themselves often unclear when they need to seek Ministerial input on decisions.
33. During the pandemic, the fragmentation of powers across the Department of Health and Social Care's public bodies, and the bureaucracy involved in influencing their decision-making, made it difficult to coordinate an agile crisis response.
34. Ministerial attention should be directed at ensuring the accountability of public bodies is aligned with the function they have and where necessary, at making parliamentary time available to revisit relevant primary legislation that has defined an excessively narrow remit for public bodies.
35. *Reform's* forthcoming research also indicates that there should be much greater Ministerial attention directed at the capacity and capabilities departments have for public body sponsorship. This function is too often seen as the 'poor cousin' to other responsibilities of departments, such as providing policy advice to Ministers, and receives limited interest or investments of time from senior civil servants.
36. *Reform* heard in interviews with senior officials that sponsorship teams are often too junior to have a constructive relationship with their public bodies.
37. Ministers should finally be more cautious about setting up public bodies as a clear or obvious solution to policy challenges. Weaknesses in the oversight model, and recent governance failures of public bodies, show that it is not obvious they will be able to achieve significantly better outcomes at arm's-length, and the process of setting up new public bodies builds in significant opportunity costs to implementation.
38. Parliamentary accountability of public bodies is patchy at best: around 85 per cent have not been called before the Public Accounts Committee in the last four years, for example.
39. *Reform* analysis found that the Public Accounts Committee, responsible for examining the value for money of public spending called witnesses from 22 public bodies on average a year, from 2021-24, or around 5 per cent of all public bodies per year. There was also a subset of high-profile public bodies that PAC was more likely to call every year, such as NHS England and Ofgem.

40. While other departmental select committees regularly call witnesses from public bodies, this is generally focused on issues related to their areas of work, rather than on whether they are effectively governed or fit for purpose. They should in future have a much greater role in using the outcomes and recommendations of tailored reviews to hold the leadership of public bodies and departments to account.
41. There is also an important set of questions around improving the accountability of non-ministerial departments, which do not directly answer to ministers in the same way as other public bodies and have more ambiguous accountability to Parliament. *Reform* heard from senior officials that is unclear how public bodies which exist within, and receive direction from, other public bodies, are overseen by Parliament.
42. For example, it is unclear how Healthwatch England, which is supported by the Care Quality Commission, but in many ways independent of it – including by having its own Executive Team and Committee – is accountable to Parliament.

***Reform* published the following paper on public bodies**

‘Quangocracy: The future of public bodies’¹²

¹² Patrick King and Alice Semark, *Quangocracy: The Future of Public Bodies* (Reform think tank, 2025).