

# UNFINISHED BUSINESS

Where next for  
Executive Agencies?

*Kate Jenkins with Jennifer Gold*



## ***Inside*OUT**

*A series of personal perspectives  
on government effectiveness*

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## Foreword

Last year, the Institute for Government looked at the tangled landscape of arm's length bodies in our report *Read Before Burning*. We did not pay that much attention to Executive Agencies, assuming that they were the one accepted, relatively stable part of the landscape. Since then it has become clear that they are emerging as the government's preferred model and we have seen proposals to establish a number of new agencies.

We thought it would be interesting some twenty years after the first agencies were established to ask Kate Jenkins, one of the authors of the original report that gave rise to "Next Steps" Agencies, to look at how far they had fulfilled the authors' original hopes; where unexpected problems had arisen; and where the government needed to take care if it was to make the most of the next generation of agencies.

Kate has called this report "unfinished business". It is clear that many agencies have become established parts of the landscape. For others, agency status has not insulated them from the tendency in government to move the deckchairs. Some departments have managed their agencies well – but as we found with arm's length bodies more generally, some have interfered too much – others have reduced their capacity to engage with the agency too far and in ways not originally intended. There have been bad experiences where agencies have been asked to deliver the undeliverable – and in those cases accountability has been blurred rather than clarified. And as Kate points out, the move to create discrete delivery agencies was always seen as just one part of overall reform to improve the effectiveness of government. There is much more to do.

The Institute for Government is very grateful to Kate Jenkins for taking the time to give us all the benefits of her reflections. I welcome the debate she has started on the future of executive agencies.



Andrew Adonis,  
The Rt. Hon. Lord Adonis, Director, Institute for Government

### About our *InsideOUT* series

There is little systematic attempt to capture the knowledge and insights of people who have worked closely with government and share them with a wider audience. The Institute for Government is keen to remedy that. Our *InsideOUT* series gives people with an interesting perspective on government effectiveness an opportunity to share their personal views on a topic

that sheds light on one of the Institute's core themes. The Institute for Government is pleased to be able to provide a platform to contribute to public knowledge and debate, but the views expressed are those of the author.

## About the authors

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## Executive summary

Executive agencies are enjoying a new lease of life under the Coalition Government. A political commitment to reducing the current number of non-departmental public bodies (or quangos) has seen executive agencies embraced as the 'default delivery option in cases where there is a need to deliver public functions within central government but with a degree of operational independence and autonomy from ministers'.<sup>1</sup> The Home Office, Department for Education, Ministry of Justice and Department for Work and Pensions are planning seven new agencies between them.

Executive agencies emerged in the late 1980s as a new institutional form for the delivery of functions that had previously been administered from within government departments. They were the product of recommendations made in the 1988 report by the Prime Minister's Efficiency Unit, *Improving Management in Government: The Next Steps*. The report was targeted at redressing flaws in the Civil Service, particularly the neglect of service delivery functions, the lack of management experience among senior officials and overbearing central rules and regulations.

The report team envisaged that ministerial departments would consist of a small core that set the policy, resources and targets for agencies that in turn had considerable operational freedom but were accountable to ministers. Agencies were not intended as a single type of organisation, but units responsible for the delivery of clearly defined areas of executive business that were tailor-made to suit their function. *Unfinished Business* examines the executive agency model twenty years on: how it has evolved and what the government needs to do now to make the most of it.

Executive agencies have survived for longer than the team which devised them expected. They were not the revolution that some predicted at the time. Their creation did not lead to the breakup of the Civil Service nor serve as a catalyst for widespread privatisation. Agencies have proved useful for executive tasks ranging from research and road building to licences and transfer payments. But a number of problems have also arisen:

- **The relationship between agencies and core departments:** Skill and subtlety is needed in handling department-agency relations and responsibilities must be clearly defined. The theory that management and policy should be separate functions is damaging and misleading. Senior officials and Ministers should not become too involved in the daily running of agencies, effectively removing the delegation of executive functions to the agency. Conversely where too much responsibility for decision-making has been devolved to agencies, they can become detached from their core departments.

- **The relationship between the agencies and customers:** Part of the rationale for liberating agencies from departments was to allow them to develop a much clearer focus on the public they serve. Agencies and their departments have sometimes been too inward-looking and preoccupied with departmental targets rather than focused on the needs of their users. Some agencies have effective monopoly pricing for their services, relaxing the pressure for cost control and allowing the cost of operational failure to be passed on to their users.
- **The role of the centre:** The central departments - the Cabinet Office and Treasury - have fluctuated between being heavily rule-bound and somewhat fragmented and weak. The Treasury and Cabinet Office need to ensure their role is to support rather than direct how agencies work.

What should be distinctive about executive agencies is their clarity of purpose, responsibility for results and their freedom from both damaging central regulations and ministerial intervention on matters which should be delegated. It is here that the capacity for improvement in the use of resources and quality of service lies.

Looking ahead to the creation of new executive agencies, *Unfinished Business* makes a number of recommendations that build on the lessons of twenty years of experience with agencies:

- **The need to address unresolved issues:** An agency should not be used for poorly defined, politically sensitive or inadequately planned activities. The most important factor is not the structure but the coherent purpose of the organisation.
- **The need for a clear business case that evaluates all options:** A business case which defines the problem and considers the options available should be the basis for a decision to create a new executive agency. A business case which is produced to justify a decision retrospectively can be of no value.
- **An agency is a vehicle for better and more focused management:** reorganisations and especially amalgamations are invariably more expensive than expected, particularly if the agency is set up to deal with intractable or badly managed functions. An agency needs a clearly defined purpose and agreed resources to achieve defined outcomes. There may, and in many cases should be, reductions in costs from better management but cost reduction is not a sufficient or an effective objective in establishing an agency.
- **Consider the users:** without a constant awareness of users, bureaucracy can become more important than public service. An agency should be set up with a defined relationship with its users, including service levels, costs and outcomes. Responsibility for failure needs to be clearly articulated so that the agency is under pressure to avoid errors.

- **Accountability:** ministers and senior civil servants remain accountable for the results of their agencies. The policy to be implemented by an agency is their responsibility. They have to ensure that the tasks given to the agency are properly defined and realistic.

The final section of this report turns to the unfinished business of civil service reform. The *Next Steps* report was partly, but never solely, about agency creation. *Unfinished Business* argues that departments should be organised to ensure a good relationship between the development of policy which is practical and realistic and the management of the process of implementation. Policy developed in isolation from an understanding of the problem it has to solve and how it can be implemented is weak and ineffective.



# 1. Introduction

Executive agencies have been part of the structure of government in the United Kingdom for the past twenty years. They now appear to be getting a new lease of life. At a time when the Coalition Government is planning to abolish substantial numbers of arm's length bodies, new executive agencies are being set up within several Whitehall departments including the Home Office, the Department for Education, the Ministry of Justice and the Department for Work and Pensions (see Appendix 1). These new agencies represent a mixture of amalgamations, adaptations and redistributions of executive functions. Most are former non-departmental public bodies which are to be brought under more direct ministerial control as executive agencies.

Executive agencies were first introduced in the Civil Service during the late 1980s. They were created as distinct organisations to run major government executive functions which had previously been administered from within departments. Agencies were established following the Government's acceptance of the recommendations of a report published by the Prime Minister's Efficiency Unit in February 1988: *Improving Management in Government: The Next Steps* (see Box 1). The 'Next Steps Agencies' are best understood not as a single type of organisation but as a means of clarifying and strengthening the management of government executive business.

## Box 1: The main recommendations of the *Next Steps* report

'Where departments are directly responsible for service delivery their task will no longer be the detailed prescription of operational functions: it will be the definition of a rigorous policy and resources framework within which the agency management is set free to manage operations and is held to account for results' (Paragraph 25).

'We recommend that departments ensure that their staff are properly trained and experienced in the delivery of services whether within or outside central government; the staff will then be in a position to develop and interpret government policy and manage the agencies in a way that can maximise results' (Paragraph 34).

'We recommend that a full Permanent Secretary should be designated as 'Project Manager' as soon as possible to ensure that the change takes place' (Paragraph 41).

There has been no detailed statement from the Coalition Government on their view of the advantages of executive agencies. But the Government has said that executive agencies 'should be the default delivery option in cases where there is a need to deliver public functions within central government but with a degree of operational independence and autonomy from

ministers'.<sup>2</sup> Unlike the previous Government, executive agencies are seen as distinct from quangos. They were exempt from last summer's review of public bodies which sought to cut spending and improve accountability by reducing the number of quangos.

The Government has said they 'are converting a number of public bodies into executive agencies precisely to make them democratically accountable through a Minister'.<sup>3</sup> Individual departments have given a range of justifications for their proposed new executive agencies, all of which in some way touch upon the Government's wider public sector reform agenda of cost savings, value for money, efficiency, transparency, stronger ministerial accountability and social justice.

The Agency structure has been supported by the Public Administration Select Committee of the House of Commons. The Committee's recent report, *Smaller Government*, argues that executive agencies offer a means of accommodating two current and competing government agendas: the desire to strengthen accountability through ministers and the Big Society. As distinct, recognisable entities within central government departments, the Committee considers that executive agencies can combine high levels of stakeholder engagement with direct ministerial scrutiny.<sup>4</sup>

This paper argues that for agencies to provide the benefits the Government wishes to achieve, it will have to go further than simply setting up administrative structures. The environment in which those structures will work also needs attention. This paper reviews the original intentions behind the *Next Steps* report, considers how agencies have evolved over the past twenty years and identifies some lessons for the future. The final section discusses the unfinished business of civil service reform and the role of agencies in the management of the public sector.

## 2. Origins - the Efficiency Unit Report

The Efficiency Unit's recommendations for executive agencies were the subject of considerable debate in the later 1980s and early 1990s. Public and private disagreements between senior officials over the recommendations of the short 16-page report created more interest in Whitehall administration than was usual. The issue was the control of finances and management of an agency and the extent to which the tight Treasury grip on the details of expenditure would be weakened by the new intervening management layer. The *Times* reported with gusto that smoke was pouring from the windows of Whitehall as the battles raged.

The purpose of the new agencies was to put the management of public sector organisations on a basis which met the distinct and individual responsibilities of each one. Agencies were to be defined organisations with specific functions and tasks, and operational budgets and objectives. Policy was to be specified in the management agreement between the agency and the department and there was to be close working between the two.

It was a change but it was not the revolution it was called and it certainly did not rate the excitement generated in Whitehall at the time. One elderly Civil Servant, stuck in a lift with a member of the Efficiency Unit, accused her of destroying a hundred years of the Civil Service. A senior Treasury official went further and accused the Efficiency Unit of overturning the Treasury Commission system of 1667. Another asserted that the Treasury would have to demand a new Financial Memorandum from Parliament. This did not prove necessary.

### The structure of an agency

The new structure was designed to deal with the damaging impact of a Civil Service-wide set of rules and regulations which imposed uniformity on extremely diverse activities and, in consequence, suited none of them. The relationship between a department and an agency would require policy makers to understand how their policies would work in practice in order to provide specific instructions in a 'framework document'. It also focused responsibility where decisions were taken: with the executive agency for management and implementation and with the sponsoring department for policy and resources.

The framework document would reinforce the responsibility of officials and Ministers for the effectiveness of the policy and the adequacy of the resources made available to the agency. The Efficiency Unit report had drawn attention to the reluctance and, on occasion, inability of much of the senior civil service and Ministers to understand what was involved in managing large and complicated organisations.

Most senior officials and nearly all ministers had no experience of management or of the impact of policies on the delivery of services for which their departments were responsible. Private interviews with all members of the Cabinet and all Permanent Secretaries as part of the Efficiency Unit study had made that lack of experience all too clear. At the same time, the hierarchical pull of Ministers had led much of the public service to be more concerned with internal pressures than with the interests of the users of their services. Complying with rules and regulations was more important than outcome.

### **Responsibility and Accountability**

Lack of personal responsibility was a significant and repeated complaint in the Efficiency Unit's discussions. Civil Servants wanted to be both more accountable and to have the responsibility to take decisions and manage organisations. The constraints of central rules were felt strongly because they frequently imposed impracticable, expensive or inefficient solutions. For practical managers this was deeply frustrating and wasteful. Many good civil servants, including substantial numbers from the fast stream, had left the civil service during the 1980s for precisely these reasons.

The report addressed these issues. The agency approach kept ministerial control over policy, and accountability to the House of Commons, but would leave senior managers with the flexibility to find sensible management solutions. Success depended on the coherence of the function, good policy which reflected practical reality, tight budgeting, competent staff and robust performance measures.

What mattered was whether the business of Departments was more effectively organised and whether a better service was provided to the public as a result of the changes. The structure of an agency was to be 'tailor made', designed to fit the task it had to perform and the quality of its service to the public was to be its focus.

The work of an agency was to be more open to public scrutiny than any department had been. The 'framework document', the formal agreement on policy and operations with the Department, was to be a public document as were the business plans and annual reports. The names of senior officials were to be public, the Chief Executive's objectives were to be public and their appointment was open to public competition. All this was highly unusual in the late 1980s.

Privatisation was another issue. There were suspicions that agencies were simply being packaged up for sale. There was no general intention to do so, but it was the case that it was easier to see whether an organisation could or should be privatised if it was a distinct and separate organisation with its own budget.

### 3. The Evolution of the Next Steps Agencies

The Efficiency Unit's view that the 'agency structure could be used to cover a substantial proportion of the activities of the Civil Service' was accepted by the Government in February 1988.<sup>5</sup> These first agencies were set up in late 1988 and 1989 as 'pilots' to see how the concept worked in practice. This first round was followed by a rapidly expanding programme. Within seven years, two thirds of civil servants were working in executive agencies. By the late 1990s, this had risen to almost eighty percent with running costs of about £14 billion.

The aggregate numbers obscure the range of size and function of the agencies – from a small specialist staff, such as that of the National Measurement Office, to a huge nationwide network, such as Jobcentre Plus. By 1997 of the 124 agencies, 43 were Ministry of Defence agencies, the majority of them with relatively modest running costs. These numbers include agencies in what are now devolved administrations: 24 in Northern Ireland, 13 in Scotland and 1 in Wales. Of the remaining 43 agencies, most expenditure was in the two big agencies of the Employment Service and Social Security which between them had running costs of £3.4 billion. The three big Ministry of Defence agencies, Recruitment and Training, Evaluation and Research and Naval bases and Supply had running costs of just over £2 billion. The two revenue departments – Inland Revenue and Customs and Excise – the first to be run on what was described as 'Next Steps lines' had running costs of £2.4 billion.<sup>6</sup>

The speed and success of the development of executive agencies was partly a consequence of the section of the *Next Steps* report that outlined a plan for implementation – something that had been lacking in earlier reports on the Civil Service. A unit to oversee implementation with a Permanent Secretary at its head was recommended. The Permanent Secretary was responsible for the success of implementation and was accountable to the Prime Minister and Cabinet Secretary.

Agencies of course have adapted over the years. Many have matured and become an accepted part of the structure of Whitehall. Others have disappeared, been privatised or amalgamated with other organisations. From a peak in 1998, the overall number of executive agencies declined in the first decade of the twenty-first century as a consequence of Government efforts to reduce the number of public bodies. In 2011 there are 83 executive agencies.<sup>7</sup> They range widely in size and function and along with three non-ministerial departments that operate along 'Next Steps lines', continue to employ seventy percent of the Civil Service.

## The changes in departments

The formal implementation of the *Next Steps* report concentrated on the establishment of executive agencies. The central Next Steps Unit and the Treasury worked together with departments in developing the details of the relationships and formal agreements necessary to establish the new organisations. But a major part of the Efficiency Unit's report was overlooked: in spite of the Government's commitment to implement the recommendations of the report 'in full', the recommendations on the new functions for departments and the centre of Whitehall were never fully implemented.

The Next Steps Report had a description of how the civil service should look:

'The aim should be to establish a quite different way of conducting the business of government. The central Civil Service should consist of a relatively small core engaged in the function of servicing Ministers and managing departments, who will be the 'sponsors' of particular government policies and services. Responding to these departments will be a range of agencies employing their own staff, who may or may not have the status of Crown servants, and concentrating on the delivery of their particular service, with clearly defined responsibilities between the Secretary of State and the Permanent Secretary on the one hand and the Chairman or Chief Executives of the agencies on the other. Both departments and their agencies should have a more open and simplified structure' (paragraph 44).

Few Departments reordered their senior management to bring policy and management skills together to create an effective working partnership with the agencies. Some did take the task seriously. The old Department of Employment, accustomed to dealing with the precursor of agencies, the Manpower Services Commission, could easily handle the new relationship with the new Employment Service agency, although the transfer to full agency status took over two years. The Department of the Environment was eager to shed the troublesome Queen Elizabeth II Conference Centre which had been expected to run a commercial operation with civil servants and civil service grading. There were no difficulties about an early framework document and complete flexibility for the new Chief Executive. Several of the first pilot agencies and departments who worked with the Efficiency Unit and the Treasury during 1988 managed the transition to agency status effectively. Many still exist as successful agencies - among them Companies House, Historic Royal Palaces and the Meteorological Office.

But these were an exception. For all the departments which did adapt, there were many who made few or no changes to their internal organisation. There developed instead a conviction among commentators, as well as some civil servants, that the introduction of agencies meant that policy makers did not have to be concerned about the effectiveness of implementation or the views of management.

There was an unexpected academic interest in agencies, especially after a distorted 'executive agency model' had been enthusiastically marketed by the World Bank as part of what it bizarrely described as its 'toolkit of reform'. This was copied by many governments as far afield

as Canada, Brazil, Mexico and Japan. But very few people took the half hour necessary to read the original report of 16 pages. Some did buy it – in the year of publication *Improving Management in Government: the Next Steps* was outsold only by the Highway Code in the HMSO list. But academic work on public sector management repeatedly asserted that agencies meant mandarins did not have to deal with management. As so few people had read the report, the ideas of academics and other commentators influenced the approach of many who dealt with agencies.<sup>8</sup>

The central departments and particularly in its later stages, the Next Steps Unit did try to fill the vacuum between management and policy. But its contribution took the form of providing models and processes which required agencies fit into a centrally determined system. The requirement for three year reviews, the prior options review, the links to market testing and privatisation, detailed 'guidance' on strategic planning, and the ever expanding annual reports all fed the growth of the agency empire. Although the Next Steps Unit produced an annual Next Steps Report that was an admirable mine of information on what was happening within agencies - by 1997 it contained detailed performance tables for each agency - the central unit became more a bureaucracy than a simple monitoring point. As the flexibility which had been part of the original idea was overtaken by rules and models, the real benefits of flexible and responsible management began to diminish.

In some cases the agencies that emerged scarcely resembled Next Steps principles. A late entrant to the agency structure, the Prison Service, was set up as a separate organisation with its own management board. It was called an executive agency but had no agency counterpart within its department, the Home Office, and set its own policy. The Chief Executive was designated as the Home Secretary's principal adviser on prisons policy. It took a major clash over policy between a later Home Secretary and the Prison Service Chief Executive to bring this anomaly to light. A decade later, this anomaly would occur again with the UK Border Agency (see Box 2).

#### **Box 2: Home Office: Prison Service agency and UK Border Agency**

The Prison Service agency, established in 1993, was simply the old Home Office Prisons Department under a new name. Policy and operations were lumped together and the new agency had in effect an agency agreement with itself. This was in direct contravention of the Next Steps philosophy which saw policy remaining firmly the responsibility of the department, with execution of those policies the task of the agency. There remained no policy function within the Home Office, so no one, apart from the Permanent Secretary, could formally have any view of what was happening within the agency or any locus in challenging the policy or implementation.

The Home Office has repeated this devolution of policy responsibility with the UK Border Agency (UKBA). As set out in the Agency's framework document, UKBA's Chief Executive has responsibility for 'advising the Home Secretary on current and future policy on border control

and immigration' alongside the daily management of Agency operations.<sup>9</sup> This not only demands an unusual skills set of successive post holders, but, as a result, heavily constrains the core department's internal capacity to monitor and challenge UKBA. Recent proposals to set up an 'integrated strategic centre' in the Home Office finally address this problem. Responsibility for border control and immigration strategy is due to be transferred from UKBA to the core department during this Parliament, with a policy implementation team residing in UKBA.<sup>10</sup>

### The lessons from the past twenty years

The spread of agencies was driven by a central initiative but their continued existence is a tribute to the value of the original idea and its successful and flexible implementation. The focus on function put more effective management into large organisations and raised the visibility and status of senior managers, who could, for the first time, be recruited from outside the Civil Service. Where it has worked well, the agency structure has helped reinvigorate a civil service identified in the *Next Steps* report as 'frustrated [and] absolved from responsibility by central constraints'.<sup>11</sup> Interviews conducted with civil servants during the preparation of this current report suggest that executive agency status when properly handled can have a positive impact on staff morale. The new sense of autonomy, clear organisation identity and leadership that accompanied the establishment of the UK Border Agency was cited as contributing to energising staff and boosting recruitment even though the relationship with the Home Office was still anomalous.

Some lessons from the twenty years experience are fairly self evident:

- the original recommendations of the Efficiency Unit were based not on a preconceived plan but on careful analysis and evidence gathering. This contributed to the report's credibility and to the relative speed of implementation.
- as a solution to the weaknesses in public sector management in the 1980s the agency has proved to be reasonably successful and is still regarded as useful. Delegating responsibility for management to an agency has generally benefited the organisation of much of the public service.
- Agencies are most effective when they are given the flexibility to organise to enhance the delivery of their function – 'tailor made'. The management is able to develop an organisation which makes the delivery of its function as effective as possible, provided that function is a coherent one.

Other lessons have become more evident as the agencies have developed and the programme has expanded. The relationships between agency and department remain important and are sometimes a problem. The importance of the framework document appears to be less significant now than was the original intention. There is an issue about how costs and fees are apportioned and set. The role of the central departments can pose additional demands on



agencies and the significance of the customer as an important focus for an agency appears to have diminished.

### **Relations between agencies and departments**

The essence of the agency relationship is that, having set the parameters, the agency gets on with the job with little intervention and its management is held to account for its actions and performance outcomes in the context of the results that are achieved. At its simplest it is: we agree your policy, budget, your targets and your outcomes and you find the most effective way of managing to achieve the result. This deliberate over simplification was to focus responsibility on the 'how' once the 'what' had been agreed. The success of many of the early agencies depended on the competence of the senior management and the flexibility they were allowed.

But the relationship between department and agency is, and should be a complex one. It is not an opportunity, as some have seen it, to get rid of boring and pedestrian bits of work. Many agencies manage large sections of public expenditure; the competence of their senior executives, the effectiveness of their systems, the realism of their objectives and budgets are all significant in the success of their function. There is skill and subtlety in the way an agency should be managed, which depend as well on the competence of both Permanent Secretary and Minister to get the policy, the budgets and the senior staffing right.

Good departments have been able to develop constructive relationships with their agencies, and there are many examples of this. 'Good relationships' have involved having a high level commitment to the work of the agency - exemplified by regular meetings with agency officials that senior department officials attend in person rather than sending 'shadows'. These meetings which focus on checking that all is working well, helping with difficulties and taking back issues to get them sorted out is all part of the successful management of the agency relationship by officials who understand the work of the agency and have the seniority to deal with difficulties. Regular support and monitoring is not the work of Ministers but is a means of building good working relationships and an understanding of the issues facing both department and agency. Properly managed, both sides can and should benefit from it.

Private discussions with senior officials provide a rather less varnished view than public statements. There is still enthusiasm for the idea of agencies but the reality of the relationship with departments has, in some cases, been far from constructive. Departmental interest is often dictated by the political significance of the agency to the department's business. In politically sensitive policy areas, ministers and senior officials have sometimes become too involved in the daily running of agencies (see Box 3).

One retired official has argued that agencies and departments have sometimes had a 'degraded relationship' with a destructive division between policy and management and a damaging reluctance to share information. In one extreme case the agency had been given 900 activity

targets, no policy and no definition of outcomes. Too often there has been a war of attrition, especially over budget cuts which could be handed straight to the agency which was expected to absorb them. It has been suggested that some agencies could function better if they have an independent legislative basis which provides a more equal relationship with a department. This is, of course, precisely the pattern of the 'on Next Steps lines' NDPBs which were developed in the 1990s.

### Box 3: Agencies and Departments

The Driver and Vehicle Licensing Agency and Companies House operate with considerable autonomy. They perform a technical function that is tangential to the main work of their departments. Jobcentre Plus and the UK Border Agency, in stark contrast, have a much closer relationship with their respective host departments. The Chief Executives of both agencies sit on their departmental boards – unlike their counterparts at the other executive agencies in the Home Office and Department for Work and Pensions. Departmental involvement in the daily affairs of both agencies frequently compromises the Chief Executive's autonomy. Conversations with senior officials in both departments reveal that, at various times in the past, the Chief Executive role has effectively been discharged by a Minister or Permanent Secretary.

In an altogether more public move that effectively tears up the Jobcentre Plus framework document, the Department for Work and Pensions is due to eliminate the post of Chief Executive in October 2011. Jobcentre Plus will be run instead by a Chief Operating Officer based in the core department. This fundamental break with the management structure prescribed by the original *Next Steps* report is a consequence of the lead role of the Department for Work and Pensions, and Jobcentre Plus in particular, in managing Universal Credit and the Work Programme, two key elements of the Coalition Government's welfare reform programme.

### The Agency Agreement

The purpose of the 'framework document' was to agree the basis of the agency's operations. Its objectives should determine what the agency does and what its priorities are, and its budget should determine what resources it has. The consequences of being a 'public service' sets parameters as to how an agency can work but the detail of management should be as flexible as possible to give managers responsibility for outcomes.

Good framework documents and performance management depended on the right balance between a department and an agency. As the Prison Service agency illustrates, without the right capacity in the department an agency could become a private fiefdom with no remaining

policy capacity or working links in the Home Office, something which could be particularly important in a crisis.

The success of an agency depended too on whether the framework and the policy given to it by a department were practical and could be implemented within the agreed resources available. The mess at the Child Support Agency, which caused so much misery and frustration in the 1990s, demonstrated the damage done by too much inexperienced departmental and Ministerial involvement in an agency not ready to operate, lacking the necessary support and equipment for its task, and asked to implement a policy that was poorly designed (see Box 4). Agency status could not paper over underlying policy defects.

Management failure and departmental intervention is often evidence of poor judgement in the appointment of the agency management or inadequate care and precision in the negotiations over frameworks or business plans. If the Department is unable to provide and agree on a basis for working that gives the agency clear direction then it should not be an agency. Form and function have to go together.

#### **Box 4: Child Support Agency**

The Child Support Agency was established as an executive agency of the Department for Social Security in 1993. It assumed responsibility for the handling of child maintenance applications which had previously been processed by the courts. The resource implications of setting up an agency in such a difficult area of policy delivery had been entirely underestimated. In evidence submitted to the Parliamentary Commissioner for Administration in 1995, the Agency's Chief Executive summed up the extent of operational difficulties and policy failures that initially plagued the organisation:

the task set for the Agency has proven to be more difficult in practice than had been anticipated when the scheme was devised. In particular, I do not think it was fully appreciated that the Agency's intervention into the most personal and sensitive areas of people's lives would make such a negative impact; nor was it realised how many people would actively resist or reject prioritising child maintenance above nearly all other financial commitments. [...] As a new organisation [...] operating new procedures, implementing new Government policy, with new computer systems, many new staff, and with no opportunity to do any piloting prior to our operational start date in April 1993, it has taken much longer than anticipated for both our clients and staff to get used to the new arrangements.<sup>12</sup>

In the years that followed the Agency persistently failed to meet its delivery targets. Errors in calculating payments were routine. By 1999, almost a third of applicants had been waiting for over a year for their cases to be assessed. Even where assessments had been completed, weak enforcement procedures meant that just less than half of 'non-resident' parents actually paid in full the maintenance payments required of them.<sup>13</sup>

## Costs and Monopoly

Some agencies have monopoly pricing for their services. A charge for a public service which exists to 'cover costs' rapidly becomes a simple tax if there is no control on costs and no incentive to keep them down. The costs of delivery failure can be passed on to captive customers. The classic example of the negative effect of monopoly power was the appalling service provided by the Passport Agency in 1999 (see Box 5).

The new 'trading fund' structure introduced under the 1990 Trading Funds Act gave some agencies more flexibility in raising money to cover variable costs and demands but carried within it the real danger of monopoly charges. A requirement to meet a target for a contribution to the Treasury provided only a floor rather than a ceiling for charges.

During the first few years, there was much criticism that agencies were based on the private sector. However any analogy with the private sector was and is meaningless because an agency did not and does not have to earn its own resources. The danger of agency monopoly pricing was precisely the complete absence of a market.

The executive agency structure does, however, expose the cost of failure. Where the policy has failed, in the case of the Child Support Agency, or the management has failed, as in the Prison Service in 1995, both the facts and the costs are public knowledge. Failures are subject to critical scrutiny by select committees, Parliament and the National Audit Office.

### Box 5: Monopoly pricing: The Passport Agency

In the summer of 1999, the Passport Agency, an executive agency of the Home Office, introduced a new computer system that led to record delays in processing applications. By June, the Agency had a backlog of 565,000. Processing times were almost five times the Home Office performance target of ten working days. Missed holidays, weddings and funerals dominated media headlines.

A National Audit Office report into the crisis blamed inadequate pilot testing and poor contingency planning. It calculated the cost of emergency measures introduced to tackle the fiasco at almost £12.6 million, of which £6 million was in staff overtime and emergency recruitment costs. With the Passport Agency required by statute to recoup the cost of passport services from customer fees, it was the public who bore virtually all this outlay. The unit cost of processing passports in 1997/98 had stood at just over £10. At the end of 1999, this had risen to over £15.<sup>14</sup> In December 1999, the price of a standard adult passport was raised from £21 to £28.<sup>15</sup>

## Agencies and the Central Departments

One factor in success which is not within the control of the Permanent Secretary and Minister is the way the central departments – the Treasury and the Cabinet Office - behave. This is an area of government battered by ministerial intervention and repeated reorganisations since the 1980s which have often had little to be said in their favour. Responsibility for policy on the Civil Service has shifted over the past thirty years from the Treasury to a Civil Service Department, to an Office of the Public Service, a Management and Personnel Office, back into the Cabinet Office and then partially back to the Treasury. From being a dominating management structure under the old centralised and rule bound civil service, the centre has become weak, fragmented, amateurish and, on occasions, vastly inflated.

There is a simple question – what value do the central departments add in the management of agencies? They can certainly help in setting up an agency. Public sector management is complex and challenging, helpful support through the jungle of Whitehall to ease the management task is a good thing, while inexperienced interventions which are time wasting and unhelpful are quite another. There are necessary and important functions for the central departments but detailed management and policy intervention are seldom necessary.

Another possible response to the question of added value is the ability of the centre to push for continual improvement. The 1988 Efficiency Unit report identified a longer term role for the centre in ensuring 'there is rigorous external pressure on departments continually to improve results'.<sup>16</sup> The Next Steps Reports produced annually by the Next Steps Unit did highlight better performance, quality improvements and the outcomes of targets and milestones. It is possible that the publication of these results did encourage a continuing focus on improvement and customer service that may have been lost when the Reports ceased to be produced after 1999 and the Next Steps Unit was abolished.

## Customers

Most agencies provide a public service in some shape or form and part of the rationale for liberating them from departments was to allow them to develop a much clearer focus on the public they serve. An agency which is inward-looking, focusing on its own activities and its relationship with its parent department might just as well still be in the parent department. The outcomes for users should drive service levels and the assessment of effectiveness, otherwise the agency is merely a bureaucracy.

One of the interesting experiments of the 1990s was the Citizen's Charter. Whatever its weaknesses it did push public bodies into thinking hard about what they provided for their users. In some admirable cases they actually thought about what their users might want, rather than what they were prepared to supply. Departments published, in simple form, what they were providing for their users. It provided a framework for a relationship with users and gave

the users for the first time some sense of what they were entitled to expect – what they were getting for their money. It was also uncomfortable for some organisations. People became intelligent, informed consumers rather than receivers of public charity. If the Charter had survived it could have encouraged the development of genuinely accountable public services driven to improve by the needs and demands of their users. Notably the Charter did not result in demands for more expenditure but for better management.

Current Coalition Government references to agencies are concerned with the consequences of the better management of resources and improved public accountability through ministers. They refer far less to improved - or even good - services for users or customers.

The most obvious source of better service is through good communication between executive agencies and their public. But communication strategies need to be written for the public, not for the agency, department or the centre. The Coalition Government's new 'transparency agenda' encourages people to use the internet for government services and information. However it appears to be based more on the release of available data sets, rather than what is useful for the users to know. The purpose of transparency in the Coalition *Programme for Government* was to 'hold politicians and public bodies to account' rather than to improve the quality of public services.<sup>17</sup>

Most customers look on executive agency websites for information on service levels, complaints procedures, opening hours, costs and phone numbers. This information needs to be available, accessible and easily comprehensible. Some websites require a high degree of internet literacy to navigate. Moreover, however good website communication might be, there will remain many users for whom the decreasing network of post offices or the telephone are their only recourse. The Pension, Disability and Carers Service, for obvious reasons, has been performed better in this area than many others.

Some agencies appear to succeed in delivering services tailored to customer needs, when they in fact need to improve. The Identity and Passport Service advertises a same day renewal service for passports – but you have to have an appointment and a personal interview, as you do for their one week 'premium service'. At present (July 2011) they cannot meet their 48 hour target for sending out application forms and they cannot guarantee a return date, unless you pay the Post Office an extra £7.50. A busy July can hardly be a surprise to the Identity and Passport Service, and with a current charge of £77.50, adequate staff ought to be available.<sup>18</sup>

## 4. The Agency in the 21<sup>st</sup> Century

New agencies and existing ones now face a period of continuous reductions in public sector expenditure with demands for tighter financial control and reductions in services. There will be questions about amalgamations and shared support functions which are already being raised in the context of newly proposed agencies. It will be tempting to push together different activities into an agency with no specific function and expect it to achieve similar results as a single focus organisation. There are questions to be asked about a reorganisation for which the agency may seem to be the simplest approach.

**First, is it an agency?** The agency should not be used for difficult, politically sensitive or inadequately planned activities. The most important factor is not structure or organisation but the task which is the purpose of the institution. Is the function of the agency clear and sufficient? There should not be an agglomeration of activities, linked only by the fact that they need management but a recognisable coherence in the tasks of the agency. Is it 'executive' in the sense that there is a process to be performed which is a public service and which needs its own specialised systems and skills?

An executive agency should not simply be an envelope for modest operations which can be carried out within a department. A major change since the 1980s is the advent of effective mass computerisation. This has meant that straightforward payments or activities can be easily managed within a data centre without the bureaucracy of a separate organisation.

**Second, are departments organised so that policy and management do work together constructively?** Are the right people in a department involved in the relationship with the agency? Can the policy and outcomes be defined in a way that is practical and timely?

Setting up new agencies provides an opportunity to review methods and jettison unnecessary habits and restraints. The relationship with a department is more properly called an 'agency agreement' than a framework. It describes the approach which both agency and department should take. The agency can only do what is specified by the department and the department can only hold the agency to account when the actions they want have been clearly and properly defined and funded. This also means that policy statements, plans, budgets, outcome measures and targets are all produced in time for a planned annual process. Political timetables can alter requirements and expectations in year but that should be the exception rather than the rule.

**Third, where are the users?** Is it clear who the users are and what service they should be receiving? Is communication with them open and helpful? Without a constant awareness of users, bureaucracy becomes more important than public service. Is service improving and is the public benefiting from greater productivity and efficiency? And when things go wrong is it the agency, the department or the public who ends up footing the bill?

An executive agency should focus on its customers or users. It should exist to provide them with a public service and it is the relationship with them that should define its separate existence. Without a constant awareness of users, bureaucracy can become more important than public service. An agency should be set up with a defined relationship with its users, including service levels, costs and outcomes.

**Fourth, are there clear lines of accountability?** The Coalition Government has stressed the value of agencies in improving political accountability. Agencies were designed to serve the public. But the consequences of mistakes or failures can either encourage improvement or license slovenly management. When mistakes are made, it should be the agency or the department, if they are responsible for the errors, which carries the primary cost. Otherwise there is no real incentive on its management to see that mistakes are not made.

Accountability is a difficult concept for most public services. Every agency has to respond to a complex triangle of accountability: to its users, who in many cases are very dependent on its services; to the public who need and expect to be able to find out what an agency does; and to its Minister, who is ultimately responsible for policy and the cost and quality of what is done - and is, of course, accountable to Parliament.

Accountability to users and the public has to be based on the quality of communication and the competence of the service provided. Accountability to Parliament through Ministers is more complex, because the outcomes are also dependent on the quality of the departmental and ministerial contribution to the agreements with the agency. The Minister is therefore accounting for his or her own performance as well as that of the agency.

Ministers may not always appear to treat executive agencies any differently from the NDPBs sponsored by their department. However they should have a closer involvement in the agency agreement, the policy formulation and resource allocation for their agencies. Agency employees are civil servants in their department and as Ministers they are directly responsible to Parliament for the agency's successes or failures.

Chief Executives have long been accountable to Parliament, especially to the strengthened select committees, for many aspects of agency performance. However, the traditional test of ministerial accountability, resignation, is weakening: the Chief Executive of an agency is more likely to resign than a minister or a senior official, regardless of where responsibility may lie.

The example of the Rural Payments Agency illustrates the difficulty of allocating responsibility in cases of complex failure (see Box 6). There was no enforcement mechanism other than public and parliamentary opinion and 'naming and shaming' appeared to be singularly ineffective. Equally, while the odium lay with the Chief Executive, the careers of those senior department officials involved suffered little. Ministers and senior civil servants have to ensure that the tasks given to the agency are properly defined and realistic and that there are clear lines of accountability. Positive pressures for high quality performance may ultimately be more effective than the present negative threat of public accountability.



### Box 6: The limits of ministerial accountability: The Rural Payments Agency, 2006

In early 2006 the Rural Payments Agency – an executive agency of the Department for Environment, Food and Rural Affairs (DEFRA) – came under fire for delayed agricultural subsidy payments to British farmers. The Agency was responsible for administering a new Single Payment System under the European Union's Common Agricultural Policy. Due to a catalogue of errors – including poor IT procurement, naive target setting and a confused project management arrangement with DEFRA – the Agency was unable to meet its target of distributing 96 percent of funds by 31 March 2006. It distributed just 15 per cent.<sup>19</sup> While emergency measures in place by June 2006 helped avoid EU sanctions, National Audit Office estimates put the personal cost of the delayed payments borne by British farmers (not by the Government or the agency) at £18-22.5 million.<sup>20</sup> The delays were a policy as well as an operational failure. Within the range of payment models permissible under EU rules, ministers had opted for a complex 'dynamic hybrid model' that was ill-suited to the timetable for making payments.

The fallout from the calamity raises serious questions as to whether ministerial accountability for executive agencies works in practice. While the Chief Executive was removed from his post in March 2006, neither the senior DEFRA officials nor the Secretary of State were held to account for their part in overseeing the Single Payment Scheme. The Secretary of State Margaret Beckett and the Permanent Secretary Sir Brian Bender both continued their careers in new government positions without hindrance. The agency was effectively used as a smokescreen for policy failure. As the House of Commons Environment, Food and Rural Affairs Committee warned following an inquiry into the Rural Payments Agency later that year:

A culture where ministers and senior officials can preside over failure of this magnitude and not be held personally accountable creates a serious risk of further failures in public service delivery. Accountability should mean that good results are rewarded, but a failure as serious as this of a Department to deliver one of its fundamental functions should result in the removal from post of those whom the faulty policy design and implementation can be attributed.<sup>21</sup>

The Committee called for new guidance for ministers: direct ministerial accountability should mean just that. Nothing came of it.

**Fifth, what are the costs?** New agencies are an opportunity to reduce bureaucracy. Processes are often introduced for good reasons, but can become unnecessary and sometimes merely a consequence of well meaning but ill thought out activities. The most effective way to deal with unnecessary actions it is to restrict finance and challenge every part of a process. New agencies

should accept as little as possible of activities which do not add value to its primary purpose. The original Next Steps agencies did gather around them, during their first decade, elaborate processes and central advisory teams as well as expensive reporting procedures. New agencies provide a good opportunity to check that only essential activities are included.

Agencies should not cost large sums of money to set up. There is nothing about an agency that demands special expenditure. The fondness for launches, new offices and new logos all cost money. The emphasis in any reorganisation should be on improvement, which should be the only reason for the reorganisation taking place.

Assuming financial benefits before a clear business case has been established is asking for trouble. The National Audit Office has been critical of the tendency among departments to announce major reorganisations without providing a detailed and robust rationale. The Department for Work and Pensions, for instance, was criticised for announcing the merger of the Pensions Service and the Disability and Carers Service into a single executive agency a month before a business case was actually developed.<sup>22</sup> Business cases should actively inform proposals to create new agencies and not be written retrospectively to comply with guidelines.

There can be a naive assumption that executive agencies will achieve cost savings. Projected savings tend to be dependent on reorganisations, which invariably have initial costs. It is fatally easy to brush aside the costs of new IT systems, changes to employee status and office accommodation in an enthusiasm for changes, in a way which can damage all the calculation of benefits.

## The way forward

Executive agencies have proved to be a useful way of managing some of the government's responsibilities. They should only be used where there is straightforward policy and the potential for a simple management structure. The agency has proved useful for routine tasks, such as licences, payments and infrastructure provision.

The agency structure is not suitable where difficult choices have to be made, where political issues are unresolved or where the management structure does not reflect the task to be carried out. It is the responsibility of senior officials to see that agencies are only proposed in the right circumstances and of Ministers to check that this is the case. An agency will not solve problems which have not been resolved.

We have looked a number of organisations that are in the pipeline to become agencies as a means of highlighting what the government can do now to make the most of the agency model. There is a contrast between the Ministry of Justice's plans to turn the Legal Services Commission into an executive agency and the Department for Education's proposals to create four new executive agencies. Both departments have now introduced primary legislation that

paves the way for these changes. The differences in approach taken by each department point to a number of issues going forward:

**The need for a clear business case that evaluates all options:** The reconstitution of the Legal Services Commission (LSC) - the NDPB responsible for the distribution of legal aid - as an executive agency reflects a developed business case. The decision was taken after an independent review that incorporated stakeholder views, identified failings and offered six options for change, only one of which was the establishment of an executive agency.<sup>23</sup> When the Legal Aid, Sentencing and Punishment of Offenders Bill was introduced to Parliament in June 2011, the Ministry of Justice published a 20-page LSC business case. This included an options appraisal that contrasted a 'revitalised NDPB' (the minimum change option) with the executive agency model.

**Table 1: A summary of the LSC business case**

Revitalised NDPB	Executive Agency
<ul style="list-style-type: none"> <li>• Perceived independence, particularly in casework decision-making</li> <li>• Continuity of LSC brand</li> <li>• Avoidance of start up costs associated with executive agency status (e.g. IT migration, redundancies and actuarial advice)</li> <li>• Ministers maintain distance from difficult and unpopular operational decisions</li> </ul>	<ul style="list-style-type: none"> <li>• Greater ministerial accountability</li> <li>• Clarity in responsibility for legal aid policy</li> <li>• Faster decision-making</li> <li>• New identity giving LSC a fresh start</li> <li>• Improved stakeholder relations</li> <li>• Efficiency savings from shared corporate services</li> <li>• Core department has greater financial accountability resulting in better risk management</li> </ul>

The decision by the Department for Education to create four new executive agencies reflects a more deductive approach. Like all departments after the general election last May, the Department conducted a review of the future status of its NDPBs - following Cabinet Office instructions to 'increase transparency and accountability, to cut out duplication of activity, and to discontinue activities which are simply no longer needed'.<sup>24</sup> It was decided that the functions dispensed by five NDPBs should be transferred to four new executive agencies (see Appendix 1). The only rationale publically given for this decision has been the economic impact statements accompanying the Schools White Paper (2010) and the Education Bill (2011). Each

document briefly summarises the costs and benefits of reform but does not offer a detailed business case or an options appraisal.

**Unresolved issues:** The LSC business case is not without its flaws. It glosses over the extent to which this reorganisation is driven by the still unresolved policy conflict between the independence of the legal profession, and their private sector status, and the need to provide adequate legal representation for people unable to pay but who, without public provision, would have no access to justice as defendants or plaintiffs. This conflict has still not been resolved.

**The need for future stability:** Both the Ministry of Justice and Department for Education expect to make efficiency savings from adopting the executive agency model. Both also acknowledge significant upfront costs in establishing new agencies. The medium-term stability of these new bodies will be crucial to ensuring value for money and a reasonable level of service. While the past stability of the Legal Services Commission and National College for School Leadership are an advantage, one might be forgiven for having some concerns over the complex pedigree of the newly proposed Education Funding Agency (see Appendix 2). An essential aspect of a successful agency is that its function should be coherent. However this is a story of confusion of function and form over 30 years which must be as bewildering to staff as to those using the service. The cost of the structural changes must have been staggering and undoubtedly went uncounted. For the Agency to succeed the policy has to be clear, the function specific and the management in control. Amalgamations will only work if these factors are all present. An agency can only work effectively if it is given a coherent task to perform.

## 5. The policy role and executive agencies

The establishment of new agencies also draws attention to the unfinished business of Civil Service reform. The *Next Steps* report described the extent to which senior policy makers and ministers had a limited view of the scope and scale of the departments for which they were responsible and accountable. Senior officials concentrated on supporting Ministers and policy development. Ministers concentrated on policy, unless in exceptional cases they had some experience of management.

The *Next Steps* report reiterated the view, expressed in previous reports on the Civil Service, that senior officials needed training and experience in management as well as policy, in order to be able to handle the policy side of an agency relationship. They would need the experience to be able to develop policies which were possible to implement.

### Policy and the Senior Civil Service

The *Next Steps* report argued that 'the management of the policy areas of departments, although smaller scale in terms of the staff numbers employed, is no less important than managing the big executive areas'.<sup>25</sup> To an outsider, the policy role of the senior Civil Service has become difficult to discern. The last twenty years do not appear to have been successful in developing a role for the Civil Service which is consistent with its responsibilities or the role defined in the *Next Steps* report. At times there has appeared to be a policy of slash and burn in working relationships within the government machine which must have left much of the Civil Service wondering what their professional function really is. There have been shifting roles, titles, structures, jargon, erratic changes to culture and a confusing attitude to management.

The policy role has traditionally been ill defined which has made clarity in a rapidly changing environment all the more difficult. The popular assertion that 'the civil service is about delivery' exemplifies the confusion. Management cannot operate without coherent and realistic policy; policy is of no use unless it can be acted upon. Dividing the two is a recipe for poor policy and worse 'delivery'.

But the two are different functions and in some ways need different skills and different approaches. The best civil servants understand and can do both jobs; the best ministers

understand the complexity and can work with civil servants to find solutions. The role of a senior executive in an agency is reasonably straightforward to define. The role of the policy maker who is the agency's counterpart in a department is more difficult.

The Next Steps implementation process in the late 1980s and 1990s concentrated on the development of agencies. The number of policy errors over the past ten or fifteen years suggests that departments were not internally reorganised, as recommended, to ensure that the policy making and implementation system worked effectively. There is little evidence of the development in departments of the specific skills needed to construct agency agreements. An agency agreement drawn up with poorly defined policy objectives and outcomes can, and on occasion has, lead to an expensive disaster. The development of the necessary skills in departments should have had the same attention as the establishment of agencies.

### **The development of policy expertise**

It would not be helpful to look back to the 1980s solutions to this perennial issue, but there is a case for considering how to respond to the government's need for what might be called 'policy development' as a specific function. As executive agencies continue to be an important organisational structure in government, there is all the greater need for departments to be skilled to provide their interpretative role in the delegation of responsibility to their agencies.

Policy development involves transforming a policy idea into specific actions which can achieve what is wanted and is at once practical, possible, affordable and politically acceptable. This is a task which involves difficulties, tensions, disagreements and compromises. It needs fresh ideas, practical experience, and a willingness to adapt if it is to produce results. One senior official warned in 1987 that this is the most difficult intellectual task the Civil Service has to perform - and most of them are not equipped do it.

Strengthening the policy function of departments must include an understanding and preferably first-hand experience of management in the public sector. Management experience has always proved difficult to arrange and to fit into a busy career, but the lessons from working in a local benefit office or managing a finance division are seldom forgotten by those who have done them. Some operational management should be an essential part of the professional skills of senior officials. Reports into the senior civil service over the past forty years have repeatedly recommended that this should happen.

In the short term, there are obvious improvements that can be made. At the top of departments, and some have done this already, executive management and policy need to be treated as equal priorities. Departments should have equally senior directors responsible for policy and executive management who work together effectively. The recent announcement by the Department for Work and Pensions that they will create a Chief Operating Officer and a Strategy Director responsible for policy – both at the Director General level – could be a

welcome sign of change. It is only by having clear roles and an obligation to work together that good policy – and good management – can be achieved.

### **The role of Ministers**

Ministers have a distinctive role to play in the management of their agencies. They are accountable to Parliament, responsible for the policy decisions which are implemented by agencies but they have to keep out of the management of the agency which is delegated to the Chief Executive and the agency staff. Mrs Thatcher described the ministerial role in relation to agencies as: 'We have to stop meddling'. As a guideline that could hardly be bettered.

Many ministers will have little to do with agencies. Departments with a large number of agencies spread ministerial responsibility around the ministerial team. A Secretary of State will take responsibility for major agencies which are central to the Department's main functions. For agencies with straightforward function and a relatively small budget, a wise minister will check what is happening, that a sensible agency agreement is in place, that there are no concerns about performance and leave well alone. The rest should be left to the department.

For the larger agencies, a Minister should be properly involved in the policy and resources of the agency. Unless there are serious problems, a minister should remember Mrs Thatcher's dictum and rely on officials to handle the agency's relationship with its department.

Ministers should remember that, even for the most modest agency, they are accountable to Parliament for their own role and for the performance of the agency. The skill that they need to deploy is to understand what the agency is doing without getting directly involved.

## 6. Conclusion

This paper has taken a broad look at the development of the executive agency from its inception in 1988. There was extraordinary speed in the first few years of implementation, supported by an unusually constructive approach between the Public Administration Select Committee, the Next steps project managers, and the Ministers and senior officials directly concerned. In later years the agencies settled down as a useful part of the Whitehall landscape.

Inevitably over the nearly quarter of a century since the first agencies were established things have changed. As new agencies are set up some restatement and possibly some rethinking of the role, function and value of agencies might be useful.

### Agencies

What should be distinctive about agencies is their clarity of purpose, responsibility for results and their freedom from damaging rules and regulations as well as from departmental and Ministerial intervention on matters which should be delegated. It is there that the capacity for improvement in the use of resources and the quality of service lies and it is this that requires sophisticated management of the agency relationship by all the parties to the agency agreement.

### Departments

Managing most government activities is not straightforward. It involves handling conflicting objectives in a way that is constructive and not damaging. In a complex environment some mistakes are inevitable but the possibility of serious errors is best minimised when ministers and civil servants are able to work together effectively.

The reorganising of departments to give equal weight to, and ensure links between good policy formulation and effective implementation would improve the relationship between department and agency and in so doing make a substantial contribution to improving public services.

### Planning the future

The Government now wants to develop new agencies. The important issue is what an agency's primary function is to be, rather than rapid amalgamations and optimistic assumptions about



cost savings. At this stage in a government there is a real opportunity to look systematically at the functions of the executive parts of government, as a follow up to the first quick review of public bodies. This should now concentrate on the quality of services to users – good quality does not have to mean more cost – and the effectiveness of the organisations. An updated agency - with good infrastructure, modern management methods, and a clear idea of what it is expected to achieve - is a logical organisation to use to provide government executive services.

In the context of a new agency there are both some useful lessons to learn from past experience and suggestions for development. We have suggested some basic questions to be asked in deciding to set up an agency. The agency must not be used as a dump for inappropriate functions, nor expected to achieve unrealistic outcomes, simply because it is an agency.

Executive agencies were originally aimed at the flaws in the management of government business and policy making in the 1980s. The agencies themselves have developed and flourished. Well managed departments should also take their role in policy development for their agencies seriously and ensure that policy and implementation are properly and constructively integrated at senior levels.

It is a significant achievement of the agency programme that the way government works through its agencies, is now as visible and significant a part of government as the old policy level which used to dominate Whitehall. Agencies cover two thirds of the civil service and are responsible for the transfer of a large proportion of programme expenditure. It is in the agencies, and in the way that they are managed, that major opportunities for improving services, increasing productivity and better government lie.

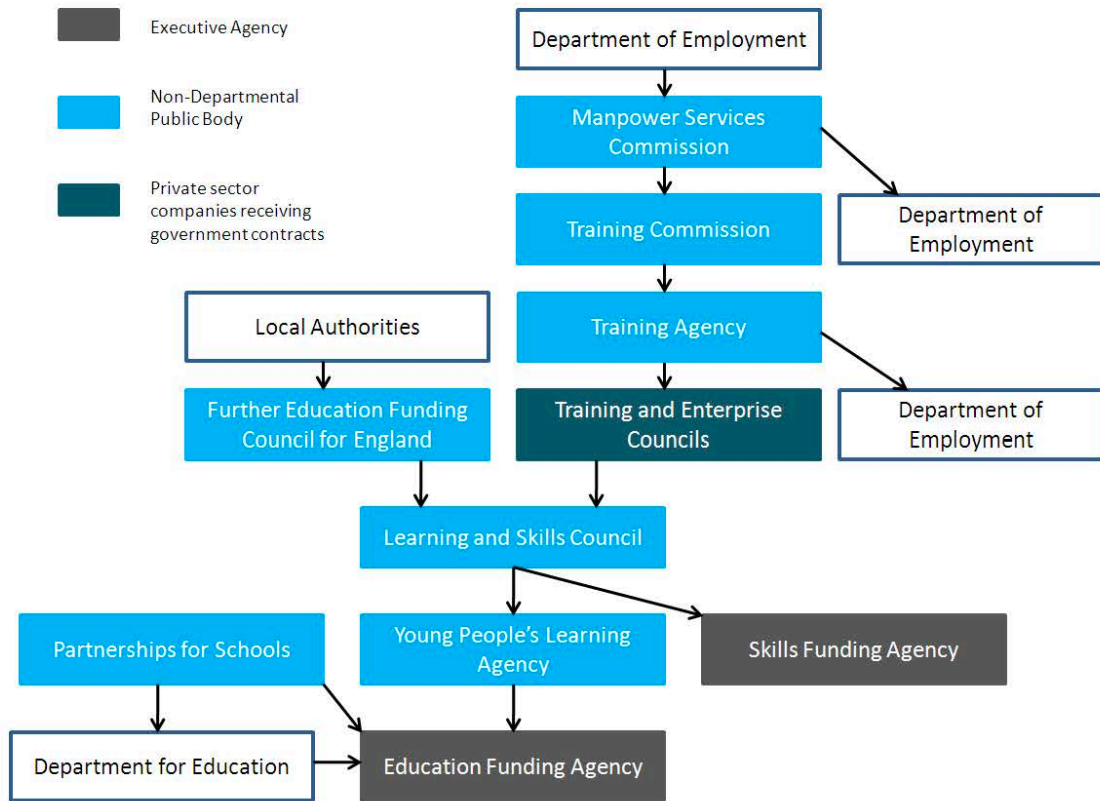
## Appendix 1: Proposed executive agencies

Agency	Nature of reform	Date effective from
<b>Department for Education</b>		
Education Funding Agency	New executive agency replacing the Young People's Learning Agency and Partnerships for Schools	April 2012
National College for Leadership of Schools and Children's Services	Reconstituted as an executive agency	TBC
Standards and Testing Agency	New executive agency replacing the Qualifications and Curriculum Development Agency	TBC
Training and Development Agency	Reconstituted as an executive agency	c. April 2012
<b>Department for Work and Pensions</b>		
Child Maintenance and Enforcement Commission	Reconstituted as an executive agency	TBC
<b>Home Office</b>		
National Crime Agency	New executive agency incorporating the Serious Organised Crime Agency and the Child Exploitation and Online Protection Centre (both NDPBs)	2013
<b>Ministry of Justice</b>		
Legal Services Commission	Reconstituted as an executive agency	October 2012

# Appendix 2: The institutional evolution of the Legal Services Commission and Education Funding Agency



**1949:** The Legal Aid and Legal Advice Act created a legal aid system administered by the Law Society  
**1988:** Legal Aid Board set up under the Legal Aid Act and assumed responsibility for legal aid  
**1999:** Legal Services Commission set up under the Access to Justice Act of 2009, replacing the Legal Aid Board on 1st April 2000  
**March 2010:** Announcement by Ministry of Justice that the Legal Services Commission would be reconstituted as an executive agency  
**October 2010:** Coalition government confirmed they would proceed with executive agency plans  
**October 2012:** Subject to parliamentary approval the Legal Services Commission will be abolished as an NDPB and replaced by an executive agency



- 1973:** The Manpower Services Commission is set up under the Employment and Training Act
- 1988:** The Manpower Services Commission is reconstituted as the Training Commission following the transfer of the Employment Service to the Department of Employment
- 1988:** The Training Commission is reconstituted as the Training Agency
- 1988:** The Training Agency is abolished and replaced by a network of local Training and Enterprise Councils
- 1992:** The Further Education Funding Council for England (FEFCE) is set up under the Further and Higher Education Act
- 2000:** The Learning and Skills Act abolishes the FEFCE and establishes the Learning and Skills Council
- 2004:** Partnership for Schools is set up as a company and executive agency of the Department for Education
- 2009:** The Young People's Learning Agency (YPLA) is established under the Apprenticeships, Skills, Children and Learning Act. It becomes operational in April 2010
- 2012:** Subject to parliamentary approval the YPLA will be abolished under the Education Bill with its functions transferring to the new Education Funding Agency in April 2012
- 2012:** Partnership for Schools is to be abolished and its functions transferred to the Education Funding Agency and the Department for Education's policy directorates

## Endnotes

- <sup>1</sup> HM Government, Response to the Public Administration Select Committee Report, "Smaller Government: Shrinking the Quango State", March 2011, available at: <http://www.official-documents.gov.uk/document/cm80/8044/8044.pdf>
- <sup>2</sup> Ibid
- <sup>3</sup> Ibid
- <sup>4</sup> House of Commons, Smaller Government: Shrinking the Quango State, Public Administration Select Committee, December 2010, available at: <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmpubadm/537/537.pdf>
- <sup>5</sup> Efficiency Unit, Improving Management in Government: The Next Steps, London: HMSO, paragraph 24
- <sup>6</sup> Cabinet Office, Next Steps Report 1997, London: HMSO, 1998
- <sup>7</sup> Oliver James, Alice Moseley, Nicolai Petrovsky and George Boyne, 'Agencification in the UK', in Koen Verhoest et al, Government Agencies: Practices and Lessons from 30 Countries, Basingstoke: Palgrave Macmillan, forthcoming 2011
- <sup>8</sup> Kate Jenkins, Politicians and Public Services: Implementing Change in a Clash of Cultures, Cheltenham: Edward Elgar, 2008
- <sup>9</sup> UK Border Agency, Framework Agreement, December 2009, available at: <http://www.parliament.uk/deposits/depositedpapers/2009/DEP2009-3082.pdf>
- <sup>10</sup> UK Border Agency, Business Plan, April 2011, available at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/uk-border-agency-business-plan/business-plan/ukba-business-plan?view=Binary>
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- <sup>12</sup> Child Support Agency Chief Executive, briefing to the Parliamentary Commissioner for Administration, Investigation of complaints against the Child Support Agency, January 1995, p.i
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