



Public Administration Select Committee

Oral evidence: [Accountability of Quangos and Public Bodies](#), HC 1137

29 April 2014

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Written evidence from witnesses:

- [Chris Skelcher](#)
- [Institute for Government](#)

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Members present: Mr Bernard Jenkin (Chair), Paul Flynn, Kelvin Hopkins, Lindsay Roy and Mr Andrew Turner.

Questions 1-78

Witness[es]: **Professor Chris Skelcher**, Professor of Public Governance, University of Birmingham, **Dr Katherine Tonkiss**, Research Fellow, University of Birmingham, and **Tom Gash**, Director of Research, Institute for Government, gave evidence.

Chair: Can I welcome our team of witnesses to this first session on accountability of quangos and public bodies, and could I first of all ask each of you to introduce yourselves for the record, please?

Dr Tonkiss: I am Katherine Tonkiss, research fellow at the University of Birmingham?

Professor Skelcher: I am Chris Skelcher, Professor of Public Governance at the University of Birmingham.

Tom Gash: I am Tom Gash, Director of Research at the Institute for Government.

Chair: Welcome to you all. We will endeavour to ask questions as briefly as possible. It always helps if you can give brief and concise answers, and I may pull you up if I think you are going on a bit too long, because we need to get through a good number of questions.

Q1 Lindsay Roy: Good morning. Nice to meet you. The prime focus this morning is the effectiveness of the Government's public services reform programme. To what extent does the rhetoric match with reality, in terms of the effectiveness of the programme?

Professor Skelcher: If we are looking at the reform of public bodies, then there is no doubt that a lot of progress has been made in the life of this Parliament—certainly in terms

of reducing numbers of public bodies and beginning to change the way in which the relationships between public bodies and Departments are managed—but there is still a lot to do, and we are halfway through a much bigger reform programme. What I think is being exposed is weaknesses in the logic of the system of public bodies, in the ways bodies are defined, and in the choices that are made about the tasks that they undertake. Also, there is a big agenda in terms of the capacity of Departments to effectively manage relationships with a whole variety of arm's-length bodies—quangos, as well as other types of arm's-length bodies. We are part of the way through that reform agenda. Much has been achieved, but there is a lot more still to do.

Tom Gash: I would second that analysis. There has been a huge amount of focus on numbers and costs of bodies, but with regard to the efficiency savings that come from that, you save a bit of money from the administrative spend of certain bodies that perform functions that you no longer want to perform, but a lot of the savings are made as savings are made in Departments—by cutting programmes, reducing spend or finding efficiencies that you can find in any government organisation, in effect. There is a question about the degree to which the savings could have been achieved without the abolition or restructuring of the bodies involved.

The other question, which has rightly been identified by Chris, is whether we actually have a more stable, sustainable and effective way of managing bodies that operate with a degree of freedom from ministerial control, and I think it is fair to say that, in fact, the nature of the relationship between Departments and what we call arm's-length bodies—bodies with a degree of political independence—has not really fundamentally changed. It has not fundamentally professionalised over the last period of time. The institute is currently doing a research project, which I hope will actually report before the close of your inquiry, and that will give a latest view from the institute on that, but the early findings are that it really has not fundamentally changed the effectiveness of managing at arm's length.

Dr Tonkiss: That last point is really critical. The capacity of Departments to effectively provide oversight of bodies is one of the particular challenges of seeing the reform programme through to completion. There are issues around staffing that affect models of oversight within Departments. There is not necessarily consistency across Departments in terms of how oversight is happening, and, of course, that potentially raises accountability questions. Although there is a push towards improving oversight and accountability and strengthening control, that is not necessarily matched by a departmental structure that can support that.

Q2 Lindsay Roy: Can you tell us where the greatest progress has been made, and where the least progress has been made?

Tom Gash: My sense is that the fact that there is political focus on the question of the effectiveness of arm's-length bodies is, in a way, progress in itself, and the fact that people are trying to concentrate on the efficiency of an area of Government that is sometimes quite difficult to understand, confusing, and quite neglected on occasion has made quite a big difference. What bodies tell us is that they feel much more attention is being paid to them. They do not necessarily always like the nature of that attention, or necessarily think that it is effective. Sometimes there are concerns about micro-management of

organisations, rather than setting a clear framework and set of expectations about what a body or agency is meant to do and then holding it to account for the performance of that.

It is very important that Government respects the distinction between setting direction and micro-managing and intervening in specific operational decisions. Often, you have senior, experienced people chairing and managing these bodies, with great specialist expertise. They should be allowed to identify operational savings if they can do so. If they cannot find the savings that are being demanded of them, then maybe you might say, “Well, actually, I have questions about the effectiveness of this particular Chair. I doubt whether they are actually responding to the agenda that we are driving as a Government,” and then you might take action in terms of holding the Chair to account for their performance. But I think micro-managing individual decisions to find specific savings or cut specific lines of activity seems to me to be a rather unproductive way of developing a good relationship with an arm’s-length body.

Professor Skelcher: One brief addition to that is that, for me, one of the most interesting developments is the changing role of the Cabinet Office, which traditionally has had quite a low-key role in relation to public bodies. What we have seen as a consequence of the reforms has been a much stronger capacity at the centre of Government to think about public bodies and the way in which those relationships should be managed. Again, there is still more that could be done on that agenda—in particular, making sure that there is a clear overview across the whole landscape of public bodies, because at the moment the public-bodies changes and reforms are driven very much by departmental interests, and there is a need to match the departmental perspective with a much broader overview. We are part of the way there, but there is more to do on that.

Q3 Lindsay Roy: To what extent has evaluation been focused on quantitative change rather than qualitative evaluation?

Professor Skelcher: The quantitative assessment has been around the NAO study on spending and the work on numbers, and in terms of the popular debate about quangos those are clearly important issues. Our focus certainly started with those kinds of questions, but we have become much more interested now in the nature of the management and governance of the whole system, and if we are thinking about phase two of the reform agenda, that is the primary focus of the debate. I do not think it is so much about numbers now; it is much more about how Government as a whole operates effectively in a situation where there is a high degree of fragmentation from Departments into different kinds of public bodies, outsourcing, contracts with private contractors and so on. Making sure that the principles of good governance and accountability are retained in that fragmented system is the agenda for phase two of the reforms.

Dr Tonkiss: Critical to that is the triennial reviews programme, which has been really important to retaining the momentum of the programme in terms of both the number of bodies and governance. Our own research in that area suggests that, for the most part, bodies actually find the process very useful, in terms of continually improving their own governance arrangements.

Q4 Lindsay Roy: What about accountability, particularly in relation to quangos that have been abolished and integrated elsewhere?

Professor Skelcher: That is a really interesting question. At one level, the logic is that one increases ministerial accountability if one brings the function closer to Ministers, but one of the consequences we have noticed of that is that you lose the identity of the function. So if you are a non-departmental public body or an executive agency, you are a distinct organisational entity; you typically have a website and produce an annual report, and that report may be a report to Parliament, if you are spending money voted by Parliament. You have that independent status and that transparency. If you are absorbed into a Department, you lose that to some extent. It is one of the paradoxes of the reform process that, on the one hand, accountability might seem to be increased if you bring stuff back in, but on the other hand, you might lose some of the visibility of those functions that actually is quite important, particularly where those are functions that have a wider public interest or affect a wider group of citizens.

Q5 Lindsay Roy: Should there not be a distinct focus then on the key elements of the body that is being incorporated?

Professor Skelcher: The experience is that if functions are absorbed back into Departments, they become part of the departmental management. Clearly, some non-departmental public bodies have been abolished and their functions have been transferred into executive agencies, which are effectively part of the Department but have a degree of independence, and one of the things that has come out of the research in terms of accountability is that there is no clear logic as to why particular kinds of functions should be brought into Departments, put into executive agencies, or pushed out to public corporations. The lack of that underlying logic leads to some confusions about accountability.

Tom Gash: It is worth going back to first principles very briefly and to ask ourselves the question why anything operates with a degree of freedom from political control. I suppose it is worth painting a little picture. Take an organisation like the Arts Council, which gives out grants to different arts bodies. We do remember a time when courts would give out money to fund the arts for various forms of things, but in our democratic system, we have decided that we want those decisions to be made based on the merits of the cases in hand. We do not want to be favouring particular areas of the country or particular demographics, and so we want expert-based decision-making in that area. Politicians want it because they do not want to be accused of it when they are not actually doing it as much as because they want to stop themselves from doing it; it is much more about the appearance of probity, and so the whole rationale there was about increasing trust.

Certain things that are to do with allocation of resources based on technical considerations rather than political ones will logically be at arm's length, but in other cases, some things that people call arm's-length bodies are simply arranged that way so they can have greater managerial freedom—for example, so that they are not constrained by Civil Service pay codes. This is one of the reasons why lots of our financial regulators, for example, have different pay structures from an executive agency, which is constrained by Civil Service pay codes. We want to be able to pay certain people above the rate in order to make sure that they can work effectively in the sector and get the people they want, and lots of Chairs of those bodies will tell you that that is essential for their effectiveness.

There are different reasons why bodies operate at arm's length, but also those different reasons should result in different freedoms—different levels of freedom from political

control and influence. Where something needs to be genuinely very independent—take the National Audit Office, for example—the accountability is directly to Parliament, and there is a very good reason why that is: it is so that it is able to speak truth unto the executive, to make sure that the executive is held to account for its expenditure of public money and the probity of public finance. This is why, for example, there have been some perverse effects from simply focusing on numbers and trying to bring organisations closer to the Department. Our study of the Audit Commission closure with Nick Timmins rather regretted the end of public audits for local authorities and their expenditure of money. We see that as quite a great loss—collateral damage, arguably, from programmes that are focused on seeing these organisations as unaccountable for spending too much money.

Q6 Chair: I find all this quite difficult, because we talk in abstract terms. Can we look at some particular examples? Network Rail is really a nationalised industry, is it not? It is not an arm's-length body, is it, or it is an arm's-length body, but it is a nationalised industry? How would you categorise Network Rail? It is not very accountable.

Professor Skelcher: I will deal with the first part of the question. That is right, it is a nationalised industry. We have a number of different categories of arm's-length, and, theoretically, as you go along those categories, you are more and more removed from direct ministerial control and influence, and therefore have more discretion. Network Rail would be quite a long way out. The intention with the Highways Agency—this is an executive agency, so it is quite close into the Department—is to turn that into a public corporation.

Q7 Chair: It gives it more accounting freedom.

Professor Skelcher: To give it more freedom.

Chair: More accounting freedom, yes, which might be beneficial to its operations.

Professor Skelcher: It might be beneficial. The argument is that it would generate savings. But if you look at regulators—take Ofsted, which inspects schools, and the Care Quality Commission, which inspects health and social care—Ofsted is a non-ministerial Department, and the CQC is a non-departmental public body.

Q8 Chair: Why?

Professor Skelcher: The rationale for that is unclear. That is the difficulty we have at the moment. That is why there is that confusion of accountability, because we have different types of public bodies: public corporations, non-ministerial Departments, executive agencies, non-departmental public bodies, and one or two nationalised industries, but no clear rationale as to why a particular body is in a particular category. We get these confusions where we have bodies apparently undertaking the same kind of function, but actually governed differently.

Q9 Chair: Looking at the Nuclear Decommissioning Authority, which is of particular interest to one of my colleagues, and will be asked about later, is that just a nationalised industry, really, or is it a non-departmental public body, or is it an executive agency? What is it?

Professor Skelcher: I could not answer that without consulting.

Tom Gash: I think it is an executive NDPB, officially. It is obviously accountable for huge amounts of public expenditure and also public liabilities, so I think that is its official status, and I think the rationale for that is that it makes decisions that will have variable geographic impacts, much like the Environment Agency, which, oddly and interestingly, is called an agency but is not one; it is an executive NDPB. I am very much not surprised that you are confused by this, on the grounds that people who have spent a huge amount of time in this area still remain confused by why things are called particular things and not others. The institute has called very seriously for a consideration of a much simpler way of arranging these things. We think this could be done very simply, so that you basically have four different types.

Q10 Chair: Except that we may be just wonks looking at tidying something up for the sake of tidying it up. What we want to do is support what works well and change what is not working, and change it in the right way. Thinking about structures and organisational diagrams and nomenclature may not be a very good way of providing good leadership to these functions of Government.

Tom Gash: I was quite sympathetic to that view before conducting some of the research we did in 2010. What happens, of course, is the complexity means that, in effect, it all becomes too much to deal with, so you treat every organisation exactly the same. Imagine being a Minister coming into a Department like the Ministry of Justice, with 20 or so of these different types of agency, and not really knowing what the relationship is between them. No one is saying, “You have got three types of things. These are the ones you have got more influence over; these are the ones where you can appoint the person”—all these different sets of governance arrangements. They are not just saying, “You have got three types of these things: this is this type, this is the other type, and this is the other type.” They are saying, “You have got 20 different things. They have all got different arrangements, so you can kind of just do what you want.” In a sense, that was my interpretation of the problem with the complexity. When it is so complex—this applies to officials and Ministers—you can end up saying, “Actually, I cannot deal with this complexity, so I will not try to stick to any rules whatsoever.”

Q11 Chair: What do we learn from the journey that the immigration and nationality services have gone through since May 2006? Just for the record, it first of all became an executive agency, the Border and Immigration Agency, and then it was established as a full executive agency in 2009, and now it is being taken back into the Department.

Tom Gash: For me, it is a lesson in how form should follow function. The Immigration and Nationality Directorate—or whatever it is now called; it was the Immigration Agency—is effectively an executive agency in what it does. It implements government policy in an operational sense; that is the essence of what it is, and trying to distance it through some sort of technocratic realignment of what it is meant to be will not work, because people will see what it is and they will understand the problems with it.

Q12 Chair: I am very intrigued by your comment that, actually, Ministers are trying to disclaim a degree of accountability by putting something into an arm’s-length body of some form, because they are saying, “I cannot control this. I need somebody else with a name and a title who is going to be seen to be controlling this, so I am not so accountable for it.” Does that work? Does that transfer of accountability actually work?

Professor Skelcher: I do not think it works when there is a crisis

Chair: We will come to that later.

Tom Gash: It is quite interesting. We all probably listen to the *Today* programme, and one thing you will notice on the *Today* programme is that certain Chairs will be on it, defending decisions and policies. In fact, the Arts Council chair was on not too recently, defending the disparity between North and South expenditure and grants to charitable organisations. In those cases, where it is very well understood that this body operates with a degree of political freedom, it seems to be the case that the Chair can have a bigger public profile and can take flak for decisions within their remit. In other areas, where it is less clear, that is where the confusion starts to flow in.

Q13 Chair: We will come to the crisis question in a minute, but does the lesson of the Border Agency not suggest that where an expensive function and service is being provided where the Government, rather than the public, is the customer, that should be within a Department; but for something like the DVLA, where the public are clearly the customer, rather than the Government, then it works better as an executive agency or an arm's-length body of some kind? It depends who the customer is. It is a question about the responsiveness. Who do you want the body to be responsive to: the customers, or the Government?

Professor Skelcher: You could apply that as a criterion in terms of allocating functions. It does not seem to me that it is a criterion that is very explicit at the moment.

Q14 Chair: Why was the Border Agency thrown into these arm's-length bodies and then taken back again? How do you see the rationale for what happened?

Professor Skelcher: The rationale for putting something further out from the Department is, as Tom said earlier, either about independent decision-making or about enabling management to operate in the right way. That is the justification.

Q15 Chair: That is what it should be. Was that the case with the Border Agency?

Professor Skelcher: I cannot comment on that particular one.

Tom Gash: What I thought was interesting about that case was the presentation of the Border and Immigration Agency as an executive agency as being somehow independent from the Home Office. That would not be something that anyone who worked in that agency, or in the Home Office, would recognise. In practice, it was always very close, so in fact the change is much smaller than people might suggest, but structural changes can be ways of demonstrating action in response to political pressure at certain points in time. I would be quite wary of the changes in structure.

Q16 Lindsay Roy: Despite assurances to the contrary, the public perception still is predominantly that this would reduce numbers and costs. The Government says it is to increase accountability. How can the Government change that perception?

Professor Skelcher: It is very difficult for the Government to change that perception, because, clearly, quangos and real or apparent failures by quangos or their Chairs are something that particular areas of the media are very keen to cover, and every time there appears to be a problem, they are willing to cover that. The public perception is that there

is a problem. Many of these reforms, in a way, are invisible to the public; they are about improving the mechanisms of Government. One of the issues that might support an improvement in public perception would be some consideration of the extent to which public bodies that provide a service to the wider public in the way that the Chair just mentioned had some forms of accountability with those communities that they were affecting. That may be one way in which that perception could be changed.

Q17 Lindsay Roy: What key lessons, then, have been learned for the future reform programme? What would be the key things that you would take away and say, “These need to be the focus for future development?”

Tom Gash: I am happy to take that one. There are a number of things that have not yet been actioned. I do think there is a genuine need to simplify the landscape so that the public can understand it, and so that Government Departments and Ministers coming in can understand it. There is a need to look again at the questions around appointments, as you are talking about, and making sure that there is reassurance there for the public, that they understand that the system works and is fair, open and transparent. We think the triennial review process—the process of reviewing these bodies every three years—could change and be much more effective, and much cheaper for the bodies undergoing them, with much less bureaucracy around those. Also, there should be the involvement of people who work in other agencies and NDPBs in the actual review, so they can learn something by looking at another organisation and its relationship with the Department. There is lots of scope for improvement here, and it is good that the Cabinet Office are constantly reviewing their approach. To their credit, they are currently revising the way that they are looking at triennial reviews, and they can do more on that.

Dr Tonkiss: Part of that would be looking at how triennial reviews are proportionate to the size of the body that is under review. That is an important aspect.

Chair: Very good point.

Lindsay Roy: There should be single lines of accountability, in plain language.

Q18 Kelvin Hopkins: It seems to be that you are making a case for a proper rationalisation of public bodies: some should be Civil Service, and some should be public corporations, but there is a lot of confusion. I must say that I am deeply suspicious of Government. I think that what they want to do is to avoid blame but control at the same time in lots of cases—immigration, maybe. Is there not a good case for people like yourselves to make some strong recommendations that clarify everything, to rationalise everything, and come up with maybe three different types of public body, all accountable to a different degree?

Professor Skelcher: I think there is, and indeed, that is what Tom and his colleagues at IfG have done in their report, *Read Before Burning*. One of the keys to this is to build on the annual public bodies report—which is a report that documents non-departmental public bodies and some executive agencies, but not all, and non-ministerial Departments—and to see that as the basis for some kind of census of Government that would actually set out, in clear terms, what the particular kinds of bodies are and which bodies fell into which categories for what reasons. That, I think, would help to drive some clarity in the area.

Q19 Kelvin Hopkins: The worst organisation of all, possibly, is Network Rail. What about just bringing it back as a public corporation like the British Rail Board? That would be very sensible. It has got these appointees who vaguely control it.

Chair: It just pretends to make a profit, but it has a huge public subsidy.

Kelvin Hopkins: Well, yes. The BRB worked well.

Tom Gash: One of the interesting conflicts that you will feel as a Committee doing this is that it is very difficult to look at cases and then look at the overall landscape. One thing I would say about quangos, for example, is they are loathed as a class, but quite often we rather love individual public bodies. The BBC, perhaps until recently, enjoyed very, very high levels of public trust; much higher than you would get for any Government Department. As individual organisations, we can either love them or hate them, but that is not actually the question that we are asking. What we have got to say is, “What is it that Government Departments and Ministers can do when one of those organisations is performing well or badly? What is the performance management and financial management framework that will actually make sure that the bodies that are not trusted, respected, and performing effectively at the moment become better, and the ones that are performing extremely well carry on performing well? That is one of the difficulties. It is very tempting to get into the individual case and say, “This is not working well; therefore, let’s just get rid of all of these things.” That can be the default reaction, because it is very confusing to understand, but I think that is exactly the wrong way to go on this stuff.

Q20 Paul Flynn: Are we dabbling around in the shallows chasing minnows while the fat salmon swim by unhindered? You did not seem to be excited by the mention of the Nuclear Decommissioning Authority and their supervision of Nuclear Management Partners. On one contract, the price went up from £387 million to £729 million. Another contract that was due to be completed in three years’ time has been delayed until 2023. The costs have gone up to £70 billion, and are likely to go up to £93 billion. Is this not a matter that you should be excited and stirred about, when this firm, Nuclear Management Partners—an American firm—has just been given a new contract after five years of grotesque incompetence and waste of public money? This cancels out all the savings made elsewhere. If you take all the rest of the efficiency savings, then look at the Nuclear Decommissioning Authority clearing up the nuclear mess from the past, they are likely to end up with a bill of £93 billion. They are grossly inefficient, as one of our sister Committees recently concluded.

Professor Skelcher: Unfortunately, it is one of the 600 or so public bodies that I have not really had much contact with, but I do take your point.

Q21 Paul Flynn: Has your life not been wasted then? Can I give you a little example? It came before the Public Accounts Committee, but it is an example of accountability. The Nuclear Decommissioning Authority contracted KPMG to have a look at the work of Nuclear Management Partners, and they sent a report to our sister Committee that was heavily redacted. It is reasonable to take out the names of people in them, but they took out complaints about the quality of management, complaints about the fact that they had not completed their contract, and all the fundamental criticisms of the body were redacted from one of our Committees. Is this not an atrocious example of lack of accountability?

Professor Skelcher: It seems to me that the particular example you are citing there—obviously, a very important example—illustrates the general problem of the way in which Government operates at the moment, which is that it does operate through a whole series of arm's-length relationships. We allocate functions to public bodies, which then have contracts with other organisations, but the issue of transparency there is also important. If we just look at non-departmental public bodies as a group, they do have quite a high level of transparency, in the sense of their reporting. But if we look at other kinds of arm's-length relationships, including arm's-length contract relationships, those are quite often commercially confidential, and we do not have the same level of transparency about the performance of bodies. I think that comes back to the issue about needing to look across the whole landscape of Government, and to have a common set of principles about transparency and accountability that apply not just to public bodies but also to these other kinds of contractual and arm's-length relationships.

Q22 Paul Flynn: Is it not telling that the two details that excited public interest, and possibly made the *Today* programme, were not these sums of tens of billions that have been thrown away, but the fact that in their accounts, there was a receipt for a taxi journey for a cat and large bills for attending a golf tournament in America? These minute sums are fascinating to the public, and seized on and endlessly debated, but the mega-sums—tens of billions—are ignored.

Tom Gash: The point here, of course, is that what is needed is for the Department to have an understanding of what good performance looks like for the Nuclear Decommissioning Agency and whether that is being achieved or not, and there is a very simple step. I would like to repeat the evidence that Lord Heseltine gave when talking about the closure of the Audit Commission: he was asked, "What on earth do you do if you are not happy with the performance of the organisation?" and he said, "Fire the Chair. It is no more complicated than that." Accountability mechanisms exist currently that can be used or not used, depending on the proficiency of the Department in setting clear expectations of what good performance looks like and managing performance in that way. Obviously, firing is an extreme step, but it is one that is possible if you have gathered enough evidence around performance.

Q23 Paul Flynn: The three measures for assessing the value of these bodies by the Government are technical proficiency, political impartiality, and independence from Government. Has that worked?

Professor Skelcher: In general, that has been a useful set of criteria, and that has certainly informed some of the decisions that were made, but, as your Committee investigated back in 2010-11, there was also a concern that those kinds of criteria were not necessarily the ones that justified the retention or abolition of individual bodies.

Q24 Paul Flynn: One of the difficulties that certain public bodies have had with their independence is that they are still limited by the Treasury rules. The Intellectual Property Office could probably go into the public sector and very efficiently and profitably do work that is done by trademark agents and various other agencies—patent agents, as well—but they are hidebound by Treasury rules. They are allowed to outsource jobs, but they are forbidden to insource jobs, in spite of the fact that it might well be to the public good. Is this something that you would welcome: to see them, if they are free-standing and liberated, free to engage in an entrepreneurial way in public enterprises?

Professor Skelcher: A number of such bodies do operate on that kind of trading-account basis, but there is no doubt that there is a tension between that and the general public expenditure climate at the moment. Treasury financial controls are increasing on public bodies.

Dr Tonkiss: Absolutely. This is a really interesting tension between the rationale for having a body at arm's length and the process of Treasury control, which is, as you suggest, limiting how much flexibility you have in deciding how to insource particular services. Our own research in this area has really shown how there is concern amongst Chairs of public bodies that they see part of their role to be innovating with less resources at the moment, and that this controls framework is perhaps reducing their capacity to do so.

Q25 Paul Flynn: When the happy day dawns next year and we bury this Government under a large slab, never to be resurrected from its dishonoured grave, how would you summarise their achievements or otherwise, or their failures, in this area in their five years of Government?

Tom Gash: Like any assessment of performance, it needs a benchmark, and you would not look at what has happened over the past years and say it was any worse than what had gone before it. In many senses, you would say that this is a Government that cares more about the effectiveness of these bodies. We still await the full evaluation of the term, and it will take a little while to play through. Some savings have been accounted for by the NAO, and that is welcome in the context of what the Government is trying to do. On effectiveness, there are lots of questions to be answered, and your example of the Nuclear Decommissioning Agency is a strong one, in the sense that it does bring into attention where the efficiency and the effectiveness gains are actually to be found: it is in very effective between Government Departments and large, big-spending, high-impact-on-the-public organisations. That is the area where there has been less evaluation of whether what has happened has worked. We are doing a little of that now, but it is also the most important area.

Q26 Paul Flynn: Not any worse. Other witnesses, what are the failures or the successes?

Professor Skelcher: The success is that the governance and accountability of public bodies has been taken much more seriously than has been the case to date. The weaknesses are about the kinds of reforms that have been undertaken, and the extent to which the involvement of stakeholders in advisory bodies has, in some areas, been reduced. In some cases, those advisory bodies are now less transparent than they were previously. If there is one agenda for the future that I would add on, it is about ensuring that the beneficiaries of services and activities delivered by public bodies actually have some voice in the process of decision-making in those bodies—that we move away from a model that sees public bodies as a kind of quasi-business with policies decided by the board into something where there is a greater involvement of users, beneficiaries or consumers of those services in consultation and decision-making.

Dr Tonkiss: We keep coming back to the point about the governance of public bodies, the routine oversight by Departments, and one of the strengths of the approach that has been taken is that that the profile of that routine oversight has really increased. That has been really valuable, and there has been a commitment to try to upskill those that are

responsible for that routine oversight. That is really important, but this is not being contextualised within some of the issues that exist around capacity, which mean that some Departments struggle to maintain oversight, particularly with the added responsibilities of the controls framework and the triennial reviews, as well, which often fall on quite similar people. In that area, there are two sides.

Q27 Kelvin Hopkins: We have recently seen the astonishing resignation of Tony Caplin from the Public Works Loan Board—a discharged bankrupt in charge of a body that is responsible for £60 billion of public money. Has that not damaged public confidence in public appointments? What do you think the impact on public trust has been?

Professor Skelcher: I cannot comment on the specific case, because I know no more than what I read in the press, but, as I understand it, the individual circumstances may have changed from the original point of appointment. It seems to me that these issues feed into the general public concern about quangos, but, again, they are exceptional issues, and if one looks across the board, then what one sees is a set of public bodies operating generally effectively and delivering particular kinds of services. I think it is important that we do not try to redesign the system on the basis of exceptions, as Tom mentioned earlier.

One implication of this might be in terms of the Cabinet Office code of conduct for members of non-executive public bodies, which is very clear on issues about conflicts of interest. What it does not address is what one should do if one's circumstances change while one is a member of the board, and if that is the issue underlying this particular instance, then it may well be that some greater clarity on that in the code of conduct would help to make this a single issue, and not be repeated in future.

Q28 Kelvin Hopkins: I may just say I find it astonishing that probity was not the number one concern when people like Mr Caplin were appointed, and commitment to public service. It brings us on to the second component of all this, and that is the political affiliation of quango chairs. Now, all parties have had strongly-affiliated party members appointed to public bodies, and that has reduced recently, but Mr Caplin's case was quite astonishing. It was really amazing. He was at the heart of the Conservative manifesto; he helped to write it, and he was a stockbroker—the stockbroker responsible for the Prime Minister's own stock-broking activities before he was Prime Minister. Do we not need to move towards a world where delivering a few leaflets for your local party is one thing, but at that level, it is quite a different matter, is it not? What do we do about it?

Tom Gash: It is difficult. If you were limiting people who were politically interested or affiliated from taking part in public life, you would very dramatically narrow the pool of those people who are motivated by public service, who you are saying should be running these bodies. It is interesting to note the figures: actually, a reasonably low proportion of people have a declared political affiliation when they are appointed to the boards of NDPBs. It is about 20%. That has varied a little bit over time, but it floats around about that level. Losing a fifth of your potential chairs and non-execs is not something to enter into lightly.

I think the bigger question is, “Do we know that the appointments processes that are being run are resulting in appointments that are based on merit?” Here, I think, there are big questions to be asked for the Commissioner of Public Appointments, because they publish declared political affiliations for all the people who are appointed; that is data that is

publicly available, and that is a good thing, and we can see that it is not that high. But what they have not done yet—which, I would argue, there should be pressure on them to do—is actually look at a number of specific recruitment rounds and cases and understand what the profiles of the people who were applying were, how they got filtered down at each stage, and how those decisions were made. What we are really interested in is whether decisions are based on merit and ability to do the job, and we need to demonstrate that there has not been a weeding-out of people with particular political affiliations throughout that process. That work not having been done is a shame, and it should happen.

Professor Skelcher: I think that was an issue that was addressed in the Liaison Committee Report on public appointments in 2012. That seemed to me to come up with a series of proposals that exactly reflected Tom’s view: that there should be more transparency about the shortlisting process and about other candidates, rather than pre-appointment hearings just being of the preferred candidate.

Q29 Kelvin Hopkins: One thought occurs to me. In recent time, this Committee has taken part in pre-appointment hearings for a number of Chairs of public bodies. That is something that I think is a very progressive advance. If that was extended very much more widely, would that not be a sound way to proceed?

Professor Skelcher: There is a lot of merit in that argument. It is about transparency in the process, helping to build public confidence and ensuring that the public and parliamentarians have a clearer view of why particular appointments, particularly at Chair level, have been made.

Tom Gash: You will want to be careful what you wish for, in terms of workload. There might want to be a prioritisation of bodies that are both larger and where it is more important that they have political impartiality. With the system that we proposed, for the four types of different degrees of independence, that could be quite easily done. You might just be able to say that this type of independent public interest body, as we call it, is a sort where the actual appointment of the Chairs needs to be approved by a relevant Select Committee. That seems to be very logical.

Q30 Kelvin Hopkins: If I may say, we made good decisions in those pre-appointment hearings. One very prominent person was actually known to be a member of the Conservative Party, but we still approved him. Having political views, if you like, or even some political activity in the party, is one thing, but if they are publicly agreed by an all-party group like a Select Committee, that really covers that difficulty. Would you not recommend that we could suggest to Government that we go in a much more full-hearted way towards pre-appointment hearings, for a whole range of public bodies?

Tom Gash: We have indeed done that, and would endorse that, within those constraints that I mentioned around workload and the strain on the system.

Chair: I do not recall us endorsing a member of the Conservative Party for any public appointment.

Kelvin Hopkins: The Charities Commission.

Q31 Chair: No, he was not a member of the Conservative Party. He has never been a member of the Conservative Party.

Is it fair that Baroness Morgan should say, “I am the latest of a fairly long list of people now who are non-Conservative supporters who are not being reappointed”? Do you think that was a fair charge?

Tom Gash: That is exactly the question to ask the OCPA.

Chair: Who is that a question to ask to?

Tom Gash: To the Office of the Commissioner for Public Appointments, with their job of scrutinising public appointments. That is something for them to be monitoring and accounting for. It is not something where we have got enough specific research to be able to say whether there is a trend there.

Q32 Chair: One of the individuals frequently referred to was the former Chairman of the Charities Commission, who held onto her Labour membership card throughout that period when she was in charge of what is a non-ministerial Government Department. Do we think that it is appropriate that anybody should remain a member of a political party when they are undertaking such a role?

Professor Skelcher: I draw a distinction between being a member of a political party and being actively involved in that party. As citizens, we are all involved in different kinds of interest groups; a political party is one. It might that we are members of the Ramblers Association or some other body. We bring that into the role. The issue is that those personal concerns and interests should not interfere with the exercise of a public duty. It seems to be that that is where the process of appointing is particularly important, in checking out that those conflicts will not exist. That is also where the relationship with the Department is important.

Q33 Chair: How would Lord Patten have demonstrated that commitment to that principle, unless he had resigned the Conservative whip in the House of Lords? He now sits as a cross-bencher, in order to chair the BBC Trust.

Professor Skelcher: That is certainly one way of doing it.

Q34 Chair: But you would not criticise somebody who carried on as a full member of a political party.

Professor Skelcher: I would not if that was transparent and it was clear that they were not actively involved in their political role. Clearly, it is much easier if an individual decides to resign their political party membership. It is also about what kind of body we are dealing with. It may well be that for something like the BBC, where political impartiality is absolutely central, one would want to impose that requirement, whereas for lesser kinds of bodies, such as advisory bodies, that is not so much of an issue.

Chair: I should add that the former Chair of the Charities Commission was definitely a scheduled retirement. It was not a removal, which much of the media has mistakenly referred to it as.

Q35 Kelvin Hopkins: Is the important point not membership of a party, but whether or not one's party-political beliefs have a bearing on one's decisions? For example, the chair of the

BBC, Lord Patten, is known to be a very, very strong supporter of the membership of the European Union. I think that does colour the BBC.

Q36 Chair: Indeed, he gets a pension from the Commission, which will be taken away from him if he says anything that is critical of the European Union. Is that a conflict of interest?

Professor Skelcher: I really do not think I could answer that.

Paul Flynn: When the Chairman goes into anti-European mode, do not take it seriously or personally.

Professor Skelcher: I take the point.

Q37 Chair: But it is interesting that even former Commissioners in the House of Lords are not required to declare their pensions from the European Commission as an interest?

Moving on to public bodies and crises, this is very much the occasion of this inquiry. I am interested, Dr Tonkiss, in the distinction between oversight and accountability. What is the distinction between oversight and accountability?

Dr Tonkiss: What we try to draw out is that there are routine oversight functions within Departments, which is something that I have referred to today, and then there is a process by which you would hold a body to account through a Minister. They are certainly not entirely separate things; they are definitely related things. That is primarily why the routine oversight is important for the accountability. That is where the issue of crisis becomes particularly important, because how much an accountability crisis arises is perhaps related to how much routine oversight is occurring and the quality of the relationship between the routine oversight and the process of holding bodies to account.

Q38 Chair: But if you have oversight of a public body, and that public body goes wrong, are you not accountable?

Tom Gash: This is where clarity of roles and responsibilities is so fundamentally important. The reference to the Environment Agency case is quite telling. What I was struck by, just watching the media coverage of that, was how slow anybody was to come out and clarify the formal responsibilities of the Environment Agency, vis-à-vis the Department in this area. The reality was that as the debate unfolded, over weeks and weeks in the media, people gradually came to realise that there were a number of things going on: there was a funding and expenditure decision, which lay primarily with the Department; there was an allocation of that funding across the country, which lay largely with the Environment Agency; there was an execution of the clear-up operation, which lay largely with the Environment Agency; and there was a policy decision from quite a while ago, and then ratified subsequently, to take a particular approach to protecting or not protecting certain areas of the country—it was managed retreat, effectively, from certain areas that were very prone to flooding and very expensive to operate.

Now, the slowness with which the respective responsibilities came out in the media was very noticeable to me, and the Department did not seek, it seemed to me, to very quickly clarify that. I thought it was quite an interesting case of how the waters were muddied and almost made muddier as time went on, rather than being clarified quickly upfront, so that

we could be clear who we should be trying to look to for answers on different questions. That was a very confused picture.

Q39 Chair: What is the answer to that confusion?

Tom Gash: In this case, there should be a very clear account, for each public body, of its responsibilities vis-à-vis the department. That should be able to be quickly pulled out and made public.

Q40 Chair: In the case of Defra, the Secretary of State for Defra is fond of saying that basically his Department just implements European policy. There is very little autonomous UK government policy that his Department is actually responsible for. Where does the accountability lie in that?

Professor Skelcher: The question is whether that translates through into the kind of policy directions that are given to the Environment Agency. Clearly, there is discretion in the Department around particular areas, albeit there may be European regulations. It seems to me that, as Tom was explaining in that case, the actual nature of the discretion available to the Department and to the agency was not particularly clear.

Q41 Chair: Very often, Ministers want to do things and they are told they cannot do them, because they are contrary to environmental law laid down by the European Union. It is always questionable as to the extent to which that restriction really exists, but it is a matter of interpretation of legal advice. Legal advice in Government tends to be very cautious. So the legal advice for not doing something tends to be rather instantly produced. No doubt, the Environment Agency thought they were doing a lot of things that were required of them by the European Union. That would be a reason for resisting what, perhaps, Ministers would prefer to do otherwise.

Tom Gash: It is important not to conflate issues for the inquiry. These issues would equally apply to the Home Office, for example, in the management of its business. It is much more to do with the clarifying of responsibilities of Europe, vis-à-vis Departments.

Q42 Chair: We have just had the Home Office tell us, in response to a report on migration statistics, that they are not allowed to ask questions of migrants coming to this country from other EU states. I doubt very much that that is substantially true; I suspect that we can. But that is the advice that has been given to them. Does this not confuse the whole issue of accountability?

Professor Skelcher: It does. That is the nature of contemporary Government.

Q43 Chair: How do we address it? Part of the despair about accountability arises from these very confused situations. How do we address this?

Tom Gash: The first thing that all of us are fundamentally saying is that we are agreeing with you: in a sense, it is more confusing that it even needs to be. So, we could be much clearer, within the constraints of having lots of different sources of authority and power, about who is responsible for what decisions. We could just put it down on a piece of paper. This may sound like a very basic thing to do, but I was very struck by the fact, as I said, in the Environment Agency case, that that piece of paper never came out.

Q44 Chair: Do we think it exists?

Professor Skelcher: They do exist, but they are typically called framework documents. They are often quite long and complex documents.

Q45 Chair: As soon as you say “framework document”, I do not want to read it. It has that effect on my psychology.

Professor Skelcher: That is where the notion of extending the public bodies report into a census of Government would help, because that might, very simply, also explain who is responsible for what.

Q46 Chair: The point is that as soon as there is a crisis, that framework document becomes irrelevant, because the media and Parliament want the Minister to take responsibility for what is or is not happening. What is the point of writing it down? Is there not a fundamental flaw in attempting to transfer accountability out of a Department for something as important as big expenditure decisions on floods and drainage when, in the end, when there is a flood, the Minister will be held accountable for those decisions?

Professor Skelcher: There is, but that is also the way that Government operates. For the reasons we have talked about earlier, it determines that actually it is much more effective for particular kinds of decisions to be made in particular kinds of ways.

Q47 Chair: Obviously not in this case.

Tom Gash: I am sorry, but I do not quite recognise the claim that everyone tries to blame the Minister. In that particular case, the opposite was actually the initial reaction: everyone tried to blame the Chair of the Environment Agency. What actually then happened was that there was a very protracted, rather messy debate—I still cannot remember what the conclusion of it was in the public’s eyes—about where responsibility for different things that had gone wrong was.

Q48 Chair: But, Mr Gash, surely if the Environment Agency has been given responsibility in a framework document, which you very helpfully say has all been written down and is nice and clear, why should the Environment Agency not be held responsible for the outcomes? Actually, that is not what happened. The Prime Minister finished up having to go around the flood-afflicted areas saying, “I will take responsibility for this; I will fix this.” So the accountability migrates back to the democratically accountable Ministers in the crisis. How does this delegation of accountability actually work? It does not work, does it?

Tom Gash: On occasions it has worked.

Q49 Chair: But it does not work in a crisis, does it? It does not work when it goes wrong. What is the point of having an accountability structure that only works when everything is going well?

Tom Gash: In what sense did it not work? I do not know the Environment Agency case well enough, frankly, to be talking about it; you should speak to the people involved probably to get a really good sense of what was going on. But I do not really, again, recognise the idea that there is going to be no accountability for performance failures in that case.

Q50 Chair: How do we get people to take responsibility? And what is the point of people taking responsibility for outcomes they have not been responsible for in order just to disclaim them, as Ministers did with the flood decisions—with the decisions of the Environment Agency? The Ministers basically said, “This is not our responsibility, but we are going to take responsibility for clearing it up”. That seems to be rather a scapegoating culture. Does this division of accountability not lay itself open to a scapegoating culture, which is not one in which we are going to learn effectively from mistakes, and learn effectively for the future? What is the point of a structure like the Environment Agency that becomes inherently unstable as soon as it becomes stressed?

Tom Gash: I do not know enough about the case, but the floods were cleared up. No one stopped doing flood defences and there is a chance the whole of the Environment Agency—

Q51 Chair: So we are saying it all worked terribly well.

Tom Gash: No, I would not say that. I would say that there was a political storm—

Chair: Because I heard a Minister saying that the Environment Agency had got it all wrong, and then the Chairman of the Environment Agency saying, “It’s not our fault; it’s all the Treasury’s fault.”

Paul Flynn: Have you heard others giving a more balanced view about the changes in agricultural practice? The fact is that the hills in Gwent are wooded and the Gwent levels did not flood, and the Quantocks and the Mendips are denuded of their trees and the water ran rapidly off the hills. There is a sensible, intelligent view, and there are people grubbing around for political opportunity.

Chair: I am agreeing with you.

Paul Flynn: There is another view—you have had your Euro rant. There is another interpretation that the word “Defra” actually means “do everything farmers’ representatives ask”, and it is a result of subservience to farmers, in letting them go ahead and plant maize on the hills, that has caused the exceptional vulnerability to flooding of the Mendip levels—of the Somerset levels. You should have attended the debate on this.

Chair: Could I ask each of you just to give a thought on this question, if you want, and we will move on? Andrew, you want to ask some questions.

Q52 Mr Turner: Yes. I am not sure this is the right sort of question to ask, but it seemed to me that there were problems. The problems were, number one, that the Minister was not actually available, so a substitute Minister was put out and he made a cock-up of it. That is when the Prime Minister had to intervene. Do you agree with that or disagree with that?

Professor Skelcher: It is clear that the Minister was not available and that another Minister stood in. I could not comment on the evaluation of that Minister’s performance.

Chair: Very wise.

Professor Skelcher: In times of emergency, there is a pressure on Ministers to do something.

Q53 Mr Turner: What is it, then, that causes them to feel that they have got to do something?

Professor Skelcher: It is clearly the media response, but I also imagine that there is pressure from parliamentarians for some statement on issues of national crisis. That, therefore, puts the Minister in the frame. Even though the Environment Agency and other arm's-length bodies have a degree of independence, the guidance that surrounds them still says that Ministers are accountable for their overall performance. It is that boundary—that very grey area—that Tom was illustrating earlier that illustrates that these are issues of negotiation. It is never absolutely clear who is responsible for what, and I think investigations into all kinds of crises illustrate that they are highly complex. As Mr Flynn said earlier, there are other actors involved—making particular decisions on planting, for instance—who may accentuate a crisis for which a Minister becomes blamed.

Q54 Mr Turner: What is the role of Members of Parliament? You said Members of Parliament are involved. What was it that made a demand from my colleagues for Bridgwater and others—for years and years and years he was pressing, but why did it only suddenly become important enough for either the Minister or the Prime Minister to get involved?

Professor Skelcher: It clearly got to the top of the political agenda. This was a major national crisis and that propels the issue to the top of the agenda and involves people like the Prime Minister in making statements and seeking to resolve those issues. I think the Environment Agency felt it was doing all it could to respond to the issue at a local level. What did not come through very clearly in the media reports until later was that their staff on the ground were putting a lot of effort into trying to manage these issues. That showed that there was a response, but what was not very visible was the fact that that response was taking place.

Q55 Chair: But all that would underline is that there are some fantastic people in the Environment Agency who were probably working their socks off—and we should pay tribute to them—but the leadership was in disarray.

Paul Flynn: Because he is a Labour person.

Chair: No, I am not making any comment about that.

Paul Flynn: I must protest. You are using this Committee and abusing the time of this Committee just for political purposes.

Chair: I am sorry; I am not.

Paul Flynn: It demeans the role of this Committee.

Q56 Chair: I am talking about leadership—ministerial—and the Environment Agency leadership was in disarray. We cannot deny that. What do we think the key lessons to learn from that episode are for the relationship between arm's-length bodies and Government Departments?

Professor Skelcher: Coming back to a point that Dr Tonkiss made earlier, it is about this relationship between the general administrative oversight of the body and the accountability to Ministers. Departments need to be much clearer and more sensitive to

issues that may be emerging in the remit of public bodies that require ministerial attention, or that Ministers at least need to be aware of.

Q57 Chair: Are you saying that they should not pass the buck—they cannot pass the buck?

Professor Skelcher: That public bodies should not pass the buck?

Chair: No, that Ministers cannot pass the buck.

Professor Skelcher: The frameworks all say that Ministers are ultimately accountable for what happens in public bodies, but clearly public bodies have a significant degree of discretion.

Q58 Chair: It depends on their statutory framework.

Professor Skelcher: It depends on their framework.

Q59 Chair: Something like the Food Standards Agency is incredibly autonomous.

Professor Skelcher: Yes.

Chair: But that is probably one of the—

Professor Skelcher: It is a non-ministerial Department.

Q60 Chair: It is a non-ministerial Department, yes. With something like environmental protection, should that not be separate from policy about flood protection and the expenditure of large sums of money? Is the Environment Agency not a kind of hybrid? It is a regulator and an executive agency.

Professor Skelcher: Yes. Like a number of these bodies, it has a variety of functions. If one looks back at the history of individual bodies, one can see that, at various times, Ministers decide these functions should come together, be separated, or be re-combined in different formulations. There is often a drive by Departments—these changes are led by Departments and they reflect policy choices by Departments—and sometimes they reflect crises that mean that we should do something and therefore we should reorganise.

Q61 Chair: But should these functions be separated?

Professor Skelcher: One would have to look at specific cases.

Tom Gash: If the functions are very different and require very different degrees of freedom from ministerial control, they should probably have differential governance arrangements in some way. It is important. It is not necessarily the case that they need to be necessarily completely separate organisations, but they might have a slightly different governance structure for the different functions involved. For example, a number of bodies that are meant to be quite independent end up doing things because they have very specialist skills—for example, they are good at underwater marine excavation or something, and they know everything about it, but they need independence to perform some sort of function—but then the Department also wants them to give some policy advice. Our argument would be that the Government should contract for that policy

advice—retain the control over it, in that sense—and pay the organisation to do it for them on a contractual basis. Similarly, they could get that advice from the private sector.

Q62 Chair: What is the principal lesson you take from the Environment Agency?

Tom Gash: It very clearly warns of the dangers of blame games. It suggests to me that you should not enter into blame games lightly because, in the end, they often do no one any favours. There is a difference between blame and proper accountability. Incidents will happen and crises will happen. The proper time, normally, for reflection and the exercise of accountability in those moments of crises is often a little bit later, once the blood has cooled. It is sometimes not a very effective thing to enter into blame games early on any side.

Dr Tonkiss: Similarly, it returns us to earlier points that were made about the logics that underpin delegation to public bodies. Inherent within that, there is this tension between whether you delegate and therefore create some independence about the body and therefore some way of saying, “This body was particularly responsible in this instance.” Alternatively, do you try to retain some level of control over that function? That is an inevitable tension that will always arise and, at times of crisis, this is what is coming to the fore in this example. The idea of creating this independence around a particular function is challenged because ultimately there will be political interest in a crisis and there will be political interventions in a crisis. Perhaps the lesson from saying that is this idea of how Ministers become aware of crisis, whether that is on a routine basis, and what the mechanisms are for that happening. Only very anecdotal evidence from our own research suggests that there is a massive variety in terms of departmental practice in that area. That is potentially quite an important issue to explore.

Q63 Chair: Is there any evidence that Government Departments practise much? Do they do table-top exercises about having crises with arm’s-length bodies and how they should deal with them?

Professor Skelcher: I do not know if they do or do not. It is an interesting question.

Q64 Chair: Does there not need to be a Department to arm’s-length body team-building exercise to make sure that, when the crisis happens, there is trust and understanding of how each is going to behave?

Tom Gash: There is a huge benefit for all aspects of Government in thinking more about scenarios and simulation exercises. It seems to be very important. It is something, interestingly, that the institute has argued very strongly for in relation to contractual relationships, which are not entirely different, in a sense. So when you are entering into big contracts with large providers, you need to ask yourself the “what if?” questions. “What if this changed? Would I end up getting lumped with a huge price tag for changing this particular contract?” for example. “What happens if all the providers suddenly go bankrupt? Who provides the service?” Thinking about the “what ifs” is important in any area, and this is no different.

Q65 Chair: Sorry; I am having ideas on the hoof here. Surely part of the triennial review would be to demonstrate that you have stress-tested the relationship between the Department and the non-departmental public body.

Professor Skelcher: That would be very valuable. There is clearly a lot of work that goes into documenting the business case to create particular kinds of bodies or to reform them, but it seems to us that there are some weaknesses in terms of assessment of ongoing risk. It is that awareness of what the risks might be and of what the strategies might be to resolve or manage those risks that you are pointing out there, which would be very helpful for Departments to engage with.

Tom Gash: I would echo that the focus of the triennial review should very much be on the nature and effectiveness of the relationship between the NDPB and the Government Department—the robustness of its governance and performance management arrangements. What we have to be careful of with the triennial reviews, in all honesty, is that they are now talking about trying to find efficiency savings through the triennial review process. This seems to me a difficult thing to get right, particularly if you are talking about relatively junior officials going to look at organisations like the Nuclear Decommissioning Authority and telling people where they can find efficiencies. This seems to be a very, very odd process indeed. I would be wary of the triennial reviews trying to do something that the Departments should be doing as a matter of course, which is making sure that organisations are effective.

Q66 Chair: I can deal with this very briefly, because we have covered quite a lot of it. What should be the Cabinet Office role in the supervision of the relationship between non-departmental public bodies or arm's-length bodies and the Departments? This oversight role of the Cabinet Office could be quite important but it obviously should not be too microscopically managing that relationship.

Professor Skelcher: The Cabinet Office has developed a much stronger role in terms of setting the ground rules across Departments. The next step is for it to develop a more strategic view across the arm's-length body landscape and to be able to challenge Departments on the kinds of choices that they are making about types of bodies in relation to a simple set of criteria along the lines that Tom Gash and the Institute have described in terms of classifying bodies. It is about redressing the balance between Departments and the wider interests of Government as a whole.

Chair: Any other thoughts on the Cabinet Office role, Dr Tonkiss?

Dr Tonkiss: The point that Chris has made about the strategic role is the important one, and you are right to point to some of the challenges in terms of balancing that with aspects that perhaps could be construed as micro-managing. There are risks inherent in taking that approach, and the Cabinet Office perhaps is best placed in taking a strategic role in relation to things like classification and also around issues like sponsorship, where it can have an ongoing role in terms of setting what the standards are, what the priority issues are in those areas and in supporting Departments in exercising those functions.

Q67 Chair: How should it set those standards: on an ad-hoc basis in relation to each body, or there should be a template across all Departments?

Dr Tonkiss: The Cabinet Office has done some really interesting work through the sponsorship peer network. That has highlighted that while there is quite an interest in terms of some common principles of sponsorship, there is also great variety in terms of how sponsorship works on the basis of different types of Department, different sizes of

Department, and also different sizes of public body portfolio. While the Cabinet Office clearly could have a strategic role in terms of developing some underlying principles, individual Departments will engage in sponsorship in different ways. There was not a great deal of interest in terms of designing a sponsorship model that would be based on certain types of public body. It was not felt that that would work because there are such differences in terms of departmental arrangements.

Q68 Chair: Anything to add, Mr Gash?

Tom Gash: Not particularly. It sounds like the right space. I think there has been improvement in terms of the Cabinet Office trying to facilitate learning across different Departments. That is particularly important for Departments who do not have many responsibilities in terms of sponsoring arm's-length bodies and who often end up with more junior teams looking after arm's-length bodies. It is particularly important that the Cabinet Office keeps up its efforts on building capacity in sponsor teams.

Q69 Kelvin Hopkins: We have touched on triennial reviews already, but I have a couple of points. Non-ministerial Departments are exempted from the triennial review process. What are your views on that?

Tom Gash: I think that is an error, and it is one that comes about, again, from the fact that there is no rhyme or reason as to why a body is a non-ministerial Department versus an executive NDPB. When we have Ofsted as a non-ministerial Department not going through a triennial review versus CQC—the Care Quality Commission, which essentially performs the same function in a different sector—going through the triennial review, you start to see that this is very odd and inconsistent. I would say that non-ministerial Departments should be included in that. There is a problem here because organisations such as HMRC are non-ministerial Departments. They might argue that, actually, they feel an awful lot like Government Departments or very large executive agencies. It goes back to this issue: if you are going to try to have consistent, standardised, effective approaches to managing arm's-length bodies, it helps an awful lot to have a simplified way of thinking about what these bodies are.

Q70 Kelvin Hopkins: We have not got time to look at HMRC at the moment, but that is something that is really very important, especially in relation to Mr Hartnett, who now seems to be consulting with corporates about how to avoid tax. Are there any international comparisons that might be helpful in reviewing the functions and purpose of public bodies?

Tom Gash: There are some positives. One thing I would say is that, looking at other systems, not all of them are as ad hoc as ours. In some of the provinces in Canada, they have quite a simplified taxonomy for thinking about different types of bodies and how much freedom they should have, and they manage them in a more professional way. New Zealand is moving very much in that direction and has adopted a version of some of our suggestions on this. You may have more from your recent research.

Professor Skelcher: It varies quite a lot. The countries that Tom is talking about have parliamentary systems similar to ours to some degree, but elsewhere in Europe it can be much more ad hoc and it depends very much on the political culture. Certainly, what is clear in our system is that, over the last 10 or 20 years, there has been a much stronger

emphasis on the corporate governance of non-departmental public bodies. That is something you do not necessarily see internationally.

Q71 Kelvin Hopkins: One final question: we have moved from a quinquennial review system in 2002 to a triennial review system now, and we have a Government that has been determined to get rid of quangos; there has been a big public statement by the Government. Should very worthy and good public bodies be nervous of a fierce review every three years, or is it just a question of having a quick look and making sure it is working well? If it is a fierce review, they could feel very insecure. If it is a light-touch review that is just making sure things are working well, it would be very different.

Dr Tonkiss: This is something that the Cabinet Office are dealing with now, in the sense that the initial implementation of the triennial reviews programme did mean, in some instances, that quite small bodies were being subjected to quite extensive review. Potentially, that could have been perceived as threatening. Having reviewed the triennial process as it has run over the past few years, the Cabinet Office is now thinking much more about proportionality of reviews and potentially moving to light-touch reviews or grouping reviews in terms of policy areas, so that reviews can be undertaken together within one particular policy area for some of the smaller bodies.

Tom Gash: It is a really important question, because the way in which a review process will work and what impact it will have will very much depend on how the parties are approaching it. If you have got a review coming in that basically threatens your existence, you are naturally trying to survive the review. That is not necessarily going to create the opportunities for learning and improvement of your organisation that you might have if you perceived it as another sort of process.

In our initial recommendations on this in 2010, we recommended separate processes. The initial health check would be much more focused on, “Is this relationship with the Department going well? Is it stress tested? Will it cope with crises? Are people very clear on their respective roles and responsibilities?”—all those very “sanity check” type questions can be done quickly and, as I said, could involve people from other arm’s-length bodies so that they could learn from the process of reviewing another body and get a perspective on their own organisation. That is a learning exercise. That could then recommend another exercise to look at whether a body should exist or not—whether it is actually valuable. There is something to be said for that separation. We might revise our position on that, but there seems to me to be a strong case for having different types of process.

Q72 Chair: Finally, can I just mention one other function of Government that has sort of popped in and out of arm’s-length bodies? That is rail franchising. There was originally an Office of Rail Franchising, which was then transferred to the Strategic Rail Authority. When that was wound up, it was taken into the Department. A year or two ago, we had the franchising fiasco on the West Coast Main Line, which was seen as a watershed moment for Whitehall. There is now talk of putting rail franchising back into an arm’s-length body. How rational do you think this idea is?

Professor Skelcher: Rail franchising is a technical function where one has to demonstrate impartiality. One could argue that that is exactly the kind of thing that one would want to have in an arm’s-length body.

Q73 Chair: Why is that the right lesson to learn from the collapse of the West Coast Main Line franchising process?

Professor Skelcher: The lesson to learn from that might be whether there are appropriate skills at the right level to undertake that kind of procurement exercise; it is a big, complicated procurement activity. That is classically what one would set up an arm's-length body for—those kinds of technical functions where one needs independence similar to that required by a regulatory function. But there is not a clear rationale in Government—as your case illustrates and as other cases illustrate—that says, “If it is this kind of function, it should be located in this kind of arrangement”.

Q74 Chair: But rail franchising has so much to do with rail policy. Ministers stand up in the House of Commons and announce new rail franchises, how many new carriages and train services there are going to be, how many new seats and new services there are going to be, what services are going to be provided and how it is going to develop. This seems to me at the heart of rail policy.

Professor Skelcher: One could say the same kind of things about education, for instance, but education standards are something that is located in an arm's-length body.

Q75 Chair: But franchising is not a standards question. It is about allocation of resources and commitment of priorities. I do not think that educational standards is comparable.

Professor Skelcher: The Education Funding Agency, which funds schools and colleges, is something that is done at arm's length. It has been out and been brought back in a bit.

Q76 Chair: Given that the West Coast Main Line franchising was about a dislocation between rail policy and rail franchising, should the two not actually be brought together, rather than separated?

Professor Skelcher: It is a question that has a variety of answers. In the environment case, one could argue that there is a separation between policy and allocation of resources. It comes back to the fact that there are not these fundamental principles that determine where the function should be located.

Q77 Chair: Any thoughts from our other two witnesses?

Dr Tonkiss: Relating back to the UK Border Agency case, this illustrates that sometimes delegation makes sense at certain points in time for certain political reasons, or non-political reasons, but without the clear rationale, it is very hard to reflect overall on whether something should be with an arm's-length body.

Q78 Chair: That is a very interesting observation because franchising was originally intended to be a short-term, technical, impartial process. It has now turned into very large franchises that have very large public spending and policy implications. That is perhaps why it migrated back into the Department in the first place.

Tom Gash: I do not have strong views on the case, because I do not know enough about the exact functions the organisation performs.

Chair: That is probably a very wise answer.

Kelvin Hopkins: I do not know if you agree, but rail franchising has become extremely political. Some of us believe that franchises should be handed back to the public sector—the East Coast Main Line—and kept in the public sector in that case, and some referred back. Education and whether or not we go for more free schools and academies is intensely political and is at the heart of political debate. Those are not just administrative decisions that are non-controversial.

Chair: Very good. Thank you very much indeed. You have been very helpful and informative, and have got us off to a great start with this inquiry. We hope you will carry on taking an interest. If you have any supplementary evidence you would like to put in, please just send us a note and we can publish it as evidence at any stage of the inquiry. Thank you very much indeed.