

## Managing at arm's length

### **Guidance Note 1**

### **Establishing successful relationships between Ministers and public bodies<sup>1</sup>**

#### **Context**

Most Ministerial Departments are managed using what is known as a 'hub model' of public sector management. This involves a small strategic core surrounded by a number of executive agencies, non-departmental public bodies and other forms of arm's-length bodies that are effectively sponsored by their 'parent department' to undertake certain functions. Although there are formal framework agreements articulating the relationship between each, the key to successful relationships lies not in these documents but in the dynamics of the personal contact between the responsible Minister, officials and organisation itself.

This guidance note is aimed at Ministers appointed to a new post (whether with previous Ministerial experience or not) with ultimate responsibility for one or more arm's length body. It focuses on executive NDPBs, but many of the points made are applicable to other types of public body, such as public corporations. Different accountability arrangements apply to executive agencies, which are formally part of the Department, and non-Ministerial Departments<sup>2</sup>.

These bodies vary in scale, strategic significance and degree of independence. For all these bodies, you will want to be sure that proper governance arrangements are in place and know who in the department is in charge of managing the department's relationship. An early priority should be to develop a feel for what is going well, what is going less well and where tensions and risks may occur so you can decide how best to use your time.

#### **What you are aiming for:**

- An effective, strategic relationship between your Department and the NDPB based on clarity about respective roles and responsibilities, mutual trust and "no surprises" rooted in a clear vision for the Department. This needs to be based on a shared view of the respective roles and accountabilities, the extent of independence and the ability to share information and advice in confidence
- An NDPB board with a balanced composition, the skills needed for future challenges and with good political antennae.
- A high-trust, low-blame relationship with the NDPB Chair.
- Evidence of efficient, effective performance

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<sup>1</sup> This is looking at the relationships between the UK government, Parliament and its arm's length bodies. While many of the issues will also be found in Scotland, Wales and Northern Ireland, there are also significant differences.

<sup>2</sup> With the introduction of Whole of Government Accounts, Clear Line of Sights and the Alignment project – NDPB accountability is more akin to an Executive Agency than it was and becoming more so.

- Evidence of effective financial management and securing of value for money
- A broad appreciation of how each NDPB fits within the broader organisational landscape.
- A governance relationship that is sensitive to, and aware, of the broader political context.

## **Parliament's perspective: getting relationships and responsibilities right is critical**

"[The NDPB] provides a vitally important service in which we would expect Ministers to take a close interest. The confusion over the terms on which they do so has resulted from the unclear constitutional relationship between [the Department] and [the NDPB]. It has produced suspicions of inappropriate interference and has hampered efforts to establish a properly functioning service ... both [firm leadership and clear decision-making structures] are significantly more difficult to achieve in the context of the confused relationship we have described."

*House of Commons Select Committee on the Lord Chancellor's Department  
Third Report 2002-03 (July 2003)*

"Although the Department put considerable resources into overseeing [the function managed by the NDPB], the division of responsibilities between it and the [NDPB] lacked clarity and this had resulted in unnecessary duplication and complexity. This lack of clarity had been demonstrated by the Department intervening in the [NDPB's] everyday activities..."

*House of Commons Public Accounts Committee  
Ninth Report 2009-10 (February 2010)*

## **What you need to know**

Time invested early in understanding the Department's 'delivery landscape' beyond Whitehall will pay dividends later on. There is some core information you need to get to grips with early on:

- The number and organisational status of the all the public bodies for whom you are responsible; , their role and functions and their budgets and which are most important to achieving your objectives. If this information is not clear, you may need to trigger a review to ensure that the department has a real grip on its wider network.
- clarity about whether you have statutory powers of direction and whether you approve the corporate plan. Ask for a summary of the legislation identifying explicitly powers of direction - or their absence - and a definition of roles and responsibilities and boundaries as between Ministers and the NDPB.
- establish, too, your powers in relation to budget setting, appointments and other governance issues. Some NDPBs are accountable to Parliament for some or all of their functions, not to the Secretary of State. This materially affects the way you manage the relationship with the NDPB ask officials for a history of the relationship, areas of co-operation and tension and how conflicts , were resolved.

- establish the Department's view of the efficiency and effectiveness of the NDPB and ask for the evidence to support their assessment. Ask for their views of the Chair, CEO and Board and areas of concern. Also establish how far the body's credibility, and therefore effectiveness, depends on its independence
- find out the views, of important external stakeholders of the NDPB, especially the customers they serve on your behalf.
- familiarise yourself with the NDPB's strategy, how well it is aligned with the Department's strategy, and evidence of how effectively it is being implemented.
- identify the scenarios in which the relationship with the NDPB would be badly strained, and their likelihood of materialising.

## **Effective relationships: top tips for Ministers**

Take a strategic view of the department's delivery landscape and how each body fits in. Make sure the Sponsor Teams understand what you want from your NDPBs and how you want them to support you. Set parameters and expectations, particularly how much each body can be taken into the department's confidence.

Build a partnership: focus on relationships not processes. get to know the Chairman and Chief Executives of NDPBs personally. Respect the different status of the two roles: Chairmen are public appointees, whereas Chief Executives are appointed by the Board of the NDPB itself. Make sure the Chair is clear about your objectives for the department and the NDPB upfront and how you want to manage the relationship.

Respect the advice of your officials and senior staff but reserve your right to make your own judgements about the NDPB's performance and in important cases of dispute listen to both sides before taking a final view.

Don't interfere in operational management of the NDPB or be drawn into answering for the operational decisions they make. There is no point in pretending a body is independent when it is not – but if it is, and needs to be seen as such to be effective, the outside world will only be convinced if it makes your life awkward from time to time.

Ensure there is clarity on the relationship between the department and the NDPB including on draft annual reports, approval of business plans etc. Allow the NDPB scope to define its own priorities and performance indicators, but provide constructive challenge through the process of approving strategic and business plans, where applicable.

If you feel the Chair or Board members lack the right experience or skills to lead the NDPB make sure they are being addressed through formal performance management arrangements and that important gaps are addressed in the next round of Board appointments.

Keep communications channels open – have arguments in private, not through the media. Make clear that this is how you expect the NDPB to behave as well.

Agree crisis-management procedures (issue co-ordination, response to parliament, joint media strategy, collective responsibility, etc.).

Embed the 'no surprises' rule into all dealings with the NDPB.

It is ultimately the Permanent Secretary's responsibility to ensure that departmental governance structures are 'fit for purpose'. Make sure they deliver on this responsibility.

NB some NDPBs have remits which cover the Scottish, Welsh and Northern Irish governments and your counterparts will also have a sponsorship role and will need to be consulted on issues and appointments.

## Questions to ask on arrival in post: a checklist

### Information and understanding

- Where are the roles and responsibilities of the Department and Minister set down? In practice, how are these arrangements working?
- What is the NDPB's budget? What is the understanding with the Department on finance?
- Is there any policy area led or significantly influenced by the NDPB?
- In practice, how are decisions made on these policy issues?

### Relationship management

- Has the Department's relationship with the NDPB become more or less effective in recent years? Why?
- What are the issues that are likely to cause tension between the Department and the NDPB over the next month? Six months? Two years?

### Performance management

- How do we know if this organisation is effective?
- Is this NDPB still necessary?
- What are the arrangements for advising me on the NDPB's performance?
- Are they working well?
- When is the NDPB next due to be submitting a strategic or business plan for approval?
- Is the NDPB managing its budget efficiently and effectively?

### Appointments

- How are appointments made?
- When does the Chair's appointment run until? Is the Chair eligible for reappointment?
- What performance appraisal is in place for the Chair?
- Is the Board functioning effectively? Does it have the right people and skills?

## Where to look for support

**Sponsor Team:** Sponsor Teams (with 2-5 or staff) are the norm and larger teams will usually only be deployed where significant policy functions are managed alongside the sponsorship role. (Departments differ on whether they concentrate sponsorship functions together or put them alongside the relevant

policy function). The member of the Sponsor Team who has most regular contact with the NDPB will probably be relatively junior, but will act as ‘gatekeeper’ of all other contacts between the NDPB and the Department, including Ministers. This is important to avoid the NDPB being deluged with conflicting messages. Although the Sponsor Team will be an invaluable support, it is important to be aware that because of the ‘generalist’ culture of the civil service some members of the Sponsor Team staff will may have little or no previous experience of managing a sponsor relationship or a public appointments process. In some cases higher turnover in the sponsor team will mean that the NDPB has the advantage of longer institutional memory as well as more detailed subject knowledge.

**Senior Departmental officials:** The Permanent Secretary will be engaged with the large NDPBs and have an overview of the whole “delivery landscape” but will tend only to become in the detail of the NDPB relationship if there is a problem. . However, the Permanent Secretary will keep an eye on public appointments process and is well placed to advise on any issues of propriety or governance that arise. Departments will also usually have a senior official (DG or Director level, sometimes known as a Fraser figure) with specific responsibility for relationship management with one or more NDPB, particularly with their Chief Executive(s). They should be your key adviser on sensitive issues.

**Other Ministers with responsibility for NDPBs:** a valuable source of advice on managing the political dynamics of relationships with NDPBs.

**Commissioner for Public Appointments:** The Commissioner for Public Appointments regulates the processes by which Ministers (including Welsh Assembly Government Ministers) make appointments to the boards of national and regional public bodies. She also currently regulates appointments processes in relation to some bodies in Northern Ireland. A Code of Practice is published to provide guidance - including mandatory requirements – in relation to the processes involved.

## Further reading

- Cabinet Office, *Public Bodies: a Guide for Departments* (last updated June 2006)
- Commissioner for Public Appointments, *Code of Practice for Ministerial Appointments to Public Bodies* (revised August 2009)
- Gerald Kaufman, *How to be a Minister* (2<sup>nd</sup> edition, 1997)
- Derek Lewis, *Hidden Agendas: Politics, Law and Disorder* (1997)
- Select Committee on the Lord Chancellor's Department, *Children and Family Court Advisory and Support Service* (2002-03)

This series of guidance notes has been developed by the Institute for Government and Professor Matthew Flinders of the University of Sheffield, author of ‘Walking without Order: *Delegated Governance and the British State*’.

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