

## DEMOCRATIC AUDIT

### **Quangos and Quangocrats**

Modern governments need specialist agencies of various kinds to run or supervise public enterprises, to regulate significant areas of public life (e.g., broadcasting, safety at work, etc) to ensure the safety of medicines, pesticides, etc, to promote racial harmony, to run or supervise public services, to perform public functions (e.g., child support), and so on.

The point of such bodies is to take charge of the multitude of more specialist duties and tasks to which modern governments cannot devote sufficient oversight or which for varying reasons should be dealt with at arm's length from government itself. But they may also be used by government to avoid assuming direct responsibility for divisive and potentially damaging issues.

In the UK such bodies are popularly known as "quangos". Quangos got a bad name in the 1980s as a result of abuse of patronage by the then government and the absence of systematic mechanisms to secure their accountability.

But quangos are often essential or valuable bodies. There is a great variety of quangos in the UK. Some act as "watchdogs" in the public interest, like the Health and Safety Executive or Food Safety Agency; some seek to promote and safeguard minority rights, like the Equal Opportunities Commission or Commission for Racial Equality; some perform a public service and require independence of government, like the BBC and Electoral Commission; some provide or fund public services, like the Housing Corporation, universities, NHS hospital trusts or learning and skills councils.

A host of other bodies, for example, advise government on the safety of medicines or the quality of air, or run museums, direct research programmes, recommend wines for government functions, etc.

Until the mid-1990s, ministers and senior civil servants were solely responsible for appointing members to quangos and other public bodies. As recommended by the Nolan Committee on standards in public life, a Commissioner for Public Appointments regulates appointments to quangos. The Commissioner's remit is to ensure that appointments are made on the basis of "merit" ; that they are free from undue political or other influence; and that there is an effective independent element" in the appointments process. A special commission now oversees the whole appointments processes within the NHS.

However, ministers retain the final say over who is appointed. The Prime Minister also has wide-ranging powers of patronage within the quango state. Nor does the Commissioner's writ run to every quango or public body. Her Office (OCPA) estimates that about half of central government appointments are made under its supervision or according to "Nolan principles". In July 2003, the Select Committee on Public Administration found that only one in six quangos run by central government were subject to OCPA regulation. Very significantly, appointments to most local quangos are not regulated at all, other than those to NHS bodies, and these tend to be filled by word of mouth within business, political and other networks.

The existence and variety of quangos – at national, regional and local levels -raises a number of democratic issues:-

1. Are the government and devolved administrations open about the whole range of such bodies and the people who are appointed to them?
2. Are these bodies of appointed people made properly accountable to government and the public?
3. Are these bodies of appointed people open to the public and to public and scrutiny of their policies, actions and finances?
4. Are these bodies subject to official public audit?
5. Do ministers and civil servants maintain effective oversight of the activities of the quangos attached to their departments?
6. Does Parliament and its select committees oversee quangos effectively?
7. Do local authorities have any say in the policies and actions of quangos in their areas, or any oversight of the appointments processes?
8. Are the functions and services for which quangos are responsible properly the preserve of appointed rather than elected boards?
9. Are the people who are appointed to quangos broadly representative of the public as a whole?
10. Are appointments to quangos free from improper influences or bias, political or otherwise?

These questions were first raised by Democratic Audit in a path-breaking report, *EGO-TRIP: Extra Governmental Organisations and their Accountability* in 1994 and were followed up in subsequent reports (see DA Publications). Professor Stuart Weir has acted as special adviser to the Public Administration Select Committee on two further reports on quangos – *Mapping the Quango State* (House of Commons Paper 367, 2001) and *Government by Appointment: Opening Up the Patronage State* (HC 165, July 2003). This briefing draws upon all these sources.

### **The UK quango state: size and accountability**

The Select Committee on Public Administration (PASC) has published the fullest recent head count of quangos at all levels in the UK. In 2000, the PASC report, *Mapping the Quango State* (HC 367, 2000-01) identified 297 executive non-departmental public bodies (NDPBs, the official term for “quangos”) and 536 advisory NDPBs or quangos in central and devolved government; 5,338 local quangos of all kinds; and 2,295 local “partnerships”, zone boards, etc, bringing together local authorities, the police and other public agencies, voluntary bodies and private enterprises in a new level of local governance.

More up-to-date, but limited, information can be found through the annual register, *Public Bodies*, which provides details of all NDPBs, their size, funding and terms of reference, task forces, funding, the representation of women, ethnic minorities and people with disabilities, etc. It is possible to track the development of the quango state and the large number of changes that have occurred in the recent past through this register.

*Public Bodies 2002*, the latest register (from the Cabinet Office), lists 834 quangos, comprising of:

- 192 executive NDPBs;
- 141 public corporations;
- 428 advisory NDPBs;
- 36 tribunal NDPBs;
- 3 nationalised industries;
- 23 central NHS bodies.

This is not, as we shall show, a full list.

### *Evading the net*

As will be seen above, most quangos are designated as NDPBs ("non-departmental public bodies"). Governments adopted the designation NDPB to replace the popular term, "quango", on the advice of the Pliatski report in 1979. Government departments sponsor most NDPBs, but the Scottish Executive, the National Assembly of Wales, the NI Assembly and regulators also run them. Pliatski's idea was that the NDPB designation would cover the varied multitude of public bodies, so that government and the public would know how many there were. In fact quite a few public bodies escape being classified; and one in six designated NDPBs also escape regulation by the Commissioner for Public Appointments (see Quangocrats).

A partial survey in 2002-03 by PASC found:

1. departments sponsor "other bodies" – that is, public bodies that are not classed as NDPBs. The Committee was unable to discover how many "other bodies" existed, but a Department of Health census listed 43 bodies within this single department which were not NDPBs and did not appear in *Public Bodies*. The DOH listed six of these bodies as "external bodies" in its returns to PASC. How many "other" and "external" bodies exist within Whitehall and devolved administrations is impossible to say.
2. PASC did however identify a few other bodies that have been kept off the official radar. Two of these are significant bodies with a strong private role-

*British Trade International* (under the Foreign Office/DTI), which exists to promote exports. BTI is neither an NDPB nor an executive agency (see below); its board is drawn predominantly from big business and the senior civil service.

*Partnerships UK* began life as a task force on the Private Finance Initiative, briefly became an NDPB, and was then privatised as a merchant bank (with the government taking a 49 per cent share). As a "private body", PUK is not reported on in *Public Bodies* and is probably outside other forms of public accountability, and yet its activities are very influential in the public sphere. Its board is made up of senior Treasury officials and major figures from the City of London.

3. As of 31 March 2002, 41 task forces with nearly 300 members from outside government existed within central government; 137 ad-hoc advisory groups with almost 1,200 external members; and 35 policy review bodies, with some 125 external members. Their membership is not regulated on the basis that they are merely temporary bodies, but 85 of them have existed for more than the two-year life recommended by the Committee on Standards in Public Life, and some of the 85 are apparently significant bodies. For example, the Chancellor of the Exchequer chairs the Standing Committee on Euro Preparation, an ad-hoc advisory body set up in May 1998; a third of its members are from the private sector. This is one of several bodies described as being "ongoing". Ongoing bodies should be classified as NDPBs and made subject to the Commissioner for Public Appointments and other public scrutiny.
4. Some 128 executive agencies, public bodies "hived off" from government departments and still regarded as part of their original department, have advisory boards of officials and external members and/or "Fraser figures", senior officials who act as the main source of external advice on the agency's performance. Agencies, which don't have advisory boards, are

encouraged to take on additional non-executive directors. None of these appointments are subject to the Commissioner or Nolan rules.

#### *The local quango state*

As stated above, PASC identified some 5,300 local quangos in the UK as part of its "mapping exercise". The Committee also listed some 2,300 local partnerships, new forms of governance involving local authorities alongside other statutory, voluntary and private bodies or associations. Academic evidence to the Committee in 2003 suggested that twice as many such partnerships now existed, not counting any funded through the EU. The Committee gave one example of the prevalence of partnerships in a local area. Bristol council deals with 76 Bristol-wide partnerships, forums, strategy groups, etc; 46 neighbourhood and 36 regional partnerships and groups; and ten national and international networks. These are considerable extra levels of governance which come under minimal democratic scrutiny.

#### *Accountability*

Ever since Democratic Audit exposed the neglect of accountability of the quango state in 1994, government has been striving to improve the overall level of accountability, using the Audit's own criteria. PASC also used the Audit criteria for detailed surveys of the accountability and openness of quangos at national, regional and local level in 1997 and 2001. Chapters 8 and 9 of *Political Power and Democratic Control in Britain*, the second UK audit, also present accountability & openness figures for 1993 and 1997 with additional data and analysis.

The PASC report, *Mapping the Quango State*, publishes detailed tables of accountability and openness mechanisms for 1997 and 2001:-

1. At national level, the report found a large increase in *executive quangos* subject to the Ombudsman between 1997-2001 (up to 76 per cent) and progress on introducing complaints procedures (74 per cent), but full public audit actually fell (from 81 to 64 per cent) and public access to these bodies remained low. Overall executive quangos met only just over half of the accountability measures.
2. *Advisory quangos* at national level remain opaque bodies. Only 29 per cent even publish annual reports. Only 3 per cent must consult the public; only 2 per cent must let the public see their agendas; and only 1 per cent must hold meetings in public. The only advance is on public access to the registers of members' interests, but even so only 42 per cent give such access, and it is not clear whether access is a statutory duty or voluntary arrangement in many cases.
3. *Advisory quangos* are closed worlds, but they often deal with issues of great public interest – such as the safety of medicines, food, nuclear installations and air quality. Similar bodies in the USA are open to the public and some even give people a right to address them. An ICM poll for the Rowntree Reform Trust in 2000 showed that the public did not trust ministers or these committees to tell the truth.
4. Local NHS bodies are generally accountable and open, but other *local executive quangos* at best seek to be informative and are otherwise closed bodies, especially by comparison with elected local councils. There are few formal links between quangos at any level and local councils and councils do not have the powers nor the resources to keep these bodies or their memberships under scrutiny. Yet local councils which are supposed to provide local leadership (see Skelcher, Weir and Wilson, *The Advance of*

*the Quango State*, Local Government Information Unit, 2000, for further information). There is an urgent need for a "joined-up" review of the role of quangos at local and community level.

### *Issues of Concern*

The quango state continues to raise issues of great concern. We deal with the limited role that elections play among such bodies and the low representation of lay people on them in our briefing on appointments.

Here we signal concerns about accountability and openness:

1. While government has reduced the numbers of formal executive and advisory quangos, usually NDPBs, it is increasingly creating very powerful new bodies that require stronger measures of accountability to ministers, Parliament and the public than now apply. Among such bodies, for example, are Ofcom, the new media regulator; the Financial Services Agency; and the Legal Services Commission. It is not simply the power that such bodies possess. Their creation takes out of the immediate political and public domain major issues of public policy that require democratic input and scrutiny.
2. The Cabinet Office, which is responsible for the governance of quangos, has expressed its concern about the low level of ministerial oversight of major quangos.
3. Advisory quangos that deal with major issues of public safety and the quality of people's lives and, indeed, often literally with matters of life and death, are largely closed and secretive bodies. Vested interests often dominate their membership, lay and consumer representation on their boards is low, and their influential advice is apathetic.