

Arts Council of Northern Ireland

submission to the

Department for Communities' Review of Arm's-length Bodies: The Three Tests

Background to the current review

During the last mandate, the Northern Ireland Assembly passed a Private Member's Motion to review the number and function of its arm's-length bodies (ALBs), with a view to 'reducing their number, where possible, and maximising the available revenues'.

The Department for Communities (DfC) has oversight of 21 arm's-length bodies, excluding the Northern Ireland Housing Executive, which is not part of the review. The Minister appointed a small central team to take forward the first stage of a 'Transformation Programme', focusing on two key themes: exploring the scope to rationalise and consolidate the number and functions of the Department's ALBs and to examine the opportunity to extend the use of shared-service arrangements across the various bodies. In the first instance officials held meetings with chairs and chief executives of its bodies and initiated engagement with the trade union side. A public consultation on the identified options for delivery is planned for the summer.

In a response to an Assembly Oral Question (24 January, 2017), the Minister for Communities indicated his intention that the review would continue despite the current political uncertainty; but ultimately it is up to the next Minister, Executive and Assembly to deal with the outworkings of the review when its findings are available.

DfC ALB review programme

The DfC approach to the Transformation Programme is modelled on Cabinet Office Guidance. The 2015-20 guidance applies: it supersedes the 2010 guidance and introduced 'Functional Reviews' which look holistically at the functions of several public bodies in similar or related areas of government, and 'Tailored Reviews' that challenge and give assurance about the continuing need, efficiency and good governance of public bodies.

The Tailored Review Guidance outlines governing principles which must be followed by departments conducting reviews. These are:

- Proportionality
- Challenge
- Being Strategic

- Pace (completed quickly to minimise the disruption to the organisation’s business and reduce uncertainty about its future)
- Inclusivity
- Transparency.

Departments must consider all possible delivery models (abolish, move out of central government, e.g. local government or voluntary sector, commercial model, bring in-house, merge with another body) when exploring options for future provision of services or functions.

Published guidance also encourages departments to ‘consider the merits of bringing in independent expertise’ to assist the review but should take the lead on how best to involve others in the process.

The ‘Three Tests’

An existing public body has to meet three tests in order to remain at arm’s length from government. It must fulfil at least one of these tests:

- A technical function, which needs external expertise to deliver;
- A function which needs to be, and be seen to be, delivered with absolute political impartiality; and,
- A function that needs to be delivered independently of ministers to establish facts and/or figures with integrity.

First test

The definition of a ‘technical function’ calls for further exploration. Evidence to the Public Administration Select Committee cited circumstances where particular freedoms may be required around pay, for instance, to attract people with a particular skill set. However, in the context of Northern Ireland and its administrative arrangements, there is a need to maintain public confidence in meeting the test of technical expertise. The Arts Council has specialist, technical knowledge and its role, as set out under statute, the Arts Council (Northern Ireland) Order 1995, includes a statement that recognises such expert knowledge:

The functions of the Arts Council shall be ... to advise the Department and other government departments, district councils and other bodies on matters relating to the arts.

In the case of district councils, the Arts Council’s long-standing relationship with local government led to the creation of a network of dedicated cultural venues in towns across Northern Ireland - a source of support in sustaining local arts infrastructure; and the Local

Government Challenge Fund, introduced by the Arts Council in 2016, has stimulated a raft of innovative projects and commissions.

The Arts Council's specialist knowledge is demonstrated in the development of policy guidelines such as the artform strategies (Dance, Drama, Music and Opera, Visual Arts, Public Art, Architecture, Literature, Language Arts, Traditional Arts, International Arts, Community Arts, Youth Arts, Arts and Health, Intercultural Arts, Arts and Older People and Voluntary Arts). It is doubtful whether such a comprehensive suite of public policies could be successfully developed for the publicly-funded arts without the advice, competence and skill of an expert body. These strategies underpin our grant-making decisions.

In addition, Government recognises the expert role and specialist knowledge of the Arts Council through a number of policy initiatives, including:

- The Brussels Platform, a collaboration with the Northern Ireland Executive Office that provides a platform to showcase artists with the aim of promoting the culture and creativity of Northern Ireland in Europe;
- The purchase of works of art on behalf of the Executive Office;
- The commissioning of public art as a memorial to the victims of historical abuse (HIA Inquiry recommendation);
- Per Cent for Art in Government Construction and;
- In partnership with the British Council, acting as an ambassador for the arts from Northern Ireland, reaching international audiences and fostering cultural exchange.

Second test

The second test, absolute political impartiality, appears to offer greatest scope to restate the necessity to deliver arts funding independent of political influence, which is why the function needs to be delivered at arm's length.

Clearly, the Arts Council needs to continue to foster freedom of expression for artists, making grants according to professional standards of artistic excellence, independent from political influence. Arguably, this role is of even greater significance in a society where culture occupies contested space. The Arts Council is committed to funding a wide diversity of work across the arts and cultural sector where decisions regarding the content of arts programming are made on the basis of artistic quality with complete impartiality under the law.

Further evidence of political neutrality is provided by the funding decisions made by the Arts Council. We cherish the principle of freedom of expression. In practice this means that, at times, we support work that may be viewed as challenging. We robustly defend the artist's freedom of expression, but we also act in a way that is free of religious or party political

influence. By making funding decisions independent of the political process, we manage risk on behalf of the Department and thus afford the Minister necessary protection.

Third test

With reference to the third test, all arm's-length bodies deliver public services which operate to a greater or lesser extent at a distance from Ministers. However, in this instance the statement is qualified by the need to protect the integrity of facts or figures. In this regard, it is worth noting that the test of integrity is applied to the Arts Council as a provider of Official Statistics, as listed in the Official Statistics Order (Northern Ireland) 2012.

Official statistics are fundamental to good government, to the delivery of public services and to decision-making in all sectors of society. The Arts Council fulfils an important public role in preparing and publishing statistics in line with the Code of Practice. It provides rigour and independence in the collection of statistics and carries out this function and that of the evaluation of programmes in a manner that promotes public confidence.

Of particular note, the Arts Council has collaborated on a key research study with the Arts Council/An Chomhairle Ealaíon, tracking the living and working conditions of artists across the island of Ireland. The two Arts Councils have been collaborating on joint projects for more than thirty years and are the only dedicated bodies with the experience and interest to carry out this study.

More generally, the Arts Council works closely with each of the Arts Councils of these islands: East/West and North/South. This has created an enabling and politically neutral environment that allows artists to work seamlessly across jurisdictions.

In respect of the long-standing relationship with the Arts Council/An Chomhairle Ealaíon, a partnership approach has achieved efficiencies and economies of scale. The two Councils meet on a regular basis and agree common actions. In addition, they review joint funding of resource organisations and commit to a North/South Touring Programme that delivers benefits on both sides of the border. It is unlikely that such benefits would continue if the work of the Arts Council of Northern Ireland were to cease.

Additional factors

The Arts Council has succeeded in drawing down funding from charitable trusts and foundations (for example: the Arts Council's 'Arts and Older People Programme' is funded in a partnership arrangement with the Public Health Agency and The Baring Foundation) and the private sector through its relationship with Arts & Business NI. If the functions of the Arts Council were brought in-house to a government department, or moved out of central government to local authorities, it is unlikely that either the private sector or charitable trusts would be willing to support programmes which would be viewed as the funding

responsibility of the state. The retention of arm's length status assists the leveraging of additional funding for programmes.

In closing, the Arts Council manages two strands of income (Exchequer and Lottery); both are deployed in delivering a single over-arching strategy for the arts. This is an efficient model that avoids duplication and helps to achieve the ambitions set out in the Programme for Government.