

Title: Public Bodies (Abolition of the National Endowment for Science, Technology and the Arts) Order 2012 – final stage impact assessment IA No: BIS0329 Lead department or agency: Department for Business, Innovation & Skills	Impact Assessment (IA)		
	Date: 01/12/2011		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Secondary legislation		
Contact for enquiries: Laura Hart, NESTA sponsor team, 0207 215 5322			

Summary: Intervention and Options **RPC Opinion: AMBER**

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
£1.840m	£0m	£0m	No	N/A

What is the problem under consideration? Why is government intervention necessary?
 The public bodies landscape in the UK is crowded and in need of rationalisation. The National Endowment for Science, Technology and the Arts (NESTA) is an executive non-departmental public body (NDPB) and is being considered as part of the Government's public bodies reform program. The Government does not consider it necessary for NESTA's functions to be carried out by an NDPB and believes that a charity and charitable trust to hold NESTA's National Lottery endowment would be a more suitable vehicle for NESTA's functions. NESTA was set up under the National Lottery Act 1998 so Government intervention is necessary in order to pass secondary legislation to effect changes to move NESTA into the voluntary sector.

What are the policy objectives and the intended effects?
 This Government is committed to reducing the number of public bodies and clarifying lines of accountability. Policy objectives are based on the three tests the Government is applying to all public bodies with the intention of reducing their number. The three tests applied to NESTA and all public bodies are: does it perform a technical function? does it perform a function that needs to be politically impartial? and does it need to act independently to establish the facts? NESTA did not meet the criteria to remain a public body. However, Government values NESTA and wants to see its activities continue but not within the public sector.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
 The Government's preferred option is to reconstitute NESTA as a charity with a charitable trust to hold the National Lottery endowment, subject to Charity Commission approval. This option allows NESTA to continue its work while ceasing to be part of the public sector and ensuring propriety of expenditure of the endowment. Other options considered were: do nothing - this was rejected as NESTA did not meet the criteria to remain a public body; abolition - this was rejected as there is currently no other suitable body to perform NESTA's functions; merger - NESTA could merge with another body which carries out similar functions but this would dilute NESTA's focus and unique status; reconstitution of NESTA as a private sector body - NESTA's activities could be transferred to a private sector (non-charitable) body but this was rejected as the need for suitable controls to ensure propriety of expenditure of the endowment is at odds with ensuring the level of Government control does not cause the new body to be classified as public sector.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 04/2017

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: 0		Non-traded: 0		

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: David Willetts Date: 01/12/2011

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 1.840

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0.245	0.006	0.285

Description and scale of key monetised costs by 'main affected groups'

The main affected groups will be NESTA and BIS, as the transition process will incur costs associated with BIS staff costs, NESTA staff costs and legal costs required to implement the transition.

The proposed Protector of the trust will also be entitled to receive reasonable out-of-pocket expenses and reasonable remuneration from the trust.

Other key non-monetised costs by 'main affected groups'

There are no additional non-monetised costs and nothing was raised during the consultation exercise.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	0.292	2.125

Description and scale of key monetised benefits by 'main affected groups'

There will be savings associated with BIS staff costs as there will no longer be a sponsor team in BIS following transition. As a result of moving NESTA out of the public sector, there will be reduced accounting, governance and reporting requirements, allowing NESTA to redistribute resources previously allocated to such reporting requirements to other NESTA activities.

Other key non-monetised benefits by 'main affected groups'

Some responses to the consultation expressed the opinion that the increased independence to NESTA as a result of the transition would improve NESTA's abilities to support innovation in the UK.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

The analysis assumes constant wages and overhead costs at 30% of Total Pay Cost. There are no anticipated sensitivities - the announcement of our preferred policy option in October 2010 was received positively by NESTA and NESTA stakeholders. There are no anticipated risks for NESTA and its activities as discussions with the Charity Commission have indicated that there would not be a negative effect on NESTA's work as a consequence of charitable status.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0m	Benefits: £0m	Net: £0m	No	N/A

Evidence Base (for summary sheets)

The public bodies landscape in the UK is crowded and in need of rationalisation in order to improve the delivery of public services by increasing transparency, improving efficiency and ensuring appropriate accountability. The Government is therefore conducting a review of public bodies in order to restructure this landscape to enable it to deliver public services more efficiently.

The National Endowment for Science, Technology and the Arts (NESTA) is an executive non-departmental body (NDPB) and its status is being considered as part of the wider reform of public bodies. NESTA has a remit to support and promote talent, innovation and creativity in the fields of science, technology and the arts. It promotes innovation and creativity to help tackle social and economic problems and provides an independent, well-informed voice and commentary on innovation policy.

NESTA has a large amount of independence from Government as it is funded by the return on its National Lottery endowment, currently valued at £321 million, and its programmes and strategy are determined by its trustees. The Government view is that NESTA performs a valuable function and we want to see NESTA's activities continue. However, it is not necessary for NESTA to remain an NDPB or to be part of the public sector in order to carry out its functions. NESTA's work could be carried out by a charitable body and the Government view is that NESTA's activities are better suited to the voluntary sector.

Policy objective

The policy objective is to reduce the number of public bodies. The Government is applying three tests to all public bodies to determine whether a body should remain in the public sector. The three tests are:

- Does it perform a technical function?
- Does it perform a function that needs to be politically impartial?
- Does it need to act independently to establish the facts?

Policy options

In assessing NESTA's future, several options were explored before reaching our preferred policy option. All of the options considered except 'do nothing' would require legislation as NESTA was set up under the National Lottery Act 1998. The options considered were:

1. Do nothing

If the Government did nothing, NESTA would continue as an NDPB. This option was considered alongside the Government's three tests for a public body. In our view, NESTA does not meet these three criteria and therefore should not remain a public body.

2. Abolition

NESTA could be abolished and the endowment returned to the National Lottery Distribution Fund for redistribution. This option was rejected as there is currently no other suitable body to perform NESTA's functions. NESTA's valuable programmes for wider public benefit would cease and the public investment in NESTA via the National Lottery Distribution Fund would be lost.

3. Merger

NESTA could merge with another body which carries out similar functions or operates in a similar policy area. This option might enable NESTA to enhance its impact by providing a wider array of stakeholders and opportunities for future programmes and could include efficiencies and savings from sharing accommodation and back office costs. However, this option was rejected as there is no comparable organisation that NESTA could merge with without considerably altering its direction, brand, mission and activities.

4. Reconstitution of NESTA as a private sector body

NESTA's activities could be transferred to a private sector (non-charitable) body; either a company limited by guarantee incorporated under the Companies Act 2006 or a company incorporated by royal charter. The body should be non-profit as the Government considers the potential for private shareholders to profit from National Lottery funds in the form of the endowment to be inappropriate. This option was ultimately rejected as the need for suitable controls to ensure propriety of expenditure of the endowment is at odds with ensuring the level of Government control does not cause the new body to be classified to the public sector.

5. Reconstitution of NESTA as a charitable trust and charity

Subject to the approval of the Charity Commission, NESTA could be reconstituted as a charitable trust in the public sector which would hold NESTA's National Lottery endowment and a charity in the voluntary sector, a company limited by guarantee, which would apply the endowment in its capacity as trustee of the trust.

This would allow NESTA to continue its valuable work while protecting the endowment and further distancing NESTA from Government. This structure is based on the successful precedent of the Millennium Awards Trust created in 2003; an endowment established by the Millennium Commission and funded by National Lottery funds whose activities are carried out by the Foundation for Social Entrepreneurs (known as UnLtd). The trust would have oversight by a Protector, a person who has a duty to ensure the integrity of the administration of the trust and the propriety of its procedures.

The endowment would be held in the charitable trust in the public sector rather than directly transferred to the charity in the voluntary sector. This would ensure that Ministers maintain assurance for propriety of the way in which the National Lottery endowment is used as the Protector has the power to report matters of serious concern to the Secretary of State if the Protector considers it appropriate but the trust would not be directly monitored by Government. The Charity Commission has indicated that the majority of NESTA's current activities could be carried out by a charitable body to promote charitable objects for the wider public benefit in accordance with charity law. As NESTA's portfolio of projects changes from year to year as NESTA experiments and adapts to changing societal and economic challenges, neither the Government nor NESTA anticipate any negative effect on NESTA's work as a consequence of charitable status. The charity and charitable trust would comply with charity law requirements for accounts, annual reports and audits and would be subject to regulation by the Charity Commission.

The Government's preference is to see NESTA's work continue outside of the public sector while ensuring propriety of expenditure of the endowment. Neither abolition nor reconstitution as a private sector body would achieve this and a merger could dilute NESTA's effectiveness and mission. However, the proposal to reconstitute NESTA as a charitable trust and a charity enables protection of the endowment and enables NESTA to continue its work while enhancing NESTA's independence from Government and this is therefore the Government's preferred option.

Consultation responses

From October 18 to November 29 2011, BIS carried out a consultation exercise on our preferred option – to reconstitute NESTA as a charitable trust and charity. The consultation was aimed at employees and trustees of NESTA and anyone who has an interest in their work. In particular we sought views on our proposal from partners of NESTA in the public, private and voluntary sectors.

We received 27 responses to the consultation and there was strong support for our proposed policy option. As a result of our consultation, the responses did not highlight anything further about the estimated impacts of our transition, which we had not already considered during the consultation impact assessment. Nevertheless, the responses did give further weight to our proposal that NESTA does not need to be part of the public sector, and that it will benefit from having more independence from Government. Over 90% of responses agreed that NESTA would benefit from increased independence from Government. Responses highlighted that the change in status would improve NESTA's abilities to support innovation in the UK - allowing NESTA to be more effective and giving it "more freedom to be creative, innovative and at the forefront of the development of new ideas that can help drive positive economic growth". As the regulatory regime for charities is more suitable for an organisation focused on innovation such as NESTA, so it will be better able to form partnerships with external organisations and will be able to move more quickly and explore a wider range of innovations.

In addition, over 80% of the responses to the consultation concurred with our preferred policy option as the most suitable choice for NESTA, and agreed that we had explored all the options relevant to NESTA. As a result of our consultation, we will now proceed with our preferred policy option to abolish NESTA as an executive NDPB and reconstitute it as an independent charity with a charitable trust to hold the National Lottery endowment.

A full Government response to the consultation will be published in January 2012.

Costs and benefits for final policy option

Cost and benefit analysis for the Government's final policy option, to reconstitute NESTA as a charity and trust, is presented here. The cost of transition includes BIS staff costs, NESTA staff costs and legal costs necessary to implement the transition over a period of 18 months. There are additional ongoing costs for the role of the Protector – both remuneration costs and travel and subsistence costs.

The benefits of the preferred policy option include benefits from a reduced sponsor team in BIS over a period of ten years. Sponsor team responsibilities such as approving and laying of NESTA's accounts in Parliament and the OCPA-regulated appointments process for NESTA's board of trustees would no longer be necessary and these responsibilities would not need to be continued by NESTA staff following transition. Further benefits include reduced accounting, governance and report requirements for NESTA once they are no longer an NDPB, as well as cost savings associated with the printing of the annual report and accounts with The Stationery Office. Since consultation stage, we have also identified additional benefit calculations for savings from trustee remuneration costs.

BIS staff costs include Total Pay Cost which comprises annual salary, Earnings Related National Insurance Contribution (ERNIC) and Accruing Superannuation Liability Charges (ASLC). We have assumed constant wages and overhead costs at 30% of Total Pay Cost (based on Cabinet Office's *UK Standard Cost Model*). NESTA staff and legal costs were provided by NESTA. Savings are calculated for the 10 year period following transition. Future costs and benefits have been discounted at a rate of 3.5%.

Cost (PV) to Department for Business, Innovation and Skills for implementing transition: £138,854

Staff grade	Pay Cost (p.a.)	Overheads @ 30% (p.a.)	Time fraction	Total Cost (p.a.)	Cost (PV) (transition period)
HEO(D)	£36,205	£10,862	0.7	£32,947	£48,863
G7	£65,645	£19,694	0.4	£34,135	£50,625
G6	£81,671	£24,501	0.25	£26,543	£39,366

Cost (PV) to NESTA for implementing transition: £106,041

	Pay Cost (p.a.)	Overheads @ 30% (p.a.)	Total Cost (p.a.)	Cost (PV) (transition period)
NESTA staff	£20,000	£6,000	£26,000	£38,560
NESTA legal	£35,000	£10,500	£45,500	£67,481

Cost (PV) to employ Protector for Trust: £40,071

	Cost (p.a.)	Cost (PV) (10 years)
Protector remuneration	£5,000	£36,428
Protector expenses	£500	£3,643

The Protector of the Trust will be entitled to receive reasonable out-of-pocket expenses and remuneration. The exact amount has not yet been determined but is expected to be set at a similar level to that of the Protector for the Millennium Awards Trust who receives £5,000 per annum. There is no data available to suggest the exact amount of travel and subsistence costs for the Protector, as this will depend on frequency of meetings and distance of travel, so we have assumed expenses at 10% of the remuneration costs.

Total cost (PV): £284,966

Benefit (PV) for Department for Business, Innovation and Skills from reduced sponsor team: £399,311

Staff grade	Pay Cost (p.a.)	Overheads @ 30% (p.a.)	Time fraction	Total Benefit (p.a.)	Benefit (PV) (10 years)
HEO	£40,556	£12,167	0.5	£26,362	£192,064
G7	£65,645	£19,694	0.33	£28,446	£207,247

Benefit (PV) for NESTA from reduced accounting and reporting requirements: £304,903

Once NESTA is reconstituted as an independent charity it will have reporting responsibilities standard of that of a normal charity. As a result of moving out of the public sector, there will be a reduction in time and cost related to statutory reporting (reduced compliance with Whole of Government Accounts, Clear Line of Sight, and liaison with the BIS sponsorship team) as well as quarterly and monthly reporting to BIS (on outturn, cash balances, consultancy reviews, property, surveys on EU spend, procurement, capital employed etc); the time saving is estimated at 55 days per annum estimated at £21,500 per annum. While NESTA will have significantly reduced Government accounting requirements, there will be no reduction in quality of the functions that NESTA delivers.

In addition, NESTA will not be required to print an annual report for The Stationery Office for laying in Parliament saving £10,000 per annum in printing costs, as well as £3,000 per annum in staff costs for writing, editing and managing the print.

	Pay benefit (p.a.)	Overheads @ 30% (p.a.)	Total Benefit (p.a.)	Benefit (PV) (10 years)
NESTA staff	£24,500	£7,350	£31,850	£232,047
Printing costs	£10,000	N/A	£10,000	£72,856

Benefit (PV) for savings from trustees remuneration costs: £1,420,697

At present, trustees' remuneration costs are £140,000 annually, whereas under the new governance structure, trustees will no longer be remunerated. Under the assumption that this remuneration served as compensation for the trustees' time, this equates to a net saving of £140,000 per annum, all of which accrues to NESTA. Whilst the charity trustees will not be receiving remuneration, it is assumed that their volunteering for the role indicates that any personal cost they incur as a trustee is matched by a personal gain through volunteering. As such, no additional cost is incurred.

In addition, NESTA has previously recruited trustees through specialist professional head-hunter firms, as traditional routes did not deliver the calibre of trustees required. On average, NESTA recruit two new trustees a year and the recruitment head-hunters cost between £25,000-£30,000 per position filled. Once NESTA are reconstituted as an independent charity, they will be able to access the free online networks available for charities to recruit trustees.

	Benefit (p.a.)	Benefit (PV) (10 years)
Trustee salary costs	£140,000	£1,019,988
Recruitment fees	£55,000	£400,709

NET BENEFIT (Present Value): £1,839,944

There are no sensitivities around our policy option as the announcement of our preferred policy option in October 2010 was received positively by NESTA and NESTA stakeholders. There are no anticipated risks for NESTA or its activities as discussions with the Charity Commission have indicated that there will be no negative effect on NESTA's work as a consequence of their transition to charity status. There are no risks regarding reduced scrutiny of NESTA's accounts and activities as the charity will have to submit independently audited accounts, a Trustees' Annual Report and an Annual Return to the Charity Commission each year. As the charity will be a company limited by guarantee, the charity will also have to prepare a directors' report and accounts under the Companies Acts and file these with Companies House.

Specific impact tests

We will reconstitute NESTA as a charity and charitable trust which will enable NESTA to continue its valuable work in the voluntary sector. We do not anticipate any impact on:

- diversity;
- competition;
- small firms;
- carbon emissions or other wider environmental factors;
- health and well-being;
- the justice system;
- human rights;
- rural communities; or
- sustainable development

as a result of the preferred policy option.

Summary and next steps

Once the Public Bodies Bill has Royal Assent, we will seek Parliament's approval to abolish NESTA using the powers of the Public Bodies Act and reconstitute it as a charity and charitable trust. Along with the order to abolish NESTA as an NDPB, we will also lay in Parliament a transfer scheme to transfer the endowment and NESTA's investments portfolio to the trust and to transfer other assets, liabilities and staff to the new charity. The estimated transition date is April 2012.

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