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Article

Credibility and Agency Termination Under Parliamentarism

Stephen Greasley,* Chris Hanretty†

*University of Exeter; †University of East Anglia

Abstract

We investigate the life span and risk of termination of 723 arm's length agencies in the United Kingdom between 1985 and 2008, an under investigated question in parliamentary systems. We hypothesize that termination risk depends on three groups of factors: (1) factors relating to the rationales for initial delegation of responsibility to the arm's length agency; (2) factors relating to the political and economic position of the government; and (3) factors relating to the institutional form of the agency. We find that agencies intended to generate credible commitments in regulation are less likely than others to be terminated in any given year. Agencies operating under right-wing governments and under heavily indebted governments are more likely to be terminated, although left-wing governments are more sensitive to the effects of debt. Agencies structured as executive non-departmental public bodies and non-ministerial departments are also longer lived than others. Contrary to expectations about arm's length agencies in parliamentary systems with single-party government, partisan change does not affect the risk of termination.

Introduction

From the perspective of the regulatory state, the longevity of arm's length agencies is a strength. Long-lived independent regulatory agencies help reassure investors about the future regulatory environment, allowing investment decisions to be made efficiently. If agencies can be abolished easily, however, then the "credible commitment" problem is simply "relocated" rather than solved (McCallum 1995; Perino 2010). Politicians have also delegated power to arm's length agencies to solve other credibility problems in the political sphere relating to probity (how rigorous is the administration of politicians' expenses?) and technical expertise (how dangerous are illegal drugs?), but again the credibility generated by such delegation may be damaged if agencies are easily abolished.

Politicians do in fact retain and use the power to abolish agencies. This is understandable: since agencies are neither unbiased nor infallible, politicians wish to monitor agency performance and to constrain bureaucratic drift (Boin and Goodin 2007). As priorities change over time, politicians will want to ensure that the bureaucracy is reorganized to best deliver new programs. Terminating (or retaining) an arm's length agency thus involves a trade-off between the value of political control and the value of a reputation for stable and credible governance.

This article models the life spans of arm's length agencies in the United Kingdom, testing the hypothesis that agencies set up to deliver credible commitments will last longer as a result of this trade-off. We also test whether agency survival is related to political and economic factors. We test these hypotheses using data on British agencies spanning a 23-year period (1985–2008).

We begin by discussing the literature on agency termination in the United States and Europe, and argue that the literature has failed to test hypotheses regarding agency termination in parliamentary systems. We then describe a number of rationales for delegation,

Data and code for replication are available from the authors and in the process of being archived with the ESRC data archive. Address correspondence to the author at stephen.greasley@exeter.ac.uk.

and hypotheses derived from these rationales and from the broader literature. Section 3 then provides background information on the position of agencies in the British political system, together with illustrative examples of agency creation and termination. These cases also demonstrate the distinction between policy and agency termination. In Section 4 we explicitly defend our understanding of termination, before discussing, in Section 5, our data and our modeling strategy. Section 6 presents and discusses our results and Section 7 concludes.

Existing Work

Research on Agency Termination in Presidential and Parliamentary Systems

Since the early contributions of Kaufman (1976) and DeLeon (1978) a body of work has developed in the United States and Europe on agency and policy termination. Simplifying greatly, there are two broad research agendas concerning agency termination. A first research agenda uses inferential statistics on data from the United States to test hypotheses concerning the factors leading to agency termination (Boin, Kuipers, and Steenbergen 2010; Carpenter 2000; Carpenter and Lewis 2004; Lewis 2002, 2004; Meier 1980; Peters and Hogwood 1988). This literature has argued that party political factors—specifically the formation of an "unfriendly majority"—increase the risk that an agency will be terminated. Other features such as statutory protection and economic conditions are also considered. Though some research has moved on to discuss policy termination (Berry, Burden, and Howell 2010; Corder 2004), we argue below that in the UK context agency termination is distinct from policy termination.

A second research agenda uses descriptive statistics on data from across Europe to describe agency termination as part of a broader process of organizational change within the state (MacCarthaigh 2012; Nakrošis and Budraitis 2012; Rolland and Roness 2012; Sarapuu 2012). This literature, with some exceptions (Hajnal 2012), has proposed but not tested hypotheses concerning factors which matter for agency termination.

These two research agendas deal with presidential and parliamentary systems respectively. The findings of the first research agenda, based on the study of presidential systems, have dramatic implications for agency termination in parliamentary systems. The key difference between presidential and parliamentary systems is the absence in the latter of a separate institutional veto player (the presidency) (Tsebelis 2002). Additionally, most parliamentary systems are characterized by monocameralism or weak bicameralism, further reducing the number of institutional veto players. Some have argued that multiple partisan veto players are functional equivalents of institutional veto players (cf., Crepaz and Moser 2004; Tsebelis 1995). However, since in at least some parliamentary systems (the so-called Westminster democracies) government is characterized by alternation between two large cohesive parties, it seems that the risk of an "unfriendly majority" emerging is high, and thus that the expected duration of agencies given alternation in government is low.

Thus, if the factors which affect agency termination in the United States were also to affect agency termination in parliamentary systems, particularly those characterized by single-party government, then delegation to arm's length agencies would provide little additional credibility to government commitments to regulatory behavior, disinterested decision making and policy making informed by expert advice. Credibility cannot be generated in this system unless there is some constraint on agency abolition other than legislative veto players. To make this case, we must first unpack the notions of the arm's length agency, and the different rationales for initial delegation to agencies.

Arm's Length Agencies and Rationales for Delegation

By arm's length agency, we mean an agency which performs some public function; which is intended to perform this function in a manner that is institutionally at arm's length from ministerial direction; and which is staffed publicly (Talbot 2004, 5). There is a presumption that these agencies will carry out their objectives with a degree of autonomy and independence such that the government can credibly claim to have committed to a particular course of action, with limited scope for *ex post* adjustment by politicians. This makes our agencies distinct from some which are pure "delivery agencies," known as executive agencies in the UK context.

The agencies we study are established under different *rationales*. Rationales are publicly justifiable reasons for delegating.[1] As Elgie and McMenamin (2005) show in their analysis of French agencies the rationale for delegation affects the degree of independence agencies are given. Here, we argue that the rationale also affects the likelihood of agency termination and consider four different rationales: agencies set up to generate commitments in *regulation*, commitments to decision making characterized by *probity*, and to decision making informed

1 Rationales are different from explanations, which are often not publicly justifiable. Common explanations are effort reduction, blame shifting, or client politics: Bertelli 2012, 84–8; Fox and Jordan 2011; Hood 2002.

by *expertise*. The fourth rationale for an agency is to provide a platform for the *representation* of citizen and user groups in public policy and administration. This last group differs in that it does not necessarily involve any delegation of authority.

Our first rationale, *regulation*, is the most prominent in the literature on independent agencies in Europe (Gilardi 2002; Majone 1997), particularly but not exclusively economic regulation. Because governments are sovereign they have difficulty committing to particular policies and, in theory, can change direction when circumstances make such change favorable. The problem is particularly severe in Westminster systems with their combination of parliamentary sovereignty and a tendency toward single-party majorities (Moe and Caldwell 1994). Thanks to politicians' time-inconsistent preferences (Kydland and Prescott 1977), investors will be more cautious in their decisions if no institutional mechanisms exist to constrain policy change (Levy and Spiller 1995; North and Weingast 1989). Delegation to an agency that does not share the government's incentive to adjust the regulatory framework *ex post* (Gilardi 2002) can address this.[2] In the United Kingdom the utilities regulators—the Office of Gas and Electricity Markets (Ofgem), the Water Services Regulation Authority (Ofwat), and the Office of Communications (Ofcom)—are good examples of delegation to generate commitment in economic regulation. Though the challenge of commitment is particularly stark in economic regulation (Bertelli and Whitfield 2009), similar dynamics exist wherever governments use arm's length agencies to establish credible regulatory commitments to the rules under which some public or private activity occurs.

Our second rationale, *probity*, is used when politicians wish to signal that the output of an agency is "fair" and has not been influenced by partisan bias or a politician's self-interest. In the United Kingdom, the Arts Council for England is an example of an agency created under this kind of rationale: grant giving is formally at arm's length from politicians. *Probity* differs from *regulation* in that agency independence is not designed to ensure commitment across time, but rather the credibility of a particular kind of decision making. A hard institutional separation between the political design of the grant program and its implementation by an arm's length agency emphasizes this.[3]

Our third rationale concerns *expertise*. Where politicians are inadequately informed about the technicalities of a policy problem, governments sometimes delegate the responsibility to provide evidence or policy recommendations to an agency. Although decisions may still be taken by elected ministers, the existence of an expert arm's length agency provides some assurance about the quality of the information and analysis on which decisions are based, and where the advice is public it adds to the transparency of the policy process.

The first three rationales for delegation are all, to some extent, about depoliticizing (Burnham 2001) aspects of policy development or implementation, and/or removing some source of temptation from elected ministers. The fourth rationale for delegating concerns *representation*. In our data there are many agencies charged with representing interest groups in the policy process. Consumer or user councils established to monitor particular markets are some examples. These agencies act as a check on the bureaucracy, either directly or by sounding fire alarms to warn political principals about agency drift (Holburn and Vanden Bergh 2006; McCubbins and Schwartz 1984).

Hypotheses

Having clarified these four rationales for delegation, we now formulate hypotheses in terms of these rationales and add further hypotheses commonly found in the literature.

Hypotheses Based on Rationale

Governments benefit if they can convince external audiences that they keep their promises, act with probity, and listen to expertise. Delegating to an arm's length agency can help a government make the case for its credibility on these dimensions to relevant audiences. However, governments sometimes wish to engage in *ex post* adjustment of delegation. In some instances, this can be achieved by adjusting some of the details of the delegation and this approach may attract little attention. In other instances, however, the gap between government preference and the existing agency is such that more extensive reform is called for. There is a good chance that terminating an agency will be interpreted by external audiences as the government *either* seeking to reverse previous commitments in certain regulatory fields, *or* prioritizing particularistic aims over probity in decision making, *or* limiting the role of evidence in public policy making This reputational damage will result in forgone benefits for the government.

Given these forgone benefits, we hypothesize that:

H1a. Agencies whose rationale is to provide credibility in regulation, probity, or expertise will live

2 Agency preferences are additionally assumed to be stable over time and independent of investors' actions.

3 See, Flinders (2008, 236) on public distrust in politicians as a reason for delegation. Political impartiality was one of the tests applied in the recent review of public bodies (Public Administration Select Committee 2011, 7).

longer than agencies which have representation as their rationale

H1b. Agencies whose rationale is to provide credibility in regulation will live longer than agencies with other rationales

Given our emphasis on the initial rationales for delegation, and given that these initial rationales are known to affect the structure of agencies (Elgie and McMenamin 2005; Gilardi 2002, 2005), it is important to recognize that agency structure may also pose barriers to termination. Our dataset includes five types of agency, as discussed in the next section. Broadly, these differences in type match differences in staffing and expenditure: agencies labeled "executive non-departmental public bodies," "non-ministerial departments," or "public corporations" are in general more substantial and consequently more costly to abolish than the others in our dataset.[4] We postpone discussion of the full array of agency types to the next section, and for the moment limit ourselves to the hypothesis that:

H2. Agencies which are non-ministerial departments (NMDs), executive non-departmental public bodies (NDPBs), or public corporations will have a lower likelihood of termination than all other agencies

Hypotheses Based on Party Politics

Agency termination is closely related to party politics in the US research (e.g., Lewis 2003). This is true also for agency termination in parliamentary systems. Rolland and Roness (2012, 785–87) link changes in the rates of agency formation and termination to seven different periods in Norwegian party government. Nakrošis and Budraitis (2012, 829) find that wholesale coalition turnover is associated with greater organizational change (including termination) than partial coalition turnover.

The quantitative analyses of partisan politics and agency termination have assumed that parties' positions along a spatial dimension structure the creation and termination of agencies, in two ways (Lewis 2002, 2004). First, insofar as parties on the right wish to demonstrate that they prefer a smaller state, and insofar as arm's length agencies are primarily funded by the state and are important as political symbols of an expansive state, we might expect an effect of *political orientation*. Note that we do not assume that abolishing agencies is always an effective way of cutting government expenditure or activity, for example, by terminating policies. Agency abolition has often been used as a political strategy for signaling a right leaning government's cost cutting credentials to its supporters and the electorate.[5] Specifically, we hypothesize that,

H3a. The risk of agency termination will be greater under right-wing governments than under left-wing governments

Second, insofar as agencies reflect the political preferences of the governments that established them, there are good reasons for *political turnover* to result in higher rates of agency termination. If governments "stack the deck" (McCubbins, Noll and Weingast 1987) when creating new agencies, then since incoming governments dislike policies enacted at positions far from their own, the incentive to shut down (and optionally reestablish) a regulator created by an opposing and ideologically distant coalition is greater. Consequently, we hypothesize that:

H3b. The greater the policy distance between the current government and the government which established the agency, the greater the risk of agency termination

Hypotheses Based on the Economic Environment

The total resources available to support agencies are very loosely constrained by the government's fiscal position. Though "the termination of agencies ostensibly to improve economy and efficiency [often] ... has political overtones" (Lewis 2002, 91), high government deficits may make it easier, or necessary, for governments of different ideological positions to cut down on the size of the state. This effect is ambiguous: while higher debt may imply greater urgency in cutting the bureaucracy (or being seen to cut the bureaucracy—see discussion around H3a) and thus imply higher risk of agency termination, it may also make the short-term costs of agency termination too high. Nevertheless, we hypothesize that:

H4a. The higher the level of government debt as a percentage of Gross Domestic Product (GDP), the higher the risk of agency termination

However, the effect of debt varies according to the political complexion of government. Persson and Svensson (1989) have argued that right-wing parties are more sanguine about increasing government debt, as it limits the options for left-wing parties to engage in high spending. A version of this argument argues that right-wing parties intentionally cut taxes without identifying corresponding expenditure savings in order

4 We were unable to find reliable and comprehensive data on costs and staffing over the period of study.

5 That agency termination may be important both symbolically and in genuine cost terms, supports the encompassing definition of termination, discussed below.

to "starve the beast." Irrespective of the source of the deficit, we argue that:

> H4b. The effect of government debt on agency termination is larger under left-wing governments than under right-wing governments

These hypotheses concerning the initial rationale for delegation, the structure of the agency, the effects of political turnover and political orientation in government, and the effects of the government's fiscal position are applicable across parliamentary systems. In the next section, we discuss particular features of the British context, the link between our hypotheses and the British experience and provide three illustrative case studies of agency birth and termination.

Arm's Length Agencies in Great Britain

In Britain the key bureaucratic structure has traditionally been the ministerial department, led by an elected politician drawn from the cabinet. This structure is linked to the constitutional convention of ministers being responsible (or at least accountable) to Parliament for the actions undertaken by the departments they head. Alongside these core structures, however, there has long been a diverse group of organizations, outside the classic chain of ministerial accountability and acting on authority delegated to them ultimately from Parliament. The justification given for these arm's length agencies is that departments led by ministers have difficulty generating the types of credibility we discussed earlier, though the development of this British system of delegated governance has often been ad hoc and unsystematic (Flinders and McConnel 1999). We focus on three categories of agency: NMDs, public corporations, and NDPBs (Cabinet Office 2011). The last of these has three subcategories. This is not the whole universe of public organizations. Other bodies such as "executive agencies" and National Health Service bodies are focused on efficient task completion rather than establishing a level of independence from political control. We also exclude Scottish, Welsh, and Northern Irish agencies, the organization of which was affected by devolution, and which for much of our period operated under distinct political systems. A comparative account of various agency structures can be found in Verhoest et al. (2012). The chapter on the United Kingdom in that volume focuses on executive agencies, one of the types of organization we exclude (James et al. 2012).

Non-Ministerial Departments

NMDs are government departments, staffed by civil servants, established by legislation but headed by a statutory board, or a Director-General, rather than their own elected minister. This structure is intended to protect NMDs from political direction by the incumbent government. Each has a sponsoring department through which it is accountable to Parliament. Many economic regulators are NMDs (e.g., the sector regulators mentioned earlier), as are some noneconomic regulators.

The Food Standards Agency (FSA) illustrates some of the complexities of the politics around agency rationale. The FSA, a regulatory agency, was established in 2000 in response to a decade of food scares, starting with salmonella-infected hens' eggs in the late 1980s and continuing with scares about *Escherichia coli* and bovine spongiform encephalopathy in the 1990s. In the words of an official review of food safety policy at the time, the catalog of food scares that "faced the British public in the last ten years has eroded – some would say destroyed – confidence in the current system" (James 1997, Part 1, sec. 4). The decline in public confidence in food regulation was also a threat to agricultural interests through diminished demand for produce and through the overreactions of politicians to food scares. The establishment of the FSA was aimed at rebuilding public confidence and it has also been interpreted as a response to the interests of major food retailers, who have a stake in a credible quality assurance system (Wales, Harvey, and Warde 2006).

The weaknesses of the previous system were diagnosed as a lack of political independence from Government and a conflict of interest in the politician-led Ministry of Agriculture, Farms and Fisheries (MAFF) which was responsible for both promoting agricultural interests and ensuring food safety. The Labour party was able to portray the incumbent Conservative government as favoring special interests over consumer safety and in the run up to the 1997 election Tony Blair, then leader of the opposition, called for "… a proper, independent food standards agency that can look into these matters and monitor them on behalf of the public."[6]

After winning the 1997 general election the Labour government set about establishing the FSA as well as moving its sponsorship from MAFF to the Department of Health. Legislation was passed in 1999. In addition to food safety the FSA was also given responsibility for authentication and food labeling.

Early in its period of operation the FSA demonstrated its independence by failing to support ministerial claims about the health benefits of organic food. It also disappointed campaigners by declining to support campaigners' claims about the adverse effects of genetically modified foods (Flynn et al. 2004). At the end of the period covered by our research (2008) the FSA

6 Hansard, HC Deb March 11, 1997 vol. 292 cc 136–42.

had survived and was largely unreformed. However, press reports after the 2010 election suggested that the new Conservative-Liberal Democrat government was considering abolishing the agency (Ramesh 2010). The FSA survived but was significantly reformed, losing responsibility for food labeling (where it had advocated against retailers' interests) and authenticity, both functions being returned to minster-led departments. The Agency retained responsibility for food safety.

These changes demonstrate that reforms short of abolition can be important but also that the government backed away from its initial intention to abolish the organization entirely. Crucially, they also illustrate the political risks of reform and abolition. When a new food scandal developed—horse meat being passed off as beef in ready meals—the National Audit Office and the chair of the relevant select committee both linked the scandal to the 2010 reforms (N.A.O. 2013, 7).

One of the NMD that has been abolished is OFLOT—the Office of the National Lottery. OFLOT was established to allocate a license to provide a new national lottery in the early 1990s, to regulate the lottery when it was established, and to ensure the operator maximized revenues for charitable causes. *The National Lottery etc. Act 1993* set up the national lottery and established the role of Director-General of OFLOT. Dissatisfaction with the way the lottery was being run quickly grew. A report by Parliament's Public Accounts Committee (1997) criticized the Director-General and was followed in early 1998 by a libel case involving two of the competitors for the original national lottery license (BBC 1998). The outcome of the case triggered the resignation of OFLOT's Director-General.[7] In April of that year, the Secretary of State announced that OFLOT would be replaced by the "National Lottery Commission." The decision to terminate OFLOT thus results from specific failings of the organization, combined with the arrival of an unfriendly majority (a new Labour government) which at the time ostensibly favored a nonprofit lottery operator and was also seeking to strengthen the powers of the regulator vis-à-vis the incumbent lottery operator.

Non-Departmental Public Bodies

A *NDPB* is "a body which has a role in the process of national government but [which] is not a government department or part of one, and which accordingly operates to a greater or lesser extent at arm's length from ministers" (Cabinet Office 2011, 10). There are three subtypes of NDPB.

- Executive NDPBs have their own legal personality and are usually established under the Companies Act. They carry out some combination of administrative, commercial, executive technical, or regulatory functions. Examples include the Competition Commission, the Arts Council (England), and the Medical Research Council
- Advisory NDPBs are established to "provide independent expert advice to ministers on an ongoing basis" (Cabinet Office 2011, 12). They rarely have a separate budget and often have limited staff support
- Tribunal NDPBs are normally concerned with "the rights and obligations of individuals towards a branch of government or other public authority" (Cabinet Office 2011, 13). They provide courts of appeal for some regulators: for example, the Competition Appeals Tribunal acts as an appeal body for Competition Commission decisions.

Some of our agencies are not highly salient to the public. The Apple and Pear Research Council (APRC) was an Executive NDPB established in 1989[8] to provide "near-market research of general benefit to the apple and pear industry" based on a levy paid by growers (CfAS 2002). The rationale for APRC was primarily expertise in this sector of the agricultural market. Two factors contributed to the APRC's demise in 2003. One was that the industry shrank over the period. The second was a critical review of performance in 2002 (CfAS 2002). The report recommended that the APRC be merged with another Executive NDPB, the Horticultural Development Council. Although the report uses the phrase "merger," the process was described more accurately in the House of Lords: "to transfer the work of the Apple and Pear Research Council to the Horticultural Development Council by *dissolving* the Apple and Pear Research Council and extending the HDC's remit to include apples and pears."[9] Thus in our data the HDC is coded as surviving, while the APRC is abolished.

Executive NDPBs are the most diverse group of agencies in our data. Ranging from the relatively small scale such as the APRC to much larger and salient organizations such as the Audit Commission (a regulator of public sector organizations), the National Crime Squad, and the Competition Commission (which enforces competition law). Not all NDPBs (Executive or otherwise) require legislation. The Westminster Foundation for Democracy was established under Government's prerogative powers with the aim of democracy promotion in emergent democracies. The most numerous group in our dataset are the Advisory NDPBs. They range from specific areas that require technical and independent expertise (Defence Nuclear

7 Hansard, HC Deb February 04, 1998 vol. 305 cc1049–59.

8 *Apple and Pear Research Council Order 1989*, available online at http://www.legislation.gov.uk/uksi/1989/2277/contents/made.

9 Hansard, HL Deb March 20, 2003 vol. 646 col 448, emphasis added.

Safety Committee) to representative groups (Ethnic Minority Business Forum) to a body that oversees political ethics but without any enforcement powers (Committee on Standards in Public Life).

Public Corporations

The final type of body we look at is the public corporation. These are primarily funded by fees from users or other sources. Examples include the broadcaster Channel 4 and the Commonwealth Development Corporation. In the early part of our period this category also included nationalized industries. An example of a public corporation is the Independent Television Commission (ITC). The Broadcasting Act 1990 dissolved the previous Cable Authority and the Independent Broadcasting Authority and replaced them with the ITC. The Commission was responsible for selling licenses to private sector broadcasters and monitoring adherence to standards set out in the licenses while simultaneously taking into account plurality of ownership. As part of that role it was responsible for balancing programming quality criteria against price. The chair of the relevant select committee indicated that organizational change was intended to signal a change in the way regulation would be delivered, weakening the role of government and encouraging competition and choice: "…it is important that the change from the IBA to the ITC should be a watershed marking the change from detailed regulation to a looser licensing arrangement. The change is now clear."[10]

The potential clash between political goals and independent decision making was illustrated in the first year of the ITC's operation when it chose not to allot a license to an incumbent broadcaster. Then Prime Minister Margaret Thatcher wrote to the losing broadcaster's chairman: "When I see how some of the other licences have been awarded I am mystified that you did not receive yours and heartbroken. I am only too painfully aware that I was responsible for the legislation."[11]

The Communications Act 2003 replaced the ITC with the Office of Communications (Ofcom) which also took over the regulatory functions of four other agencies. It might be argued that this does not constitute agency termination but as Hardy (2012, 523) writes "these regulators reflected different traditions and orderings of value, not merely different sectors of activity." The new organization bringing these different traditions together could be expected to behave very differently from the original organizations even if formally the policy to be implemented was unchanged. It is likely, therefore, that television broadcasters, production companies, and interest groups would take the end of the ITC to signal that their previous assumptions about the regulator's behavior were no longer sound.

Interpreting British Agencies

The preceding examples help illustrate the contours of the notoriously fragmented British delegated state. They also illustrate three key points that are important for our analysis. First, credibility matters. The FSA was formed to address credibility issues and received a stay of execution thanks to the need to maintain credibility. Second, there are good prima facie reasons to believe that partisanship matters. Both the ITC and OFLOT were terminated by unfriendly majorities. Third, agency termination is distinct from policy termination. There is, therefore, value in investigating whether rationale-based, political and structural features affect the risk of agency termination.

These different factors play out within a relatively simple political and institutional context. From 1985 to 2008, Britain was governed by eight different single-party governments: four Conservative governments led by Margaret Thatcher (1983–1987; 1987–1990) and John Major (1990–1992; 1992–1997), respectively, and four Labour governments led by Tony Blair (1997–2001; 2001–2005; 2005–2007) and Gordon Brown (2007–2010), respectively. During the early part of this period, the Labour and Conservative parties disagreed over the privatization of nationalized industries, a policy which required market-enforcing regulation and private sector buy-in (Moran 2003). For these reasons, Great Britain is an important case in which to test general hypotheses about agency termination.

Agency Termination

The Proper Explanandum

The preceding sections have put forward several hypotheses concerning agency termination, and the specifics of agencies in the United Kingdom. In this section, we argue for a particular understanding of agency termination as distinct from policy termination and which includes terminal events like mergers or replacement, before going on to discuss our data on agency termination.

The continuation or demise of specific agencies is a subject worthy of study in its own right, distinct from the study of policy termination. Over time, agencies can develop procedures, cultures, track records, and reputations which signal—to both politicians and external audiences—that they are robustly independent of political influence, such that any new agency implementing the "same" policy would be subject to greater scrutiny on account of having accumulated

10 Hansard, HC Deb February 8, 1989 vol. 146 col 1026.

11 Hansard, HC Deb October 17, 1991 vol. 196 col 452.

lower reserves of reputation. There will be a period in which the relevant publics reserve their judgments about a new agency until it develops its own reputation. The generation of credibility is about perception management and it is built around particular, named, agencies with specific track records. As Carpenter and Krause (2012, 26) write: “Organizational reputation is defined as a set of beliefs about an organization’s capacities, intentions, history, and mission that are embedded in a network of multiple audiences.” To abolish, merge, rename, or otherwise signal a discontinuity in an organization’s life is to wipe away these embedded beliefs and start again. With some agencies this may not carry great cost for a government, but with others—those that regulate important activities, that embody a commitment over time—it is likely to be a much more serious consideration.

Our focus, then, is on understanding agency termination events that may lead relevant publics to reassess their beliefs about the character of policy implementation. This leads to a more encompassing definition of termination than some scholars have used. Rolland and Roness (2011), for example, propose six different termination events (pure termination, termination through absorption, termination through exit from the public sector, termination due to reorganization, termination due to merger, and termination due to splits), all of which we include under our heading of termination. We do not attempt, and the focus of our research does not require us, to make fine-grained distinctions between these different types of termination. The next subsection describes how we went about measuring termination and other variables.

Data

Information on independent agencies in the United Kingdom is not well organized or consistent over time. There is no canonical listing of terminated agencies equivalent to the listing found in the United States Government Manual, used by Lewis (2002) and others. In this section we set out how we went about identifying the start and end year of our agencies and highlight some of the uncertainties in the data.

We use two sources of primary data: the annual Cabinet Office publication *Public Bodies*, which we used for information on NDPBs and public corporations; and the *Civil Service Yearbook*, which we used for information on NMDs. We used these publications to create our dependent variable, whether or not an agency was terminated in a given year (thus, our unit of analysis is the agency–year). Over our time period these publications do not consistently list terminations in a given year, but do list those agencies which were present in a given year. We considered an agency to have been terminated in year *j* if it did not appear in the edition of *Public Bodies*/the *Civil Service Yearbook* for that year and did not appear in the subsequent edition either. Cases where an agency did not appear in year *j*, but reappeared in year *j+1*, were treated as scribal errors. Cases where an agency did not appear in *Public Bodies* for two consecutive years, but which subsequently reappeared under the same name or a similar name, were treated as refoundings.[12]

The resulting list of potential terminations was manually checked. We searched Hansard and Nexis in order to find more detailed information on each potential termination. Where we could not find data relevant to agency termination, we assumed that the information contained in *Public Bodies* was accurate and entered the termination year for the agency as the first year in which it failed to appear in *Public Bodies*. If we found information relevant to agency termination which did not match the information implicit in *Public Bodies*, we assumed the information contained in *Public Bodies* was flawed and amended the date of termination (or, in some cases, the fact of termination itself). In a limited number of cases (agencies with multiple regional units, only some of which were terminated) we removed entries from our data.

The pattern of agency birth and termination for the years 1985–2008 is illustrated in figure 1. Note that the terminations columns refer only to agencies born in 1985 or later. The median age at termination is 10 years, slightly shorter than the equivalent figure for US agencies found in Carpenter and Lewis (2004).

Each of the agencies in the data was hand coded by the authors in terms of its dominant rationale. We used the four categories discussed earlier (regulation, probity, expertise, representation). We refer to the dominant rationale because those agencies that are regulators often also signal probity and employ expertise. Agencies are categorized according to the most encompassing rationale. Thus, regulation is more encompassing than probity which in turn is more encompassing than expertise. We use the fourth rationale—representation—as the baseline category in the statistical analyses that follow. The authors coded each agency separately. This resulted in a percentage agreement of 76%, and a Krippendorff’s alpha coefficient of 0.57. The authors subsequently discussed discordant codings, revised the coding guidelines, and agreed on consensus codings.

In order to measure the political orientation of the government in any given year, we use data from Hakhverdian (2009), who produces annual measures of government policy position on a left-right dimension through automated content analysis of annual

12 Our results do not change significantly if these refoundings are treated as continuations, or indeed if they are dropped from the data.

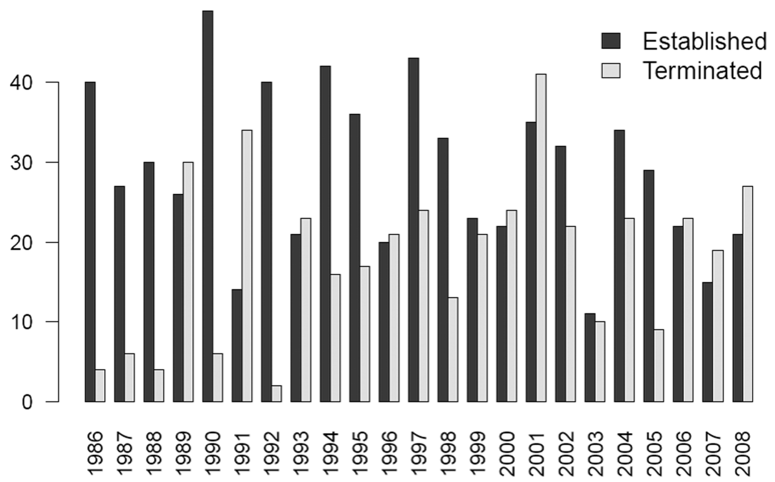

Figure 1. Foundings and terminations over time.

budget speeches. We carry the last value forward to 2007. Policy positions to the left receive lower scores; positions to the right higher scores. We use this value to measure policy orientation and also to calculate the effects of political turnover, or political distance. Political distance is the absolute distance between the left-right position of the enacting government and the current government.

Information on levels of government debt as a percentage of GDP was taken from the HM Treasury Public finances databank.[13] Table 1 shows summary statistics for each of these variables. Continuous variables were subsequently standardized to have zero mean and unit standard deviation (SD) before conducting the analysis.

Modeling

Our dependent variable is a duration in years which suffers from right-censoring, in that some of the agencies in our data were still alive at the end of our period of observation. The proper statistical model for this kind of dependent variable is a survival model. Both parametric and nonparametric survival models are available, and some authors have argued for theoretically informed parametric distributions concerning the underlying hazard function (Carpenter and Lewis 2004). Since our knowledge of agency survival outside of presidential systems is much more limited, we opt for a nonparametric Cox proportional hazards regression. This assumes that agencies share the same underlying and unknown hazard rate, which is multiplied by the effect of the associated covariates.

This last assumption can be tested by examining the Schoenfeld residuals for each independent variable as a function of time (Grambsch and Therneau 1994). We found that some variables violated the proportional hazards assumption. Consequently, the models reported include interaction terms between public company status and time, between public company status and time squared, between debt and time, and between debt and time squared. What this means substantively is that the level of protection (or risk) for an agency from a factor changes with the age of an agency. In our results section we present these results graphically. In certain cases, the predicted hazard rates are out-of-sample predictions. Thus, we have very few public companies which lasted more than 15 years. Consequently, beyond this point predicted hazard rates are extrapolations from a narrower timespan.

Table 2 shows the results of this survival model. The left-hand column shows the values of the coefficients and their associated 95% confidence intervals. The right-hand column shows the hazard ratio associated with each coefficient, or the change in the risk of termination in a given year associated with a one unit increase in the relevant variable, where values greater than one indicating an increased risk.

The overall fit of the model, as measured using Harrell's concordance measure,[14] is average: at 0.683, it is just below the 0.7 rule-of-thumb for use in clinical prognostic models (Hosmer and Lemeshow 2000, 162). The pseudo R^2 is low, as is typical for models of this kind.

We begin by discussing the effects of different rationales. We hypothesized that agencies with rationales other than representation would face a lower risk

13 Accessed on February 28, 2012.

14 Harrell et al. (1984) explains the concordance measure in the clinical context as follows: "the index c estimates the probability that, of two randomly chosen patients, the patient with the higher prognostic score will outlive the patient with the lower prognostic score. Values of c near 0.5 indicate that the prognostic score is no better than a coin-flip in determining which patient will live longer. Values of near 0 or 1 indicate the baseline data virtually always determine which patient has a better prognosis."

Table 1. Summary Statistics by Agency–Year

Variable	*N*	Mean	Min	Max	SD	Source
Function: Probity	5,713	22.90%				Public Bodies
Function: Regulation	5,713	23.00%				Public Bodies
Function: Technical	5,713	40.20%				Public Bodies
Function: Representative	5,713	13.80%				Public Bodies
Type: Executive NDPB/NMD	5,713	41.60%				Public Bodies
Type: Public companies	5,713	3.20%				Public Bodies
Type: Tribunal	5,713	7.80%				Public Bodies
Type: Advisory	5,713	47.30%				Public Bodies
Abs. change in govt. pos'n., L-R scale, 1-year lag	5,713	9.17	0	43.3	8.47	Hakhverdian (2009)
Govt. pos'n., L-R scale, 1-year lag	5,713	22.07	9	52.3	10.27	Hakhverdian (2009)
Debt as percentage of GDP, 1-year lag	5,713	35.46	26	52.5	5.03	HM Treasury Public Finances Databank

Note: For continuous variables, these figures refer to variables before standardization. Coefficients in the survival model use standardized variables.

of termination. We find that all of these rationales are associated with a statistically significant decrease in the risk of termination, confirming Hypothesis 1(a), although this effect is only significant at the 5% level for agencies having regulation as their rationale. The size of the effect is considerable, and greater than any of the political/economic factors. Although the size of the effect for agencies having regulation as their rationale is greater than effect for other rationales, the confidence intervals overlap, meaning that we cannot confirm Hypothesis 1(b).

We move on to discuss the effects of structure. As expected, executive NDPBs/NMDs face a significantly lower risk of termination than advisory NDPBs, confirming Hypothesis 2. The same is not true of public corporations, which exhibit a changing risk profile over time. Figure 2 plots the effect, in terms of the hazard ratio, of being structured as a public corporation, over time. Hazard ratios are plotted relative to the sample means, except for plotted variables. Public companies face a much higher risk for the first to fifth years of their life, which corresponds to the average agency age across all agency–years. For the next 5 years, they approach the relatively low hazard ratio faced by executive NDPBs, but as the agency enters its teens, it becomes increasingly likely to be terminated (keeping in mind the point made earlier regarding extrapolation). This corresponds to a pattern where public companies exist either for a short time pending the sale of all government shares and complete privatization, or for a longer time due to more fundamental restructuring.

We turn finally to the effects of political orientation and political turnover. There is no statistically significant effect of facing a majority which is ideologically distant from the government which established the agency—an unfriendly majority, to use the terminology of Lewis (2002). Thus, we cannot confirm Hypothesis 3(b). There is a statistically significant effect of political orientation, but the interpretation of this effect is complicated by the interaction between political orientation and debt. Figure 3 plots the effect, in terms of the hazard ratio, of different government "types," over different levels of debt. Agencies operating under a "right-wing" government (understood here as a government which has a policy position equal to the mean of our left-right scale plus one SD) face a hazard ratio that is higher than the baseline government (understood as a government which has a policy position at the mean of our left-right scale), for low to moderately high levels of government debt, for agencies with average age.[15] After this point, it is agencies operating under a left-wing government which face a higher risk of termination. This is consistent with Hypothesis 3(a) concerning right-wing governments (since the effect on termination is positive for the average level of government debt), Hypothesis 4(a) concerning the effects of debt (since the effect on termination is positive for the average government), and our more specific expectation about the greater sensitivity of left-wing governments to debt (Hypothesis 4[b]).

The substantive import of our findings can be made clearer by contrasting those agencies for which we predicted the greatest average risk of termination over the course of their life with those agencies for which we predicted the lowest such risk. The Gangmasters Licensing Authority had one of

15 This last detail is important, because the effect of debt enters into an interaction with time. The effect of greater-than-average debt on agency termination is negative for very young agencies, and for older agencies, but positive for agencies in their third to seventh years.

Table 2. Cox Proportional Hazards Model of Agency Termination

Variable	Coefficient	Hazard Ratio	
Function: Probity v. Representation	−0.311	0.732	†
	(−0.658, 0.035)	(0.386, 1.079)	
Function: Regulation v. Representation	−0.687	0.503	***
	(−1.089, −0.284)	(0.101, 0.906)	
Function: Technical v. representation	−0.277	0.758	†
	(−0.557, 0.002)	(0.478, 1.037)	
Abs. Change in govt. pos'n, L-R scale, 1-year lag	0.001	1.001	
	(−0.115, 0.116)	(0.885, 1.116)	
Gov't. Pos'n, L-R scale, 1-year lag	0.170	1.185	**
	(0.059, 0.281)	(1.074, 1.296)	
Debt (% GDP), 1-year lag	−0.291	0.747	*
	(−0.555, −0.027)	(0.483, 1.011)	
Type: Executive NDPB *or* NMD v. Advisory NDPB	−0.609	0.544	***
	(−0.864, −0.354)	(0.289, 0.799)	
Type: Public company v. Advisory NDPB	2.673	14.481	***
	(1.865, 3.480)	(13.673, 15.288)	
Type: Tribunal v. Advisory NDPB	−0.079	0.924	
	(-0.604, 0.446)	(0.399, 1.449)	
Govt. L-R pos'n. × Debt, 1-year lag	−0.119	0.888	*
	(−0.223, −0.014)	(0.784, 0.993)	
Public company × time	−0.713	0.490	***
	(−1.089, −0.337)	(0.114, 0.866)	
Public company × time^2	0.039	1.04	***
	(0.016, 0.061)	(1.017, 1.062)	
Debt × time	0.135	1.145	**
	(0.038, 0.232)	(1.048, 1.242)	
Debt × time^2	−0.013	0.987	***
	(−0.020, −0.006)	(0.98, 0.994)	
Log-likelihood	2371.99		
Akaike information criterion	4771.99		
Pseudo R^2	0.028		
Concordance	0.683		
N (agency–years)	5,713		
N (agencies)	723		
N (termination events)	420		

Note: Two-tailed significance tests: †p< .1; *p < .05; **p < .01; ***p < .001. (95% confidence intervals in parentheses).

the lowest average predicted risks over the period in which it features in our data (2005 onward). It is a regulator concerned with the supply of workers in three sectors: agriculture, horticulture, and shellfish cultivation. It has a low predicted risk of termination not just due to its characteristics as an regulator, but also to the fact that it was operating under a Labour government with (at the time) comparatively low levels of public debt.

Those agencies with the highest lifetime average risk include those public companies which were established as a result of the process of privatization. The agency with the highest average risk is the Eastern Electricity Board plc., which was the successor to the long-lived Eastern Electricity Board. One of the regional electricity companies created by the Electricity Act 1989, it survived as a public company for 1 year before its privatization as Eastern Group, the remains of which are now owned by E.On and EDF. The high predicted hazard rate of this body is due not only to its status as a public company, but also to the period: according to our annual left-right positions, the Thatcher government between 1988 and 1989 (which enters into our model as a lagged predictor for 1990 and 1991) was at its most right-wing (with the exception of a brief peak before in 1987).

Conclusion

We began this article by discussing the relationship between agency survival in parliamentary systems, and the specific rationales for which those agencies are often created. We raised the possibility that the benefits of decision making by independent agencies might be undone if governments terminated agencies at high rates.

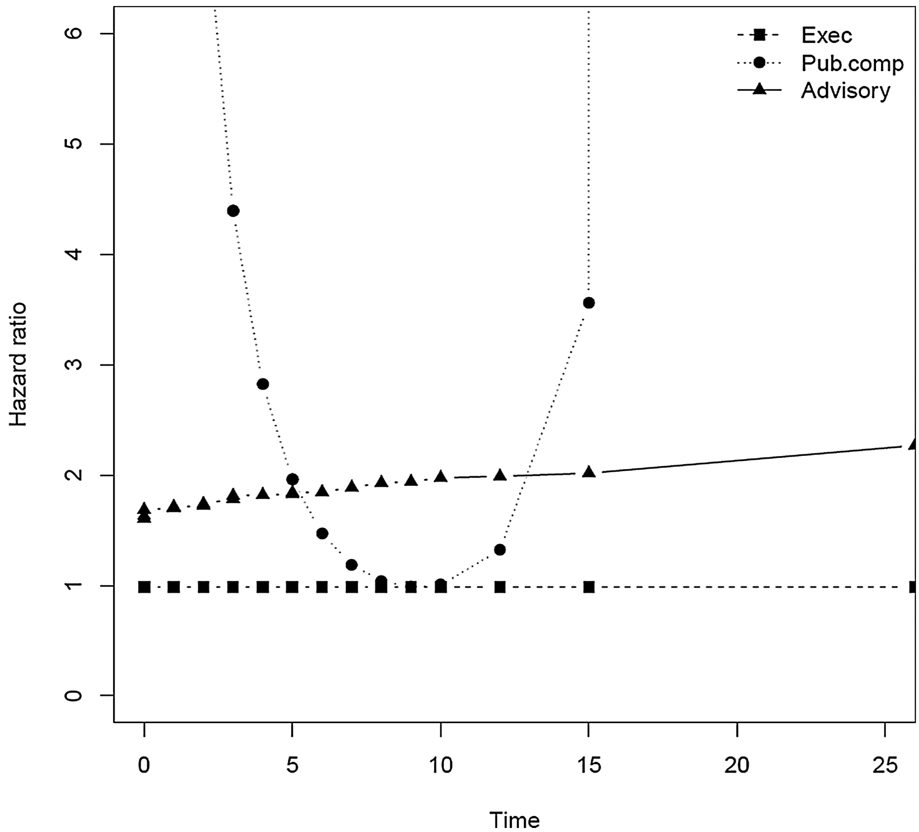

Figure 2. Effects of public corporation status over time.

We have found some evidence that governments in one parliamentary democracy take into account the rationales of agencies when they consider whether or not to terminate them, in that economic regulators—the regulators for whom ideas of credible commitment over time are most salient—are less likely to be terminated in any given year than noneconomic nonregulators.

This effect might have been expected to be stronger if our other key hypothesis had been borne out, that is, if governments had set about terminating the agencies established by previous ideologically distant governments. The absence of such a finding must cause us to reconsider the appropriateness in the United Kingdom of certain assumptions about government decisions to terminate agencies. It may be that our initial assumption—that governments wish to terminate agencies established by previous ideologically distant governments—was incorrect because governments outside of the United States do not in fact "stack the deck" when creating these agencies. Or, it may be that one-party majority governments see themselves as playing a repeated game, where decisions to terminate ideologically "unfriendly" agencies will lead to tit-for-tat terminations in a later period by governments of a different ideological position (Spiller and Tommasi 2003).

A third possibility is that policy change does not predict abolition because agencies respond (enough) to *ex post* political direction to protect themselves. Bertelli (2008) has already suggested that arm's length agencies are subject to a form of *ex post* political control, and that this can be seen in the way in which agencies' reporting requirements are revised, suggesting that arm's length agencies should be somewhat responsive to the current government's policy position. The 'somewhat' is important. The literature on credibility and the Westminster system has often dealt in absolutes, but to the extent that setting up an arm's length agency increases the political cost of reneging on commitments, placing limitations on what would otherwise be done, then such agencies do add some credibility, if not complete political independence. But if governments can perfectly command arm's length agencies, then terminating an agency would serve no purpose for purely policy-seeking politicians.

Our finding with respect to policy change in government runs counter to the expectations of an American literature on agency termination. To the limited extent that authors have tested for the effects of change in policy position on agency termination in parliamentary systems, it also runs counter to that literature. This finding is particularly counterintuitive given our expectations surrounding the likely magnitude of this effect in Westminster systems. That is, we expected to find a

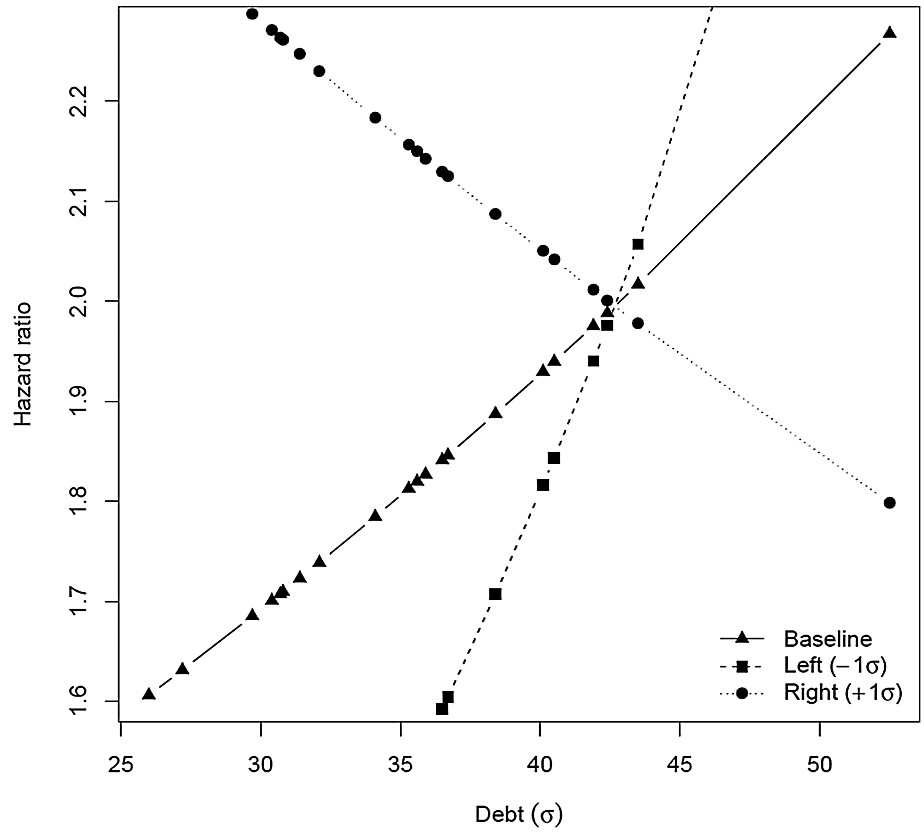

Figure 3. The effects of government ideology over levels of debt.

systematic effect, and we expected it to be big. In reality, the effect, if there is one, seems to be close to zero.

It is important to note that we have demonstrated this lack of effect without, at the same time, finding that agency termination is completely unresponsive to the politics of the day. The current position of a government on the left-right dimension clearly affects the risk of agency termination. Whatever else might be responsible for the relative endurance of delegation across contrasting governments, it is not due to a complete disconnect between policy position and arm's length administration.

There is, of course, a danger inherent to extrapolating beyond the period under study. The structures of the British regulatory state and other areas of delegated governance were built in a political environment that may no longer exist. That environment was characterized by long periods of single-party majority rule with few "close" elections. It seems unlikely that these features will hold in the future. The consequences for agency life spans are unclear. On the one hand, if periods in government for parties become shorter, the reputation concerns of incumbents will become less powerful. On the other hand, if periods in government are shorter, then governments have less time to enjoy the policy benefits derived from termination. Although we have allowed for the shadow of an agency's (political) past, we are far from understanding the shadow cast by expectations of future participation in government. Additionally, if future governments are coalition governments characterized by a greater number of veto players, the baseline hazard of agencies may also change. We expect and hope that future research testing these hypotheses in the context of coalition government in the United Kingdom and elsewhere will address some of these issues.

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