

COAL AUTHORITY
QUINQUENNIAL REVIEW
Stage 1
FINAL REPORT

October 2001

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1 Executive Summary

1.1 Introduction and Background

The Coal Authority was created in October 1994 as a Non-Departmental Public Body (NDPB) taking its powers and responsibilities from the Coal Industry Act 1994 (the 1994 Act). The Act's main objective was the restructuring and privatisation of the coal industry and as part of this reform the Authority was established to undertake a central role in the administration of the industry. Its key functions were to regulate the industry, take custodianship of the nation's coal and to provide information on mining activity (a fuller list of responsibilities is given below).

This is the second quinquennial review of the Coal Authority. The first was undertaken in 1996 confirming its functions and status. This first stage of this second review was announced by Helen Liddell, then Minister for Energy and Competitiveness in Europe on 30th October 2000. It has examined the need for an organisation such as the Authority and whether the functions it currently undertakes are still relevant to government policy. It has further considered other, new responsibilities which the Authority might acquire. The Terms of Reference for the Review can be found at Annex A1, and Annex A2 describes the Conduct of the Review.

The Review consulted some 25 companies in the coal industry and associated organisations. Senior management, non-executive directors and some staff in the Coal Authority were also interviewed as well as some DTI officials. Nine organisations provided written comments. A list of all consultees is at Annex A4. A compendium of the views expressed in the consultation can be found at Annex A3. We are extremely grateful to everyone who gave their time to help inform the review and for the constructive and positive approach in which they approached the exercise. The contributions received were invaluable for formulating the Review's conclusions. A number of the comments received concerned issues which should be covered in stage 2; these are listed at Annex A9.

1.2 Performance

The Review found that the Authority performs its duties as intended in the 1994 Act. The Act, however, was very specific about the extent of the Authority's role in the industry and prohibited its becoming involved in any commercial operations - this essentially confined it to acting as a regulator and owner of the coal resource. This tight remit resulted in concerns that it was not taking a more active role in supporting the industry and that it was applying the provisions of the Act too rigorously; particularly with regard to its leasing of coal. The Authority has also expressed concerns about these constraints and has considered ways in which the regime could be liberalised. Any changes to the regime will, however, require primary legislation to amend the current provisions of the 1994 Act.

Beyond these constraints the Review identified a small number of areas where some performance improvements would be necessary. Although the Authority had a range of performance targets it had not developed high level objectives, linked to its mission statement, from which performance targets could be derived. Further, its Information Systems Strategy had not been reviewed since it was developed in 1995 and it is recommended that a new Strategy be developed and in future maintained as part of the corporate planning process. It is important that the new Strategy takes account of the government's e-commerce targets although it has already achieved much in being able to meet these by 2005.

The Review also concluded that the licensing regime for coal exploration licences could be simplified perhaps requiring only notification to the Authority, although a change to the Act would be needed to allow this.

Other items identified for further attention in Stage 2 of the Review include:

- The need to review its performance targets for its licensing activity. The target for 100 per cent visits to mining sites was not thought to be meaningful by its customers and there is the perception amongst operators that licence applications took longer than the 5 weeks turnaround time which the Authority claims to have met in all cases.
- Teething problems with licence applications for coal mine methane extraction. These require a Petroleum Exploration and Development Licence in addition to a Coal Authority Licence currently makes the process cumbersome. In the absence of changes to the 1994 Act and the 1998 Petroleum Act a Memorandum of Understanding needs to be developed between the DTI's Oil and Gas Directorate and the Authority.
- Issues around the Mining Information database from which the Mining Reports are generated. Although the information is reliable in the main, the rare, inaccurate Report can have serious implications for individuals selling their property.

In all other respects the Authority was performing well against its targets, particularly with respect to its handling of minewater breakouts, subsidence claims and, more generally, its Mining Reports and Subsidence Damage Service (MRSDS). The MRSDS has, in fact, won awards over the last few years.

The balance of the Authority's workload has changed since 1994 although it has been effective in reallocating its resources to ensure their optimum deployment. The Review concluded that whilst the current organisation of functions appeared appropriate this should be reviewed in Stage 2 to take account of any future changes in the balance of work and to allow for any new responsibilities delegated as a result of Stage 1 recommendations. Annex A5 provides an overview of the organisation.

A fuller analysis of its performance is given in Chapter 3.

1.3 Status, Policy Background and Functions

The Review concluded that there is still a requirement for an organisation such as the Coal Authority and that its constitutional status as an NDPB fitted the Cabinet Office definition (Chapter 4). This conclusion was supported by consultees who recognised a continuing role for a Coal Authority in the coal industry.

Since the establishment of the Authority there has been a change of Government and there is now a more supportive policy towards the industry, although it is still expected to be competitive and be subject to the rigors of the market place. This shift in policy does not therefore alter the core reforms brought about by the 1994 Act and confirms the need for a public, regulatory body to administer the industry. In addition, the Authority's work continues to contribute to the DTI's objectives supporting its continuing link to that Department.

The Authority and the Coal Policy Directorate of the DTI complement each other well in their functions and responsibilities in the governance of Britain's coal industry. The DTI's emphasis has been more on policy development and sponsorship of the industry, although it also manages the employee liabilities arising from the restructuring of the industry. The Authority on the other hand has focused on those statutory functions defined by the 1994 Act. Chapter 2 provides a more detailed description of their relative functions. In the case of the Authority these are essentially:

- The ownership of coal and other property transferred from the British Coal Corporation (BCC).
- The licensing of coal mining operators.
- The management of subsidence and other liabilities arising from past coal mining.
- The provision of mining information.
- Other functions conferred on it by virtue of the Act.
- Disposal of BCC property arising from the restructuring of the industry.

Ownership of the coal resource was key in coming to the conclusion that there was still a continuing role for a Coal Authority. The alternative of privatising coal was considered by the Review team but it was clear that for practical, strategic and administrative purposes it should remain as a publicly owned resource. From the ownership of coal flowed a number of closely related responsibilities. Industry regulation and coal leasing go hand in hand whilst the information arising from these activities provides input for the Mining Information Database. This in turn is used by the MRSDS to provide Mining Reports. Subsidence and other surface damage are liabilities which arise from ownership and in particular from the past mining activity of BCC. Information collected from subsidence claims and other surface damage reports also feeds into the Mining Information Database.

Disposal of BCC property is a transient activity which is expected to be completed during the course of the next 2 to 3 years.

The Review examined each of the functions (see Chapter 5) to determine if they could be individually contracted out or privatised. It concluded that in the light of the close relationship between each this would result, on balance, in less efficient working and communication. Given the Authority should continue to be the owner of the coal resource it was concluded that it was the best placed organisation to undertake the associated responsibilities.

1.4 Future Enhancement of Role

The opportunity for extending the Authority's existing functions and to transfer to it new responsibilities was considered in the Review. As part of these deliberations some general principles about the role of an NDPB and that of a central government department were used as guidance (see 6.3.1). In essence the Authority should pick up responsibility for managing all executive functions leaving the DTI to focus on developing government policy and sponsoring the industry.

In conclusion the Review team considered that the Authority should:

- Take responsibility for the BCC's employee liabilities for concessionary coal and coal health claims once the outstanding policy issues have been resolved. It could also take custodianship of a number of BCC files and records. However, the BCC pension scheme should continue to be the responsibility of the DTI.
- Subject to further investigation by the DTI, the functions of the Office of the Subsidence Advisor could also transfer to the Authority under the Citizen's Charter arrangements.
- Have greater freedom to strategically manage the coal resource, including the power to undertake research and development within approved DTI programmes, to explore and develop an inventory of exploitable coal seams for later leasing and to be more pro-active in supporting planning applications for new developments.
- Exploit its expertise and experience in mining through the provision of chargeable consultancy services to other public bodies provided this does not interrupt core activities and does not conflict with the "rule against bias".

Most of these changes would require amendments to the 1994 Act. Annex A10 lists the recommendations distinguishing those requiring changes to the Act.

Other enhancements considered are described in Chapter 6. The provision of financial assistance to the industry was the most notable, but this was not considered to be compatible with the general principles referred to above and was considered more of a matter for the DTI.

Finally, the Review considered the potential for the Authority to be part of a more broadly based organisation covering industries which shared a synergy with the coal industry. A Fossil-Fuels Authority covering oil, gas and coal was considered to be the most likely candidate for further investigation sometime in the future.

1.5 Financial Issues

Whilst the current financial regime of the Agency was considered to be generally sound, the Review considered possible opportunities for changing the current arrangements to increase revenue generation and to recycle royalties back into the industry. Chapter 7 considered a variety of options.

For a regulatory body such as the Authority there are very limited opportunities for increased revenue raising. All services provided to the citizen are currently provided on a cost-recovery basis and the “rule against bias” prevents a public body from exploiting a monopoly position it might hold on information to provide value added services in competition with private sector providers. There are two areas which provide revenue raising opportunities: adding value to the MRSDS and consultancy. Both were considered to conflict with the “rule against bias” and could not be recommended although, as mentioned above, within limits the Authority could provide a consultancy service within the public sector.

Royalties were a sensitive topic with most operators although most accepted that some fee should be paid to the Authority for its coal. Greater concern was expressed however about how the level of royalty was determined as well as the time and effort it took to set a figure. The Review concluded that a published schedule of royalties would be a more sensible way forward as this would enable operators to know up front what they would have to pay and would speed up the application for a licence. The schedule could reflect the ease with which the coal was extracted as well as its quality. Stage 2 of the Review should investigate how this could best be achieved. Using a schedule of royalties would also enable them to be revised at intervals to reflect the market price of coal. The royalty figures should be set such that no operator should pay more than he does at the moment and most would therefore pay less. The Review also concluded that it should be made much simpler to switch from “section 36” to “Part 2” licences.

1.6 Conclusions

The DTI and the Coal Authority between them well cover the necessary administrative responsibilities of government which indicates there is still a clear role for the Authority in this arrangement. The Review has further concluded that the Authority’s role can be enhanced so that those executive functions currently undertaken by the DTI (essentially concessionary coal and coal health claims) are transferred to it when outstanding policy issues have been resolved. This would leave the DTI to focus on policy and industry sponsorship. There is also scope for liberalising the Authority’s existing regime particularly with regard to managing its coal resource and establishing a simpler royalty regime. It is believed these recommendations would result in arrangements that would be more in keeping with modern government today.

2 Origins and current role of the Coal Authority

This is the second Quinquennial Review of the Coal Authority, the first was undertaken in 1996 with Stage 1, undertaken by DTI's Coal Unit, confirming the functions and status of the Authority being essential to government policy. Stage 2, undertaken by Pannell Kerr Forster Associates, recommended some improvements in financial management, planning and control. These recommendations have been progressively introduced since that Report.

This chapter looks at the functions, status and current role of the Authority and how these interface with the functions of the Department of Trade and Industry as well as the coal mining industry.

2.1 The Coal Authority

The Coal Authority was established by the Coal Industry Act 1994 as a Non-Departmental Public Body, sponsored by the Department of Trade and Industry. The Authority is currently based at two locations: the head office in Mansfield, Nottinghamshire and a Mining Records office in Bretby, near Burton-on-Trent. The office at Bretby will be closed in 2001/02 and the Mining Records transferred to a new facility currently being developed on the Mansfield site.

The Authority employs some 99 staff¹ as at 31st March 2000 including a Chief Executive and two Executive Directors. In addition it has three Non-Executive Directors, including the Chairman.

In the financial year ended 31st March 2000, the Authority's gross income amounted to £49.5m. This was made up of £34.4m grant-in-aid and £15.1m from operating income.

2.2 The Coal Industry Act 1994

The establishment of the Authority was a key feature in restructuring of the coal industry and the privatisation of coal mining activities in 1994.

The Coal Authority's functions, as defined in Section 1 of the Act, are:

- Ownership and leasing of the unworked coal and other property transferred from the British Coal Corporation (BCC);
- Licensing of the coal mining industry;
- Managing subsidence and other liabilities arising from past coal mining activities;
- Providing information on coal mining activities; and
- Carrying out other functions conferred on it by virtue of the Act.

¹ Source: The Coal Authority Annual Report 1999-2000

Responsibility for handling minewater breakouts arising from past coal mining arises from the Authority's ownership of disused collieries. Other responsibilities handed to it in the restructuring scheme included the restoration and disposal of BCC property as well as the management of any property associated with coal.

The 1994 Act was very specific about the Authority's role in the coal industry; it was clear that any involvement in commercial operations would be prohibited. Additionally, it is not permitted to explore for coal or to help others obtain consent for coal mining operations. [It is however allowed to acquire land or shares in any body corporate, nor lend money or provide security for a loan, although this can only be done with the agreement of the Secretary of State for Trade and Industry and the consent of the Treasury.?]

As was intended in the Act, the Authority has been able to play a meaningful role in the industry as a regulator and as the owner of the coal resource. However, within the constraints of the Act it is becoming apparent that the Authority is restricted in effectively managing the coal resource. The issues arising from this are considered in detail later in this Report.

2.3 Functions

At the centre of the Authority's responsibilities is its ownership of virtually all of the nation's coal reserves. From this flow a number of dependent responsibilities such as licensing, subsidence, environmental liabilities as well as the need to maintain reliable information on past mining activity. The Authority's responsibilities can be divided into two distinct management areas:

- A. Ownership and Management of the Nation's coal resource.**
- B. Management of the liabilities and other residuary issues arising from the restructuring of the coal mining industry.**

Each of these can be further sub-divided into the following functions:

A. Ownership and Management of the Nation's coal resource.

1) Regulation and Coal Ownership

- Ownership of the coal on behalf of the nation.
- Leasing its coal to private sector operators and collecting royalties and Production Related Rent.
- Licensing coal operators.
- Administration of security funds.

2) Information Services

- Management of the Mining Records, the Mining Information Database and the operation of the Mine Records and Surface Damage System (MRSDS).

(Whilst primarily linked to function 1 this function is also vital to function 4.)

B. Management of the liabilities and other residuary issues arising from the restructuring of coal mining industry.

3) Property Management and Property Disposal

- Under the CARS programmes to dispose of ex-British Coal Corporation property which is not associated with coal.
- Leasehold property transferred to the Authority under CARS8.
- The management of some property which will be difficult for disposal (e.g. contaminated land) and property which involves surface hazards.
- Land with historic problems.
- The management of “slice”² sites with potential for opencast mining.
- The management of “clawback”³ arrangements for some property disposed of by the BCC.

4) Liabilities of the BCC and those liabilities arising from the historic mining of coal

- Subsidence repair.
- Minewater.
- Mine gas.
- Surface damage
- Other Historic Liabilities.

Function 3, covering the restoration and disposal of old British Coal Corporation (BCC) property, will have been mostly completed within the next 2 to 3 years although some activities, such as clawback monitoring, could continue for another 20 years.

Responsibility for treating minewater breakouts, which not specifically identified under the Act, arises from ownership of the abandoned coal mines.

2.4 The Relative Roles of the DTI and the Authority

In order to understand government involvement in the coal industry it is helpful to identify the relative roles played by both the DTI and the Authority. Together, they cover the regulatory and sponsorship roles of the public sector.

2.4.1 Managing the Residuary Liabilities of the British Coal Corporation

As part of the privatisation of the coal industry and the restructuring of the British Coal Corporation (BCC) in 1994 both the Authority and the DTI’s Coal Policy Directorate inherited a number of residuary issues and liabilities. Essentially the Authority covers the physical liabilities whilst the DTI manages those issues arising from BCC’s employee responsibilities. The Authority functions are already outlined in section 2.3 above. The DTI’s Coal Policy Directorate covers:

² A “slice site” is an area of land available for open cast mining.

³ “Clawback is income from ex-BCC land which has been sold by the Authority with the condition in the transfer that it has a right to a share of in any profit from further sale.

- 1) Miners' injury and health compensation claims assessment and settlement.
- 2) Government's responsibility in respect of BCC's pension funds.
- 3) Miners' concessionary coal procurement and delivery administration.
- 4) Miners' personnel records and files (relevant to assessing entitlements under (1) and (3)).
- 5) Residual interests in relation to properties (including liabilities and assets of BCC) under CARS9.
- 6) Outstanding litigation involving British Coal (mostly on employment issues).
- 7) BCC archives.
- 8) Residual issues concerning non-mining assets from the privatisation of BCC.
- 9) The appointment of the Subsidence Advisor.

Functions 1 to 3 cover politically sensitive issues - the potential to transfer these to the Authority are discussed further on in the Report. Pensions and employment issues have been inherited from BCC whilst coal health claims arose from a judgement that the government had a liability for these. These responsibilities are essentially executive functions and the day-to-day work is contracted out. Function 4 is linked to functions 1 and 3 and contains information on ex-BCC employees.

It is already planned to transfer functions 5 and 7 to the Authority. Item 6 includes some issues which would not be appropriate for the Authority to handle, such as the "equal value claims" dispute. Functions 5, 6 and 8 are still formally the responsibility of BCC, the board of which now consists entirely of DTI officials. The role of the Subsidence Advisor (function 9) is currently being reviewed and alternative arrangements are being considered which would involve the Authority. This is covered further in section 6.2.2.

Under the Coal Authority Restructuring Schemes (CARS) the DTI has transferred BCC property to the Authority in stages for disposal. This programme of transfer has been largely completed so far as property is concerned (CARS1 to CARS8) and CARS9, due to be transferred this year, will complete the process.

2.4.2 Other DTI Responsibilities

The DTI's Coal Policy Directorate covers a number of other functions that are mostly the development and implementation of policy. Included here is sponsorship of the coal industry, in particular the development and management of state aid schemes and liaising with the EU on these.

The Coal Policy Directorate sponsors the Coal Authority with grant-in-aid as well as on strategic matters. Other Units in the DTI cover policy development issues concerning Clean Coal Technology (Sustainable Energy) and Coal Fields Regeneration (Regions).

The DTI is also currently managing research and development work into underground coal gasification. This work was started by the Authority but advice from counsel indicated that it was outside the powers delegated to it in the Act. As the DTI has the authority, it has taken responsibility for the project. It has already been agreed with

Ministers that the Authority should have the powers to undertake R&D work but the addition of these powers requires legislation. It is possible that these additional powers may have to wait for future Parliamentary time and be taken with other amendments to the Act to give the Authority greater flexibility.

2.4.3 Coal Bed Methane and Coal Mine Methane Licensing

The extraction of Coal Bed Methane and Coal Mine Methane from coal has to be licensed by the Oil and Gas Directorate of the DTI under section 2 of the Petroleum Act 1998 (which repealed the Petroleum (Production) Act 1934). This is because this gas is caught within the definition of petroleum. However, operators also require a licence under the Coal Industry Act 1994 from the Authority to enter a coal seam or an abandoned mine. This arrangement creates some bureaucratic problems which are discussed later.

2.5 Customers

The Authority has three broad groups of customers:

1. The public in general, particularly people living or planning to live in areas of former or current mining activity.
2. Operators on an individual basis as well as through COALPRO, NALOO, the Federation of Independent Mines, ACMMO and other trade organisations.
3. Property owners and their agents.

The public in general has contact with the Authority for a number of services:

- Through solicitors and conveyancers, obtaining information from the MRSDS regarding buying and selling property in areas of former and current mining.
- Claims for subsidence through Agents.
- Other Surface hazards, such as gas escapes.

Operators deal with the Authority on matters concerning leasing and licensing of coal and when pits are closed.

Property owners and agents are mostly concerned with the purchase of BCC property and other issues such as the Authority's purchase of land for minewater remediation.

The Authority also has contact with local authorities on issues such as planning consent policy and non-coal developments which can sterilise coal seams.

2.6 Links with other organisations

Besides interfacing with the DTI on the administration of the coal industry, the Authority interacts with a number of other bodies. The most important are:

The Environment Agency – The Authority has a Memorandum of Understanding (MoU) with the Agency providing a framework for the two organisations to work together, sharing skills and resources in preventing and reducing pollution from abandoned coal mines in England and Wales. Much of this work focuses on minewater. The objective is to prioritise areas of concern to enable a national programme of work to be developed.

The Scottish Environmental Protection Agency – Although there is no MoU, there is good co-operation between the two bodies dealing with similar environmental pollution issues.

Liaison with these bodies is an essential aspect of the Authority's environmental responsibilities bringing its specialist skills and knowledge for tackling pollution and other environmental damage from past mining activity.

The Office of the Subsidence Advisor and Chartered Institute of Arbitrators – Dealing with these bodies occurs when there is a dispute about subsidence. The CIA is only involved if a dispute is taken to arbitration.

English Partnerships, Regional Development Authorities and the corresponding Scottish and Welsh bodies – The disposal of some property can involve EP, these mainly being nine old colliery sites and tips which require restoration before they can be sold.

An MoU exists between EP and BCC concerning 56 brown field sites transferred in 1996. It is intended that the Authority act on behalf of the DTI when remedial action is required for these.

Health and Safety Executive and the Mines Inspectorate - Under section 4 of the Act the Authority has to provide the HSE with information arising from the licensing regime. This assists the HSE and MI to carry out their responsibilities. An MoU exists to underpin this arrangement and to define the relationship between the two bodies. The Authority also stores, and is responsible for maintaining and making available to the public, mining plans which are owned by the HSE. A second MoU exists to cover this arrangement.

Mines Rescue Service – This is an independent body which emerged from the restructuring of the industry to run the emergency rescue services needed in the event of a mining disaster. It is currently funded by a levy on deep mine operators of a rate per tonne of coal produced. It relies on information collected under the licensing regime to determine this. The Chief Operating Officer is a non-executive Director of the Authority.

British Geological Survey – The BGS and the Authority work closely on maintaining mining information and plans. A recent joint project produced a coal resources map identifying coal bearing strata. An electronic version of this is planned to be made available during 2001.

Law Societies of England and Scotland – These bodies deal with the Authority essentially over the standards to be applied to the production of mining reports.

Other bodies the Authority deal with include:

Coalfield Communities Campaign
Coalfield Regeneration Trust
Regional Development Agencies
Mineral Planning Authorities
County Planning Officers' Association
Public Record Office.

2.7 Conclusions

The current arrangements for the administration of the coal industry were dictated by the manner in which restructuring schemes made pursuant to the Coal Industry Act 1994 divided the assets and liabilities remaining from BCC between the DTI and the Coal Authority. Essentially the Authority covers the physical liabilities whilst the DTI handles the politically more sensitive employee liabilities. Whilst the DTI manages the sponsorship of the coal mining industry the Authority focuses on the leasing of coal to the operators and regulating the industry. Much of the Authority's work is well defined by the Act and involves virtually no policy development. On the other hand, the DTI's responsibilities are essentially policy making but also involve, on BCC employee liabilities, some executive functions. Both organisations essentially complement each other although there is some overlap between the two in the area of methane licensing. The scope for transferring some executive functions between the DTI and the Authority is considered later in this Report.

3 Performance and Prospects

This chapter examines the overall performance of the Authority and draws on the material collected during the consultation stage of the Review. A summary of the views obtained can be found at Annex A3. Performance issues are essentially for investigation in the second stage of the Review but some unsatisfactory performance may alter the balance of argument for transferring such functions - they are briefly assessed below. This chapter also looks ahead 5 years to determine the prospects for the Authority given its current responsibilities.

3.1 Current Performance

3.1.1 Mission Statement, Objectives and Performance Targets

The Coal Authority's current Mission Statement is:

“To facilitate the proper exploitation of the Nation’s coal resources, whilst providing information and addressing liabilities for which the Authority is responsible, in a professional, efficient and open manner.”

The Authority produces a Corporate Plan annually looking ahead three years. This Plan is cleared with the DTI's Coal Unit before it is submitted for approval to the Minister for Energy. A summarised version is prepared, which is published after ministerial approval of the Plan.

A key strategic objective of the Authority is to develop its Mansfield location into a site of excellence to encourage the working and utilisation of Great Britain's coal resource, exploiting its knowledge of coal, its information and record systems as well as developing new technologies for extracting the energy from coal.

In its Corporate Plan the Authority does not identify any high level objectives although a number of low level objectives exist relating to each activity. Performance targets measure output in a number of key areas - these are described in Annex A6. An unwritten objective of the Authority is to improve continually its performance in all its services. However, performance targets are of limited value unless they are directly linked to high level objectives; only then can progress against the objectives be measured.

The existing published targets for licensing and leasing relate to visits each year to all operational mines, and to making licensing decisions within 5 weeks of receiving complete applications. Perceptions in the industry are that the former target is not meaningful in that it does not measure the efficiency with which the Authority deals with the industry. The second target suffers from the industry's perception that it takes very much longer to acquire a licence – this issue is discussed further in 3.1.4.1. Otherwise the Authority is thought to have performed well against the other published targets it has set – particularly in the areas of subsidence, minewater remediation and its mining reports service.

Performance against current Targets is published in the Annual Report and future targets are published in the Corporate Plan. This practice is seen as open and should continue.

It is recommended that the Authority adopt a set of high level Objectives in developing its new Corporate Plan with lower level Objectives and measurable targets being derived from these. Its current Performance Targets should be reviewed in the light of these changes. In particular the targets for licensing and leasing need to be revised so that they more meaningfully and clearly reflect performance in this area.

In December 1999, the Authority achieved Investors in People status. It is also considering adopting the European Foundation for Quality Management (EFQM) Excellence Model standards as a framework for assessing the Authority's performance. It is not intending to apply for the Charter Mark within the 5 year period covered by this Review. More specifically over the last two years it has received awards for its Mining Reports and Surface Damage Services (MRSDS).

3.1.2 Changing Balance of Work

There has been a change in the balance of the Authority's work over the years since it was created in 1994. Licensing work has declined due to the reduced level of activity in the coal mining industry. The work involved in meeting subsidence claims has also reduced and levelled out because the liabilities arising from the mining operations of British Coal Corporation are diminishing. Into the future, property disposal, whilst this is predicted to continue at a reasonably high level for the next 2 to 3 years, will decline with most of the sites having been sold.

On the other hand, environmental work has increased, particularly in minewater remediation projects. The management of mining information and the production of mining reports continue to be growth areas. Interest in CMM extraction could possibly reverse the trend in the reduction in license applications (The Authority has already been told by the companies in this field that they intend to apply for a number of licenses over the next year.)

The Authority appears to have coped well with this changing situation in that it has re-deployed staff with the appropriate skills as and when this has been necessary, with the result that it has managed to maintain optimum activity throughout the organisation. Nevertheless, with a further decline in some activities it is likely that the number of staff required will fall over the next 2 years.

There is some concern within the Authority that a decline in activity in some functions will result in their being no longer viable due to the number of staff required to cover the work falling below critical mass. It is not felt by the Review team that this is such a critical issue. It is a common problem today to have to manage functions which only require part of person's time and hence the need to manage staff covering a number of diverse functions. There is no reason therefore why the Authority will not be able to manage these situations as they arise. Indeed, as

experience to date suggests, they have handled this particular problem well. There was also concern that a fall in the Authority's staff numbers, as a result of its work load declining, would mean that a smaller organisation would not be viable. This concern was also not shared by the Review Team - there exist many viable NDPBs which are much smaller than even an Authority reduced, say, to 60 staff.

Stage 2 will need to take these issues into account particularly from the point of view of organising functions and responsibilities to ensure optimum efficiency to maintained.

Despite the changes in workload since its inception and the possible reduction in its size over the next three years, there is still a clear role for the Authority to play in the regulation of the industry and in managing the legacy of past coal mining.

3.1.3 Ownership of the Coal Resource

Ownership of the nation's coal resource is seen as being core to the Authority's responsibilities. However, active management of the resource has been limited by the constraints of the 1994 Act, although within its bounds the Authority has attempted to manage the resource as best as it is able. One valuable task it has completed within these constraints is to ensure that all the recoverable reserves are identified for future extraction – with the British Geological Survey it has produced a comprehensive coal resources map of Britain.

3.1.3.1 Sterilisation of the coal resource

During the consultation stage of the Review, the industry identified, as one of their key concerns, the sterilisation of coal sites by other types of development. This problem is particularly serious for the opencast sector. Although the Authority does make representations when proposals arise, they do not have any powers to prevent such developments. This is because under the Act, it is prevented from actively intervening on behalf of the coal operator (section 5(6) denies it the power to work coal, explore for coal or take steps on behalf of another for obtaining planning permission to work or explore for coal). Consequently it is limited to making representations in terms of a factual statement regarding the impact on the coal resource in question, leaving the planning system to decide on the competing claims. Some who commented on this situation suggested that the solution was for the Authority itself to be given compulsory purchase powers.

Up to 1 January 2000, the Coal Authority could grant compulsory rights orders (CRO) in favour of coal mining operators which allowed an operator to take possession of a specified area of land to carry out opencast coal extraction. A CRO lasted for a fixed period of time and had to be confirmed by the Secretary of State for the Environment or the corresponding authorities in Scotland or Wales. Planning permission was still needed. From 1 January 2000 coal mining operators have to use the Mines (Working Facilities and Support) Acts like mining operators for other minerals. Granting the Authority powers of compulsory purchase of land in danger of sterilisation could no doubt bring some advantages. However, it would go against the principle of the 1994

Act of removing special provision for coal and would give the Authority significant powers of intervention which would not necessarily sit well with the planning regime. Such powers would be very controversial and would still not remove the need for a subsequent coal operator to obtain planning permission, so their ultimate effectiveness might be slight.

3.1.3.2 Mothballing abandoned mines

Mothballing mines has also been considered by the Authority as a means of safeguarding the remaining coal in abandoned collieries. In December 1997 it carried out a study into mothballing but found it to be prohibitively expensive and hence uneconomic.

3.1.4 Licensing and Leasing

Licensing is a key function for the Authority and arises from its role as a regulator.

3.1.4.1 Coal operations

Many operators had concern about the time taken for the licensing process to be completed and the need to advertise the application. Many found this latter point particularly frustrating if they had previously surveyed and explored for the coal. The process as currently undertaken is in strict accordance with the Act and this would need to be amended to liberalise the regime. A main cause for delay would appear to be the need to assemble all the necessary information for the licence to be processed. Often not all of this is made available at once, requiring the Authority to request further detail. The Authority does produce written guidance for the industry on what is required. Once the Authority has all the information it requires, it processes each application within its 5 week target.

There would appear to be communications issues here between the Authority and the operators that should be investigated further in Stage 2 of the Review with the aim of identifying the root cause of this problem.

A licence is required for exploration because it entails entering the Authority's coal. The process of applying for a licence can be seen as a barrier to exploiting the coal reserves and disincentive for operators to assess new ones. Operators felt a simpler system requiring only notification of their intent to explore for coal in a specified location and for the Authority to provide a simple acknowledgement would be more appropriate and less bureaucratic.

A simpler arrangement would seem attractive although conditions would need to be applied to ensure that this was not exploited to win the coal for direct commercial gain under such arrangements. A change to the Act would be required to liberalise the current regime.

3.1.4.2 Coal Mine Methane Licensing

More recently the Authority has started to receive applications for licenses to extract Coal Mine Methane from abandoned mines. There are four companies already established or planning to be active in this field. It was generally felt that licence applications could be dealt with more quickly although the delays were thought to be due more to teething problems. The process is complicated by the requirement to obtain a Petroleum Exploration and Development Licence (PEDL) from the Oil and Gas Directorate (OG) of the DTI in accordance with the Petroleum Act 1998. This process could be assisted by both organisations working more closely to expedite these applications in the future.

An MoU with the Oil and Gas Directorate of the DTI would provide a firmer foundation for handling these applications. Although outside the remit of this Review the regime for licensing Coal Bed Methane and Coal Mine Methane should be reviewed with the objective of rationalising and simplifying this process. Any solution would more than likely require changes to both the Petroleum Act 1998 as well as the Coal Industry Act. Stage 2 of the Review should examine these possibilities in more detail.

3.1.5 Royalties and Production Related Rent

The issue of levels of royalties and PRR is covered more fully in Chapter 7 as it is linked to the funding issues. In terms of the machinery for collecting and reporting royalties the Authority appears to undertake these functions without criticism.

3.1.6 Mining Information, the MRSDS and Mining Reports

Under the Act, the Authority has to collect and maintain this information and make it available to the public for an appropriate fee. It holds a variety of information on all aspects of coal mining and provides information services to the public. These can be segregated into three key services: Mining Records, Mining Information Database and the Reports generated by the MRSDS.

Mining Records are kept at the Authority's Bretby facility, although work is already underway to move these to the Mansfield site this year. These records and plans are available to the public and in 1999/2000 there were about 1,000 visits to inspect them as well as some 1,750 written requests for information. It is expected that these numbers will decline in line with the contraction of the coal mining industry.

Mining Records consists of:

- abandonment plans,
- other coal mine plans and records
- geological records, and
- Coal Commission records inherited from BCC.

The abandonment plans are the property of the Health and Safety Executive but they delegated custody to the Authority as being the organisation best placed to maintain them. Many of the plans are very old and fragile and need to be kept in a controlled

environment. In all there are about 100,000 such plans. These are currently being transferred to microfiche and possibly to CD-ROM but reference to the original plan will still be needed in many cases. Abandonment plans have to be logged when a mine is closed and the information is used to update the Mining Information database (see below). The plans are used to identify previous mining activity to assess liabilities as well as for any future mining activity. The management of records is associated with coal ownership responsibilities, particularly the abandonment plans and the recording of mining activity.

Geological Records are currently held at the Bretby site and Authority plans to transfer these to the British Geological Survey later this year. In all some 1 million geological records are stored at the site in Bretby. These are mostly relevant to the evaluation of the known coal resources.

The Mining Information database is a unique source of data on past and present mining activity in Great Britain. Importantly, it includes data on shafts and other potential surface hazards as well as recording data on worked coal seams, past reports of subsidence and it provides a valuable input to the nation's geological information system.

The database is constructed from a variety of sources including information on abandoned mines from the HSE's records. It is maintained by the Authority with information provided by mining operators via regular returns and closure announcements as well as subsidence and surface damage reports.

It has particular value for the public in that subsidence and other surface hazards can affect the value of property in areas of former and current mining activity. Subsidence in particular can seriously impact on property values. The database also provides information to operators for planning future developments where previous mining activity is apparent as well as being a source of information for a variety of other organisations. It is therefore key to identifying liability and the environmental impact of past mining operations.

The Mining Reports and Surface Damage Service (MRSDDS) is a public enquiry service which interrogates the Mining Information database. It is used to provide Reports particularly in connection with conveyancing - solicitors and conveyancers request Mining Reports as part of their searches for property transactions in former and current mining areas. It is also used for assessing liabilities for subsidence and for requests from other organisations, e.g. local authorities, property developers, with land interests. The Authority itself also makes intensive use of the system to support its other responsibilities. The Reports are purely factual and provide no interpretative information; e.g. they do not assess whether the proximity of past workings represent a risk to a property. In 1999/2000 just fewer than 370,000 Reports were issued, and the service is expected to grow over the Corporate Plan period to 445,000 in 2004/05.

In most cases the Mining Report is produced automatically by the system although in a number of cases, between 10 to 15 per cent of all enquiries, manual intervention is required by Authority surveyors to clarify the results of a search when it has not provided a conclusive result. The enquiry service is run in-house employing some 20

or so Authority staff to generate the Reports in response to requests from the public. These requests are usually received, and the results of the searches sent out, by post.

The IT system used to run the MRSDS was developed, and is supported, under a PFI arrangement with Cap Gemini. They take on any of the associated risks with the system – essentially recovering their running costs and the capital investment through a levy on each transaction. The contract is due to run until 2005. The MRSDS has recently received two awards from the Association of Geographic Information; for Best Practice in Central Government and for Technological Progress. It was also runner up in the “Information Management 99 GIS Project category.

Mining Reports are charged for according to the Treasury’s Fees and Charges Guidelines. The Service is provided on a cost recovery basis and currently charges £15 for a Law Society Scheme Standard Search. Higher rates apply for special searches with an expedited search, with same/next day turnaround, costing £76.

On the whole the Authority has developed an enquiry service that is well thought of. The PFI arrangements with Cap Gemini and the Authority’s plans for an internet based service are covered further in Chapter 5.

During the consultation stage concerns were expressed about the reliability of the information produced by the MRSDS in some instances. This is very much a problem which the Authority has inherited from the BCC. Although the Reports in nearly all respects provide reliable information the consequences of any Report being inaccurate can have significant consequences for an individual attempting to sell their property. To attempt to rectify the problem would be virtually impossible because of the number of records to be checked (some 2 million mining objects are recorded) and, given the age of some of the data captured (going back well over one hundred years), resolving this issue would require considerable resources in checking and rectifying any errors. Any effort to improve reliability would almost certainly not guarantee that all inaccurate records would be identified. The Authority does however need to be responsive in those cases where evidence from other sources casts doubt over the reliability of the data.

A particular issue being considered at the time of writing is a report from Heriot-Watt on the impact of the large number of mineshafts on properties in the Stoke-on-Trent area. This is having a significant effect on the value of property in the area and is making some houses unsaleable. Amongst its recommendations the report suggests that the Authority should provide fuller information and reassurance about its responsibilities to deal with subsidence damage in addition to supplementary guidance to solicitors and other professionals. The Government has yet to respond to the Report, however, if the information provided is to be extended then this would have to be for all enquirers using the service.

In the light of past experiences the Authority is considering other means of managing such instances. This is an issue appropriate to Stage 2 of the Review.

3.1.7 Use of Information Technology

3.1.7.1 Modernising Government and e-Commerce

The Authority's corporate plan and development strategy has to be assessed against the Government's drive to modernise government, in particular the emphasis on e-commerce. The Modernising Government White Paper⁴ is based on five commitments of which the following three are particularly relevant to the Review of the Authority:

- Responsive public services – *“we will deliver public services to meet the needs of citizens, not the convenience of service providers”*.
- Quality public services – *“we will deliver efficient high quality public services and will not tolerate mediocrity”*.
- Information Age Government – *“we will use technology to meet the needs of citizens and business, and not trail behind technological development”*.

At the centre of the White Paper there is a drive to apply new technologies and e-commerce and it has set a target of 100 per cent of dealings with the Government to be capable of electronic delivery by 2005 (this is a revised target from that originally set in the White Paper).

The Government also published a strategy for Information Age Government in April 2000⁵. This proposes that services should:

- Be citizen focused
- Be accessible by being delivered wherever possible, on the internet, through mobile phones, digital TV and call centres.
- Be inclusive, and
- Enable better use of government held information.

A key aspect of this strategy is the access to government information via portal sites.

The Authority is already piloting internet access to its MRSDS Service and expects to roll this out during the course of the year to all comers. It is also already actively involved with the National Land Information Service in making its mining information available through a “one-stop shop” concept for conveyancing.

The Authority has established a web-site and employs a web-master to develop and manage this. It already contains significant amounts of comprehensive information about licensing, subsidence and Mining Reports and Records. This includes forms for subsidence claims and draft licensing and leasing contracts. It is therefore well advanced to be able to handle all dealings electronically. It will however, over the next 5 years, need to develop these systems further to handle license applications and licensing related transactions, such as the monthly returns, electronically. Subsidence

⁴ Modernising Government Cm 4310, March 1999

⁵ e-government A Strategic Framework for Public Services in the Information Age, Cabinet Office, April 2000

claims and any other statutory dealings with the public will also need to be handled in this way. In particular it is well advanced to meet these targets for the MRSDS Service.

3.1.7.2 Information Systems Strategy

The Authority developed an Information Technology Strategy in 1995, soon after it was established. Although described as an IT Strategy, it would appear that this was also an assessment of information requirements over the following years. The existing Strategy is now 6 years old and does not appear to have been updated since it was first developed. Given it is important that Information System Strategies continue to reflect the changing requirements of the business an IS Strategy should be maintained and updated as a by-product of the corporate planning process.

The Authority already plans to develop a new "IT Strategy" in 2001 and it is recommended that this be specifically conceived as an "Information Systems Strategy" identifying generic information needs with projects required to deliver these. An IT Strategy would be a component of this. The IS Strategy should be developed in the light of the Corporate Plan, currently being prepared, and be updated annually to reflect changes to the Plan.

3.1.7.3 Mining Information database and the MRSDS

The Authority is actively involved in exploiting IT for its business and much of this effort has been focused on the mining information database and the MRSDS. In this respect it is actively involved in initiatives with other organisations, these include:

- Intra-Governmental Group on Geographical information – This Group has been working on defining data charter standards of geographical information and is based on the government supported National Geospatial Data Framework. The Authority is clearly committed to data standards and was aiming to have its mining information catalogued to this standard by the end of 2000.
- National Land Information Service (NLIS) – The Authority is an active member of this government initiative which is planned to provide a one-stop-shop for property conveyancers. Work is currently being undertaken for it to be made available over the internet to signed-up members. This initiative is fully supported by the Law Society.
- Internet-based access to the MRSDS – To complement the NLIS arrangements so those individuals who are not signed up members can access the MRSDS, the Authority is developing an internet based access system. It is currently running a pilot with 21 users. Its web site already has a gazetteer which allows users to determine if they need to apply for a Mining Report. Users who request a Report would pay for it using a variety of payment instruments, such as credit cards.
- Joint Electronic Environmental Information Service (EEIS). The Authority is working with the BGS and Environment Agency to develop a one-stop-shop service on the natural environment. It has made a second bid for an "Invest to Save" grant to finance this work.

- Equifax (Call Centre Services) – The Authority is developing a service with this company so that the enquiry service can be fully automated thus removing the need for the current clerical effort required to process the reports.

Because of the strategic importance of this data it is right for the Authority to accord it priority.

All these approaches would appear to provide choice to the user depending on their particular interest. The fact that the Authority has already received awards for the MRSDS indicates that it is using the technology to full effect in this area.

3.1.7.4 Other IT systems

The Authority has an extensive office systems network that is being upgraded to Microsoft Office this year. Internet addresses provide the means for the public and operators to communicate with the Authority electronically. This provides a good foundation for meeting the Government's timetable for e-commerce. It also uses a number of small database systems, for example to record its property interests.

However, these facilities need to be developed further to meet the government's targets and a new IS Strategy will need to account for this.

3.1.8 Management of Liabilities

3.1.8.1 Minewater

The Authority is making significant progress in dealing with minewater breakouts and it generally considered that more progress had been made over the last three years than at any time in the past. The Authority is currently meeting its targets of four new projects each year. A key constraint to it being able adequately to prioritise the remediation projects is that it lacks compulsory purchase powers to acquire land at reasonable prices. This has meant that in some cases it has not been able to handle the more serious escapes first. It is expected that the proposals in the planned Water Bill will give it the necessary purchasing powers to overcome this obstacle. In the consultation there was a hope from environmental organisations that the number of breakouts treated each year should be increased from the current four. It was accepted however that the main constraint was the amount of Grant in Aid available for this.

3.1.8.2 Subsidence and Other Historic Liabilities (including surface hazards)

Once the Authority had acknowledged responsibility for surface hazards it was generally accepted that remedial action was quick and efficient.

3.1.9 Property Management and Disposal

To meet its statutory responsibilities the Authority has to dispose of property so that it obtains the “best terms reasonably available”. There was some concern that this remit conflicted with the best interest of the community, particularly in those areas that were part of the coal fields regeneration scheme. However, to relax this requirement would require primary legislation to amend the Act. By the time the necessary changes would have been enacted much of the remaining property would have been disposed of.

There was also concern about the management of coal tips, mostly in the South Wales coal fields. These are seen as environment threats and, in some cases, a danger to the community living nearby. The Authority is already closely monitoring the condition of coal tips but because of their dangerous potential it is important that this continues as long as they exist.

3.1.10 Financial targets

3.1.10.1 Payment Practice Code

The Authority has to abide by the government’s prompt payment code in which 95 per cent of valid invoices have to be paid within 30 days of receipt. However, 90 per cent of cases in 1999/2000 were paid within this time. This shortfall occurred mainly as a result of subsidence claims having to be reviewed by external agencies beforehand. The Authority has set itself a target to meet the code in 2000/2001, if this has not been achieved then it is recommended that the Stage 2 review investigates means of enabling the target to be achieved.

3.1.10.2 Credit control

The Authority has to ensure that the proportion of overdue debt is minimised with a target of average debtor days at year end of less than 40 days. It bettered this target throughout the year by 3 days.

3.1.11 Conclusions on current Performance

Within the tight constraints of the Coal Industry Act, the Authority performs its duties well, particularly in the area of managing its inherited liabilities. Perceptions from industry are, however, that the Authority could be more responsive and supportive to its difficulties. The Authority’s statutory remit is to manage the nation’s coal resource as any private sector business manages an asset. It has to live within the constraint, however, that it is not permitted to invest in the coal resource. Any liberalisation of this regime would require amendments to the Act.

The Authority should develop high-level objectives that it should publish together with targets that measure performance against these. The new IS Strategy should be linked to these targets and objectives and should set out remaining plans to meet the government’s e-commerce targets.

3.2 Prospects – The Next 5 years

There are a number of issues which can impact either directly or indirectly on the Authority over the next 5 years. These can be grouped into factors outside the control of the Authority and those for which it can have some influence. This section assesses the impact these could have on the work of the Authority.

3.2.1 External factors outside the control of the CA

The future of the coal industry is uncertain at the moment. Over the last 10 years or so it has seen a steady decline in production with natural gas replacing it as the main fuel in power generation. However, UKCS gas reserves are expected to decline over the next 10 years with the UK becoming a net importer from some parts of the world that would not necessarily be reliable sources of supply. Annex A3.1 discusses the prospects for coal in a little more detail. There may therefore be a role for coal if it can be used in environmentally acceptable ways through the development of cleaner coal technologies. The government's cleaner coal technologies programme set out in Energy Paper 67 indicates there is a commitment to find new ways of using coal consistent with the government's policy objectives. This could lead to a radical change in the way energy is extracted from coal, gasification being just one of these. As the owner of the coal this suggests that the Authority has a role in researching technologies which can be applied to coal within its seam.

Other external factors which could further impact on coal production over the next 5 years are:

3.2.1.1 End of the ECSC Treaty in July 2002

It is not clear at this stage if there will be successor arrangements for the current state aid regime when it ends in July 2002. Some Member States with coal mining interests are already indicating that they would want a new scheme. Whilst state aid is essentially a matter for the DTI, there could be some impact on the way the Authority deals with the industry. As yet how any changes in the regime will affect this situation is unclear.

3.2.1.2 EU Green Paper on Security of Supply

The Green Paper sees a possible role for EU coal subject to its meeting environmental constraints. A more positive climate for the fuel could also generate some interest in new seam developments as well as in further developing clean coal technologies at the European level.

3.2.1.3 Market conditions

The recent increase in the price of natural gas and the prediction that the EU will start to become a net importer within the next 10 years could mean that a more positive climate for coal could begin to develop over the next 5 years. Coupled with the new electricity trading arrangements and, provided British coal is competitive on a world market, traditional mining activity could stabilise from its more recent decline.

Although the situation is unclear at the moment, the combined impact of these changes could be to maintain or even possibly marginally increase the licensing [?and ownership?] activities of the Authority.

3.2.2 Events which the Authority could influence

3.2.2.1 Developments in Coal Bed Methane (CBM), Coal Mine Methane (CMM) and Underground Coal Gasification

[?It is assumed that the Authority will receive the powers to undertake research and development into cleaner coal technologies within the next 5 years. Compared to coal, CBM and CMM are considered more environmentally acceptable sources of energy, and given the significant reserves of coal in Britain there is potential for using new technology to exploit these. There are already a number of CMM installations proposed over the next few years. More recently, requests for licenses for CMM gas extraction have the potential to increase over the next year possibly signalling a new growth in licensing activity with different problems to be managed. This will essentially involve the leasing of old mine shafts to enable operators to tap the gas.?)

3.2.2.2 Liabilities

To assist with the purchase of land to develop minewater treatment installations, the Authority should expect to acquire new compulsory purchasing powers for land within the next 2 to 3 years provided the DETR's Water Bill is given Parliamentary time. This will make land purchases less problematic and will enable the Authority to prioritise projects according to their impact on the environment.

New powers to enable it to undertake research and development will also enable The Authority to study minewater problems with a view to avoiding or reducing the impact of future outbreaks.

Surface hazards arising from past coal mining are expected to continue to occupy the Authority to the same extent as they do currently.

Other liabilities, particularly subsidence, are expected to continue to require attention although this work load will be at a much lower level than in the past.

3.2.2.3 Property management and disposal

The transfer of property under the proposed 9th Coal Authority Restructuring Scheme (CARS9) is expected to be completed during 2001 and will essentially complete the restructuring. By the end of the 5 year period, all but the most difficult sites (mainly old coal tips in Wales) should have been disposed of. By the end of this period, therefore, the Authority should be mostly concerned with asset management.

3.2.2.4 E-commerce agenda

The government has set targets for all transactions with government bodies to be capable of being undertaken electronically by 2005 – about the time the next QQR will be required. The Authority is on target to meet this with its MRSDS system both by developing direct on-line access and by playing a full part in the NLIS project.

It has also developed a web-site which has a significant amount of information on licensing, leasing and subsidence. To meet the e-commerce objectives fully, it is expected that the Authority will develop the existing systems further to enable all dealings with it to be undertaken electronically.

3.2.2.5 Changing balance of workload

It is expected that the Authority, as it has done in the past, will continue to make optimum use of its staff's skill and experience to tackle any changes in its workload as a result of changing demands across its various functions.

3.2.3 Conclusion on Prospects

The next 5 years should see a number of changes which will impact on the Authority's work. If the issues and events covered above come about then it is expected that the key changes in the Authority's will be:

- A growth in licences for CMM and, possibly, some CBM developments.
- The ability to better prioritise minewater projects according to the impact on the environment.
- The completion of most BCC property disposal.
- The development of a full portfolio of e-commerce services for the MRSDS with involvement in the NLIS concept and the EEIS.

4 Policy Background and Status of the Authority

4.1 Ownership of the Coal Resource

As the Coal Industry Act 1994 delegates ownership of the nation's coal resource to the Coal Authority this responsibility generates a number of associated functions and responsibilities. Ownership is therefore core to its existence and status, and is considered early in this analysis.

Privatising the coal resources was considered in 1994 and was rejected after giving the concept serious consideration in discussion with the Treasury. The key question for this review is whether coal should continue to be owned for the nation or if it should be privatised?

Private sector ownership would have a number of significant implications:

- Given it is unlikely (and, indeed, undesirable from a competition perspective) that one party would purchase the country's entire coal resource, it would have to be fragmented for the purpose of any sale. Inevitably, a proportion of the resource would be deemed unviable for mining and would remain unsold (at least until such times as there were favourable changes in the economies of mining). The result would be a mix of public and private ownership and full privatisation would not be achieved.
- The land on the surface, needed for access, is often separately and privately owned – with privatised coal seams this could frustrate the exploitation of coal. Privatisation would also possibly result in coal seams being sterilised with their potential being lost in the very long term.
- Such a move would not sit well with Crown ownership of other fossil fuels such as oil and gas. The Petroleum Act 1998 places Coal Bed Methane within the ownership of the Crown. In this respect therefore there would be a conflict of ownership.
- Importantly it would be necessary to maintain a register of ownership so that the coal owner could be identified and, in particular, liabilities could be attributed. Any changes of ownership would have to be recorded on the register. This in itself would result in a public function to maintain the register as it does with other property. It would also be necessary for the coal owner to notify a government agency where the coal had been mined. This would be necessary to enable mining information to be kept up to date for the purposes of subsidence claims and surface pollution liabilities.
- There would also be conflict and possible confusion over whom would be responsible for the liabilities from coal mining. The State would still have to take responsibility for past mining activities up to the 1994 privatisation and would have to settle any claims arising from this. From this point however it could become difficult to establish responsibility if coal ownership was privatised.

The current arrangements appear to be simpler and less bureaucratic to administer than a privatisation option. Privatisation might remove the need for a Coal Authority

but a replacement would be required with a number of public sector functions to ensure that activity in the industry was properly regulated, that information on coal mining was maintained and that liabilities were met. There is therefore a strong case for keeping the ownership of coal vested in a public body. The remainder of this paper therefore presumes that coal will continue to be owned by the Authority on behalf of the nation.

In conclusion it is very unlikely that current government policy would require the coal resource to be privatised. For the remainder of this analysis it is assumed that the ownership of coal will continue to reside in the public sector.

4.2 Policy Background

4.2.1 Energy and Coal Policy

When the Coal Authority was established, the government's policy regarding the coal industry was for minimalist intervention. The domestic coal industry had to compete in a world market, not only with imported coal, but also with other fuels, such as natural gas. Its ability to compete with these would determine whether it had a viable future.

Since privatisation a new Government has been elected resulting in changes in policy towards the industry. Although the industry is still expected to be competitive and subject to the rigours of the market place, government policy is more supportive of the industry than in 1994. This has been seen through:

- The requirement for the dominant coal-fired generators to divest capacity to stimulate competition. The result is that there are now nine companies owning and operating coal-fired power stations in the UK.
- The stricter consents policy which placed a moratorium on new gas-fired power stations in favour of coal-fired generation. This policy was relaxed when in November 2000 the new electricity trading arrangements were introduced. These new arrangements provide a more level playing field for coal to compete against the gas-fired generators.
- The announcement of an operating subsidy for the coal industry to help it through the difficulties of a low world price for coal. This is designed to help the industry up to the end of the ECSC Treaty in July 2002.

These initiatives have been designed to assist an industry which was not financially strong and more recently had been seen to be struggling. Although more recently the rise in the world price of coal has alleviated this situation. The objectives of the present government have been to assist the industry through difficult times on one hand and, on the other, to ensure that coal can compete on a level playing field with other fuels.

This more supportive policy does not however change the core reforms of the industry in 1994. The interface and the relative roles of the industry and the government have changed little from the time the Authority was established. There is still a requirement for a central, public body to regulate the industry and to manage the

public sector's liabilities arising from past mining activity. Assuming there is no fundamental change in government policy, it is unlikely that the situation will change much in the next 5 years; the level of functional activity in some areas will change – e.g. over this time much of the BCC property will have been sold – but the functions currently undertaken will be just as relevant as they are now. The Authority is therefore still relevant to current government policy and there is still a need for an organisation such as it to administer the industry, manage the coal resource as well as the BCC liabilities and assets.

4.2.2 Relevance to DTI's objectives

The Authority contributes essentially to the DTI's objective of creating strong and competitive markets. Those which are relevant to the Authority are as follows:

DTI Objectives 2000-2001	Relevance to the Coal Authority
<p>Objective 3: Create strong and competitive Markets. <i>In particular by taking action to improve the openness, efficiency and effectiveness of markets at home, in Europe and across the world, and to ensure the provision of secure, diverse and sustainable supplies of energy at competitive prices.</i></p>	<ol style="list-style-type: none"> 1. As owner of the coal on behalf of the nation and by making it available to mining operators, the Authority contributes to the secure and diverse supplies of energy. 2. Through the use of competitively negotiated contracts to undertake many of its functions, and the use of PFI arrangements (e.g. MRSDS), the Authority encourages competition. 3. Under the Act it has to acquire the best terms available when disposing of its property and other interests thus stimulating competitive bids for these assets. 4. Through the licensing system, the Authority promotes competition within the industry (sub-section 2(2)(b) of the Act).
<p>Objective 4: Develop a fair and effective legal and regulatory framework. <i>In particular by improving and enforcing a framework for commercial activity which encourages enterprise and avoids unnecessary burdens on business while providing a fair deal for customer, and by developing a framework for employers and employee which promote a skilled and flexible labour market founded on the principles of partnership.</i></p>	<p>The Coal Industry Act sets a framework for the industry which provides the operators with permission to win the coal while ensuring that they have a) the skills and expertise to do so competently, and b) the financial resources to ensure any damage to property and the environment as a result of their activities is repaired.</p>

Essentially the Authority contributes to the DTI's objectives primarily through its coal ownership and licensing activities. Much of its other work arises from ownership of the assets and liabilities it inherited from BCC under the Act which do not directly relate to the DTI objectives.

4.3 Status of the Coal Authority

The Coal Authority is currently a Non-Departmental Public Body (NDPB). This section determines if this is an appropriate status for the body or if there are other, more suitable, statutory arrangements. There are essentially four options:

Privatisation or abolition
Outsourcing
Non-Departmental Public Body
Executive Agency.

On the whole the industry and associated organisations consulted were of the view that there was a valid role for an organisation such as the Authority. Most considered that an NDPB was the most appropriate status providing, as it did, an arms-length relationship with Ministers.

4.3.1 Privatisation or Abolition

Privatisation or abolition of the Authority as a whole requires two main options to be considered, either:

- privatise the coal resource, or
- keep the coal resource in the public sector and privatise the remaining functions of the Authority.

It has already been concluded in section 4.1 that to privatise the coal resource itself would not be a practical option. This leaves consideration of the remaining option to maintain public ownership of the coal but to abolish or to transfer, as a whole, the Authority's other functions to the private sector. (It might be expected that under this scenario the ownership of the coal would be transferred to the DTI given the Department administers the country's oil and gas resource on behalf of the Crown.) Whether individual functions can be abolished or privatised is examined in Chapter 5, this section considers the whole of the Authority without its coal ownership function. Neither is the property function considered here given it is a transient activity.

As identified earlier, under the Act the Authority has a number of statutory functions and responsibilities. These include responsibility for liabilities and environmental damage arising from BCC's coal mining activities, as well as regulating the industry and maintaining mining information. To abolish the Authority would mean that these functions would have to be reallocated to other public bodies (e.g. regulation could be transferred to the DTI, environmental issues could go to the Environment Agency). Theoretically this would be possible but there would arise inefficiencies in working and communication because each of the activities is dependent on the other. Assessing liability claims, particularly subsidence claims, relies on dependable access to the mining information database. This in turn needs to be maintained from the licensing returns so that it has it up-to-date information. There is therefore frequent

interaction between all these activities and their dispersal would result in their administration becoming much less effective.

Given the interaction between these responsibilities, and assuming coal ownership is to remain in public hands, the privatisation option is also very dubious. There are serious obstacles to passing the liabilities associated with historic coal mining to the private sector because of the indefinite and expensive commitments they entail. It is very unlikely that any private sector company would be prepared to pick up these liabilities in return for a lump sum from the government because of their long term and uncertain nature, i.e. the risk would be too great to make it a worthwhile commercial exercise.

It is concluded from the above that to abolish or privatise the Authority in present circumstances would not be a practical option.

4.3.2 Outsourcing

Outsourcing the Authority as a whole is not a realistic option either because the same arguments hold as for outright privatisation. The Authority already outsources as much of its work as is possible leaving it primarily to manage its sub-contractors. The scope for further outsourcing of individual functions is considered further in Chapter 5.

From the above consideration it is clear that any option for the CA, as a whole, outside the public sector is not practical. Consequently it remains to consider the status of the Authority as a public sector body.

4.3.3 Non-Departmental Public Body

NDPB status according the Cabinet Office Guidance is defined as:

“A body which has a role in the process of national government, but 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.”

Applied to the Authority, this definition implies that there is little or no involvement from the DTI or Ministers on the day-to-day running of its affairs. The nature of its work is entirely the undertaking of executive functions which are clearly defined and set out in the 1994 Act. There are therefore clear rules within which the Authority has to work. Given there is virtually no policy content in its work, contact with ministers is limited. Contact with the DTI Coal Unit is largely strategic and concerned mostly with its grant-in-aid and future work plans leaving the Authority to take responsibility for its day to day activities. The operation and the concept of the Authority therefore fit well with the Cabinet Office definition of an NDPB.

4.3.4 Executive Agency

An Executive Agency is part of a government department, reports to ministers and is overseen by a Director General in the Department. There is much more day-to-day involvement in its affairs by the centre. Agencies are run very much as Departmental Directorates, staffed with civil servants. Although their financing, accounts and personnel management functions are ring fenced, they still behave very much as a central government body without the same degree of as an NDPB. It is not envisaged in this Review that the Authority will take on new functions which would warrant it becoming an Executive Agency. Unless there were intentions to integrate some of the DTI's non-executive functions with those of the Authority then the question of bringing the Authority closer into the DTI in the form of an Executive Agency does not arise for the moment.

4.4 Conclusions

The conclusion from the above discussion is that there is a continuing need for a public sector body to own the coal and, flowing from that, to regulate the industry and to manage the public sector liabilities arising from coal mining. There is general agreement amongst consultees that the present structure of an NDPB is valid and operates satisfactorily. The original concept and criteria for the Authority remain good today and that fits well with the Cabinet Office definition of an NDPB. Other structures are not so appropriate in particular the privatisation and abolition options, which have significant practical day-to-day working drawbacks. Consequently, there is every reason to recommend that the Authority constitutionally remains an NDPB and continues on its currently established lines.

5 Analysis of Functions and Organisation

Chapter 4 has examined the status and relevance of the Authority, as a whole, to the policies of government and the objectives of the DTI. It has concluded that the Authority still has a meaningful role to play and that its NDPB status is correct. Given that conclusion, this chapter examines the individual functions and responsibilities of the Authority to determine if any of them could and should be abolished, privatised or contracted out (to the extent they are not already) or if they can be managed by another organisation.

5.1 Possible transfer of the current functions carried out by Authority to the private sector

This section of the paper examines each of the main functions of the Authority to determine if they are still relevant and need to be undertaken and, if so, if the Authority is the right organisation to take responsibility for them.

5.1.1 Licensing of Coal Mining Operations

Licensing has three key purposes: to give the operator permission to enter and win the coal, to ensure they have the competence to mine the coal and to provide assurance that they have the resources to manage the adverse consequences of mining.

- As the owner of the coal, the Authority provides legal consent for each operator to enter the coal seam and remove it. This imposes obligations on the operator to provide regular returns on the amount of coal extracted for the purposes of royalty collection. This provides an important means of collecting information on coal mining activity; not just on output but importantly on exhausted seams for abandoned mine records.

Coal ownership, leasing and royalty collection together with licensing are closely linked functions. Licensing is closely related to leasing and to move it to a separate organisation would result in operational inefficiencies involving duplication of effort and increased lines of communication. Hence the current arrangement is the most cost effective.

- Regulation of the industry is also necessary because of its potential for creating environmental harm as well as damage to individuals' property. It is important therefore that each operator meets a number of stringent financial and operational requirements. Deep and opencast mining both have adverse effects on the environment for which the operator has to take responsibility and undertake repairs. Deep mining particularly creates environmental damage in a number of ways: subsidence is the most common and directly affects individuals' property; minewater can break out and pollute rivers; and, much more rare, methane can escape into the atmosphere, sometimes with deadly consequences. Bonds have to be lodged to ensure that there are adequate reserves to cover this damage.

- It is necessary to ensure operators have the appropriate skills and experience as well as the necessary financial resources to undertake mining operations and, particularly in the case of open cast operators, are able to restore the land when their operations have been completed.

Because of coal mining's potential to harm property and the environment it is important it is regulated by a body in the public sector. This in particular can ensure independence and objectivity. For example, health and safety regulations are enforced by a public body - the Mines Inspectorate (part of the HSE). A public sector body is therefore seen as being the most suitable for regulating an industry such as the coal industry.

As licensing each development is a complex and politically sensitive process, in line with other such regulated activities, it is appropriate that this function should be undertaken by a body in the public sector. As owner of the coal the Authority is the most appropriate body to undertake this work.

5.1.2 Liabilities arising from past mining of coal

This work essentially covers subsidence repair, minewater, mine gas and surface damage as well as other historic liabilities that have arisen from mining activity before privatisation. This activity takes up the bulk of the Authority's expenditure each year, in excess of some £30 million. These responsibilities arise from mining operations prior to the privatisation of BCC in 1994. Since then, private sector operators take responsibility for such physical liabilities as arise within their areas of responsibility. Subsidence and environmental liabilities are particularly linked to ownership and are long term commitments. All of the work is outsourced and the Authority essentially manages the contracts.

An alternative approach for these responsibilities would be to sell the liabilities to the private sector. Because of the high costs and risks involved this would involve transferring them with a dowry, or lump sum, sufficient to make it attractive for a company to acquire them. Commercial risk is a key factor here. Given the magnitude and the indefinite commitment into the future to manage and settle the liabilities is very doubtful if any commercial organisation would be prepared to acquire them without a significant excess payment to cover the risk and uncertainty. Over the next 10 years some £300 million could be needed with the cost of the liabilities declining over this time and beyond. It is quite possible that a sum well in excess of this figure would be required to dispose of them. It is therefore more cost effective for them to continue to be administered by the public sector. Given the Authority's coal ownership role and its linkage to the liabilities, it is best placed to manage them.

5.1.3 British Coal Corporation Property

The disposal of BCC property is a residual responsibility arising from the restructuring of the industry and delegated to the Authority by virtue of Restructuring Schemes under the Act. Again, this work is sub-contracted. Much of the property has

been sold and all but the most difficult sites will have been disposed of within the next 3 years. Some property still held by the Authority is associated with its ownership of coal (these are 'slice sites' with opencast coal potential which it is currently attempting to sell) and others are necessary for it to undertake its various responsibilities.

An alternative to the current arrangement would be for the Authority to give away the remaining land with clawback arrangements should it be sold later for a profit. For a number of these sites, however, a dowry would be required given the poor state of the land. Given the legislative changes required, the fact that the sale of the properties is well advanced and the effort required to dispose of the remaining land, it is very doubtful if there would be adequate benefits for the effort involved.

The possibility of another public body, such as English Partnerships or the RDAs, taking over responsibility for this function was considered in the Review. These bodies would be well placed to redevelop the land to the benefit of the local community. However, as with the privatisation option they would require a dowry to be handed over with the site. Again legislative changes would be required as Section 1 of the Act empowers the Authority to dispose of ex-BCC property and by the time any changes would have been enacted nearly all of the land would have been disposed of. The Authority does already work closely with EP and the RDAs in disposing of land, consequently it is doubtful if the effort required to change the legislation, given the amount of land remaining by the time it is enacted, would make it worthwhile.

Other BCC property and assets were also transferred to the Authority under the Act. Some assets include rights to clawback and restrictive covenants which will provide an income stream expected to last for the next 10 to 20 years. The Authority is permitted to retain this income to offset against its expenditure. This income stream arises from what was once publicly owned property. An alternative would be for this income to be paid into the Consolidated Fund (which was the situation until 2000) and be managed by the Treasury. However, as this income is derived from coal-related property the Authority is best placed to ensure that the public purse receives the full benefit from it.

5.1.4 Mining Records and Mining Information

Chapter 3 described the information services of the Authority and concluded that with one concern it undertakes this service to a good standard. The information systems in the Authority are a product of its licensing and regulatory activities but they are also utilised to assist with its liability responsibilities as well as its environmental functions. As previously indicated they are an integral part of the Authority's work with there being a significant inter-dependence between them and its primary responsibilities.

Mining Records are used to identify previous mining activity to assess liabilities as well as to inform and assist with any future mining activity; they are, therefore, a vital asset. They are associated with coal ownership responsibilities, particularly the abandonment plans and the recording of mining activity. **Because of the value of**

these plans for environmental and legal purposes, they should continue to reside in the public sector.

The Mining Information is also key to identifying liability and the environmental impact of past mining operations and it is maintained from licensing information and used for other key responsibilities. The maintenance of this information relies on data generated by the Authority's other activities. It is also vital for managing its liabilities, consequently the responsibility for holding and maintaining the information should remain with the Authority.

The Mining Reports and Surface Damage Service (MRSDS) The Review looked at a range of possibilities for extending the contracting out of this service as well as maintaining or developing it in its current form:

- a) Collaboration with a single commercial information provider who would run the existing "front-end", and who would then charge enquirers a commercially appropriate fee ("exclusive distribution").
- b) Collaboration with a number of information providers who would pay a commercially determined fee for the MRSDS information and then charge enquirer ("selection distribution").
- c) Provision of MRSDS information to any reputable information provider on a cost-recovery basis ("open distribution").
- d) The Authority to supply mining reports direct to the public (or professionals acting on their behalf) on a cost-recovery basis as at present ("direct distribution").
- e) The Authority to supply mining reports direct to the public on a least cost basis, i.e. through the Internet ("e-distribution").

If the objectives were to maximise revenue, then either options (a) or (b) would be the route to follow. This would, however, fly in the face of present Government policy, which is to make Government-held information available as widely as possible on either a cost recovery or free basis. There are in any case technical problems in simply "privatising" the MRSDS enquiry service – the maintenance, interrogation and interpretation of the database is an integrated operation. Since it is already concluded that the maintenance of the database is something for the Authority to do, any "hiving-off" of the existing enquiry service would involve duplication of resources as well as different systems issues.

Viewed from the point of view of the end-user, the property owner or would-be property buyer, the critical features will be choice and cost recognising that any fee will be an extremely small part of the total transaction cost. Some members of the public (or more likely agents acting on their behalf) will be confident enough to interrogate the database directly through the internet. Others (including some agents) will continue to prefer the existing system of enquiries intermediated by Coal Authority staff. Yet others may be attracted in the future by the option of using "one-stop-shop" facilities supplied by commercial information providers who could also

offer a full range of search and, perhaps, survey services drawing on various sources. This degree of choice is likely to be feasible, however, only if options (c), (d) and (e) are pursued in parallel. This is in fact the strategy on which the Authority is already embarked. By making this information widely available on a cost recovery basis, it will ensure that value-added services are not stifled, but rather are allowed to develop in competitive market conditions.

It is therefore concluded that neither full privatisation nor contracting out of the MRSDS is desirable at this stage. Instead, the Authority should continue its plans to make available an on-line service. At the same time it should explore with commercial information providers how they can achieve on-line access to the MRSDS on a bulk basis.

5.2 Division of the two broad functional areas

The Review also considered the division of the Authority along the lines of the two major functional areas described in Chapter 2. Each of these could be undertaken in different organisations. This would have the advantage that greater focus could be brought to bear on the management of the coal resource. Hence, the Coal Authority or a similar body would be responsible for regulating the industry and managing the coal ownership (as well as the mining information) whilst a separate body (or bodies) would handle the liabilities. One scenario would have the Authority continuing to undertake the coal resource functions with other bodies, such as English Partnerships or the RDAs, and the Environment Agency managing property management/disposal and environmental issues (e.g. minewater) respectively.

However, there are strong dependencies between the two functional areas; ownership of the coal resource also implies responsibility for the liabilities from past coal mining and both require similar skills and understanding of the coal mining process. There is a strong case therefore for keeping both broad functional areas in the same organisation. One of the key liabilities, subsidence, would be difficult to place anywhere else in the public sector other than coupled with coal management responsibilities. The Authority already has a close working relationship with both English Partnerships and the Environment Agency, the latter is underpinned with an MoU (EP also has an MoU with the BCC, which is managed by the DTI).

Advantages such as greater management focus therefore have to be weighted against major disadvantages in terms of less efficient working and communication. On balance it is concluded that the disadvantages outweigh any advantages.

None of the findings from the consultation and the comments on the Authority's performance cast serious doubts on the conclusion that its core functions are better carried out by a single body rather than distribution to other existing or new bodies.

5.3 Governance and Organisation

An Organisation chart of the Authority is at Annex A4.

The Authority's Executive Committee, responsible for its day-to-day management, consists of a Chief Executive, two Directors and the Secretary to the Board. The Board additionally consists of a Non-Executive Chairman and two Non-Executive Directors, all of whom work for the Authority on a part-time basis.

It is organised into three main Branches:

Operations – The Director of Operations is responsible for most of the front line activities of the Authority, dealing with its customers. These include licensing/leasing, property, subsidence, surface hazards, minewater, mining records and the maintenance of the mining information database. Surveying expertise is a key skill of this Branch and just over a third of the Authority's staff work in it.

Administration/Finance/IT – The Director of Administration, Finance and IT is responsible for most of the support functions, the Mining Reports Service and the development of e-business. Much of this work involves clerical activity and around half of the Branch's staff are involved in running the MRSDS. Half of the Authority's staff work in this Branch.

Solicitor and Secretary – The Solicitor and Secretary handle legal services, personnel, staff training and Authority records. Although a small Branch, much of its work is feeding in advice to the other Branches.

Corporate Planning is part of the office of the Chief Executive.

There is a clear logical structure to the current organisation with a division essentially on skill sets. It is noticeable however that most of the key, front line operations that carry much of the Authority's risks as well as a major part of its programme expenditure, fall to the responsibility of one Executive Director.

Whilst there is no reason to think that any other organisation of the functions would be better it is suggested that the existing structure be revisited in the light of the efficiency scrutiny in Stage 2 of the Review. Stage 2 should also examine how to graft on to the organisation the resources to handle any additional responsibilities which are agreed in the light of this Review.

5.4 Conclusion

The above discussion strongly suggests that all the functions currently undertaken by the Authority are relevant and necessary and that they should reside within a single organisation because of their integrated nature. There is a very close relationship in particular between the ownership of the coal and the Authority's other responsibilities.

6 Options for Enhancing the Role of the Authority

Chapter 5 has concluded that the current functions of the Authority are required and correctly allocated to it. This Chapter examines the options to enhance its responsibilities. Two broad options are possible; one is to enhance or develop existing functions, the other is to add new functions by transferring these from other organisations. First, however, two options were considered under which the Authority might form part of a more broadly based organisation covering responsibilities beyond those for coal.

6.1 Including the Authority in new organisations with broader responsibilities

The Review examined two radical scenarios which went considerably beyond the scope of the Authority's current responsibilities for coal and encompassed other industries with potential synergies with coal. These possible bodies could be either:

1. A new *Minerals Authority* made up of the Coal Authority and other mineral bodies with the aim of regulating all mineral operations in a consistent fashion, or
2. A *Fossil-Fuels Authority* with the powers to regulate the oil, gas and coal industries. This would involve some of the functions of DTI's Oil and Gas Directorate being merged with the Coal Authority into a new single body.

The consequences of such a merger would involve merging the Authority's functions with other bodies to establish a single organisation with wider responsibilities regulating a number of related industries. These two options are radical as their impact would go beyond the coal industry. They were considered here because of their future potential but they would require a further and much broader review of the regulation of the extractive industries and ultimately require major legislation.

The concept of a Minerals Authority was considered and discussed with relevant minerals sponsorship directorate within the DTI. It became apparent that there are major differences between the coal industry and the other minerals industries arising primarily from the different ownership and approval regimes. In the light of this, it is considered doubtful whether a single regulatory body would be practical.

An alignment of the regimes for coal and oil & gas on the face of it could be more feasible – both are already in public ownership and there are established state licensing regimes in both cases. However, there are also significant differences – the scale of oil and gas exploitation is of an entirely different order to that of coal in the UK. Moreover, oil and gas extraction is very much more significant as a source of revenue. The environmental issues also tend to be different. After the initial examination of the issues, therefore, it was felt that it would not be appropriate to make recommendations in this Review about the regulation of the oil and gas industry.

Developing a detailed case for these radical changes is outside the remit of Authority's Quinquennial Review but the arguments for and against each are considered briefly below and in more detail in Annex A8.

If and when in the future the arrangements for the regulation of the oil and gas industry are reviewed the concept of a Fossil-Fuels Authority which would include the functions of the Authority should be considered.

6.2 Transfer of existing functions from other organisations

The review considered whether the Authority could pick up relevant functions which are undertaken elsewhere in the public sector, in particular the management of other coal related legacy/liabilities responsibilities. The key issue is whether those functions now undertaken by the DTI or other public bodies could more appropriately be handled by the CA, because of its skills, its knowledge of the coal mining legacy and its experience of managing significant liabilities through contractors.

6.2.1 DTI

6.2.1.1 BCC Employee Liabilities

Pensions apart, the BCC employment liabilities administered by the DTI mainly involve managing contracts for concessionary coal and coal health claims. (There are also some outstanding litigation cases still being handled by DTI officials acting as the Board of British Coal – these have a finite life and there are no advantages in seeking to transfer them.) The management of concessionary coal and health claims requires similar skills to those already employed in the Authority for managing contracts, though with the important difference that the “customers” in these cases are ex-miners and their families rather than property-holders.

There might be some logistical advantages in moving these functions to the CA: their administration would be closer to some of the beneficiaries of the schemes rather than in Whitehall, as well as being nearer to the contractors who run them for the Department. There would also be a greater focus on the delivery of services rather than on policy. Arguably these are functions which, in modern government, should reside in an NDPB. These advantages may not be particularly significant but would contribute to the rationalising of public sector liabilities in the coal industry.

These schemes however still carry a significant degree of political sensitivity and a number of issues need to be resolved before it would be sensible to transfer them.

- Coal health claims still have important policy issues outstanding but when these have been resolved and the payment of claims has settle down to what would be a case-by-case processing function there is little reason why this work should not be transferred to the Authority. It is expected that by this time only about five staff will be required to handle this work.

- Concessionary coal also needs to resolve politically sensitive problems over sourcing. The timing on this is such that policy issues with the EU over sourcing and the award of new supply contract towards the end of 2002 would mean that it would be inappropriate to transfer his activity until early 2003 at the earliest. This responsibility has a much longer life than that for health claims but only about two people are required to manage these contracts.

Amendments to the Act would be required to enable these transfers to take place. Significantly, the next 2 to 3 years is probably the earliest time by which it is realistic to expect any such changes to be possible.

Hence, the transfer of these functions has to be seen as a medium term possibility within the period up to the next QQR, subject to legislation being enacted. Some organisational changes within the Authority would also probably be necessary. The handling of these functions would require considerably more sensitivity to customer's concerns than that needed for the management of property; this would be a key requirement for the transfer of the functions. Moreover after the next three years, concessionary coal, in particular, would involve the management of large sums of money – almost twice as much as the Authority current spend annually. Accountability would therefore be an important factor which may need to be enhanced because of the increased amount of money being handled.

These two functions are possible candidates for transfer to the Authority within the course of the next quinquennial period subject to empowering legislation being introduced and the outstanding policy issues being resolved. It is suggested that the desirability of such a move should be reconsidered as and when the legislation amending the Authority's other powers is being prepared.

6.2.1.2 Pensions

The Government's position as Guarantor of the BCC pension schemes has no analogue with any existing function of the Authority. DTI's role in this respect involves the management of a contingent liability of a wholly different order from anything the Authority currently handles and significant levels of revenue are involved. In addition many of the issues involving the pension schemes are politically very sensitive and will probably continue to be so for the foreseeable future. Finally, the skills required to carry out these responsibilities are related more to the financial market than the coal industry. Accordingly it is considered that it would not be appropriate for an NDPB body, such as the Authority, to undertake these responsibilities.

6.2.1.3 Other ex-BCC functions

Other currently administered DTI functions which could be considered for transfer are:

- BCC Archives

- Property administration (e.g. clawbacks and the discharge of remaining leases),
- Administration of open cast claims exposure, and
- BCC's personnel records and files

It is already intended that some of these should be transferred to the Authority in due course. Property administration would sit well with the Authority's property management responsibilities and the BCC archives would complement the other information management skills they have acquired. The staff resources involved are likely to be very slight.

BCC's miners' personnel records and files contain sensitive information. However there is no reason to suspect that the custodianship of this information would be managed any less effectively by the Authority than by the DTI provided the necessary Data Protection Act requirements were adhered to. Any transfer of this data to the Authority's custody should coincide with the transfer of the concessionary coal and health claims due to its relevance to these functions.

Consequently the Review concluded that the above ex BCC functions could be transferred to the Authority at the appropriate time.

6.2.2 Office of the Subsidence Advisor

Section 46 of the 1994 Act allows the Secretary of State to appoint an independent person to act as the Subsidence Adviser. His functions are to provide information to individuals who wish to make claims under the Coal Mining Subsidence Act 1991 and to investigate complaints about maladministration. His duties do not, however, extend to disputes over the quantity or standard of repairs to property. These are dealt with by the Lands Tribunal or by arbitration. He covers both the subsidence for which the Authority inherited the liability and the subsidence caused by the new private operators. The existence of the Adviser is not compulsory. The Act states that "*The Secretary of State may by regulations make such provision as he considers necessary or expedient – for the appointment of (“subsidence adviser”)*" implying that the post exists only at the Secretary of State's discretion.

As the number of subsidence claims has reduced significantly over recent years, so has the work of the Subsidence Adviser. Furthermore, the term of office of the present incumbent is due to end in Autumn 2001. Under these circumstances, it is appropriate that the future of the Office is reconsidered to gauge the future requirement and how it should best be provided. A review of the Office is being undertaken by the Department alongside the Quinquennial Review, with a view to making recommendations in Spring 2001. One option might be for the Authority to take some or all of the functions of the Subsistence Adviser within its remit, albeit with appropriate safeguards to preserve its independence. In any event, the Citizen's Charter requires the Authority to provide information to applicants or complainants on the options open to them.

The Review concluded that there was no reason in principle why the Authority should not take on some or all of the functions of the Subsidence Adviser; whether it should do so is a matter to be addressed by the parallel review being carried out by DTI.

6.2.3 Other public bodies

Possible extensions to the Authority's functions could be to take on responsibility for:

- Minewater, subsidence and other liabilities from non-coal mining activities.
- Non-coal geological and environmental contamination information to enhance the Mining Records database and to extend the MRSDS.

Minewater and other liabilities from non-coal mining activity. Giving the Authority responsibility for this, where the liability cannot be clearly established, has some attractions; especially as the Authority has the expertise to handle these problems. At the moment The Environment Agency fulfils this role, which does not sit well with its regulatory responsibilities. However there are, on balance, stronger arguments that it is more appropriate for the Authority to maintain a focus on liabilities from coal mining. The biggest concern is that such an extended role would begin to skew its attention away from its primary mission to exploit the nation's coal resources and address the liabilities of BCC's past mining activities. Such liabilities are already becoming more fragmented as individual coal industry operators take responsibility for those liabilities arising from their own workings. Such a transfer would therefore probably only make sense if a Minerals Authority was established.

Extending the MRSDS. Other types of information are rarely available on a like-for-like basis to the property specific coal mining data belonging to the Authority. Some information is based on generic data over an area rather than specific pin-point records. The NLIS project is already examining ways of using the internet to provide a "one stop shop" to provide access to a variety of databases covering various geological features and all mining activity. Although these databases would not reside in the same IT system (and at quite different locations) this would be virtually transparent to the user. The EEIS project would also provide a one-stop-shop for information relating to the natural environment. Any extension of the MRSDS would not therefore be necessary.

6.3 Enhancing the Role of the Authority

Under the Coal Industry Act 1994 the Authority is not allowed to become involved in mining operations in any way. It is clear from the comments made during the review, however, that there is a desire in the industry and associated organisations that it should play a more active role in providing support to the industry. The Authority itself has also been looking to find ways of helping the industry. A number of suggestions were made during the course of the review as to how greater involvement could be achieved - these are summarised in Annex A3. They can best be considered under four headings:

- Financial support for the industry
- Strategic development of the UK coal resource
- Support and facilitation of the industry

- Commercial services

6.3.1 General Principles

Bearing in mind in mind that virtually any significant extension of the Authority's activities will require that Parliament amends the primary legislation, it is important to consider at the outset what principles should determine the appropriate role for the Authority in relation to the Government's wider responsibilities for promoting the competitiveness of the industry. Basically, what should the Authority do and what is the DTI's role?

As a Non-Departmental Public Body, the normal expectation would be that the Authority's role is to exercise executive functions and responsibilities arising from a statutory framework such as the Coal Industry Act 1994. As the central government department headed by ministers it falls to the DTI to develop government policy towards the industry and apply this policy either through new legislation or through the way it deals with the industry. Policy can change with a change in government. In particular, financial support and sponsorship raise important issues of accountability. Also important is the need to ensure that any support given is compatible with EU rules on state aid – an area where it is much easier for a Government department to operate. All of this suggests that there is still a case for a clear dividing line between the responsibilities of the DTI and the Authority, with DTI establishing the framework of any assistance schemes, leaving the Authority to focus on the strategic management of the coal resource and the regulation of the industry.

The four activities below have been assessed by the Review against the background of these general principles.

6.3.2 Financial support for the industry

Financial support was a key concern for the industry during the consultation and many felt that the Authority should be running assistance schemes. Any assistance has to be within the framework of the current EU rules whether they are governed by the ECSC Treaty, or any successor state aid regimes.

A number of options for supporting the industry were considered during the Review - these are assessed below. Some other options which do not involve changes to the Authority's powers (e.g. change in the way royalties are levied) are considered in chapter 7.

6.3.2.1 Costs imposed on the industry as a result of statutory requirements

Funding of the Mines Rescue Service. A key concern arising from the consultation stage of the Review was the funding of the Mines Rescue Service. This is a mandatory service that is at present entirely financed by the coal industry through a compulsory levy, currently 13p per tonne. (This is only applied to deep mining operations – open cast mining is not included in this scheme.) This levy has increased

in recent years as a result of the drop in coal production and is expected to rise to 15p per tonne. The worry is that if the levy continues to increase some operators might not be able to afford it and hence will close. Pits closures will in turn have a knock-on effect of increasing the levy yet again. The MRS already attempts to subsidise the levy by running training courses earning income from other industries. But this has proved insufficient to have a marked impact on the levy rate required. Consultees felt that either the Authority should take over the management of the MRS or should be funding it.

Funding by the Authority for the Mines Rescue Service could well be seen as financial assistance conflicting with the EU subsidy rules, and could provoke allegations of discrimination against opencast operators. On the other hand, it is an emergency service, and other emergency services such as the fire service are publicly funded. Indeed, since a major incident at an opencast site would presumably be dealt with by other publicly funded emergency services, the discrimination at present could be said to be against the deep mine sector. The operation of the MRS is primarily a matter for the HSE, however, and they are in fact currently looking into its funding.

The representations put to the Review appear to suggest that there is an arguable case for some form of public funding for the MRS, and it is recommended that these points are included in the HSE's consideration of these matters. Whether the funding need involve the Coal Authority is a second order question, but one which the HSE should be invited to look at.

Security Provision Under the Act deep mine operators are required to lodge with the Authority security against the future costs of subsidence damage and/or shaft treatment in the event that they should prematurely cease trading. This security needs to be held for a time well after mining has ceased to allow for later subsidence claims. The Review considered whether this could be restructured so that the staged payments could be extended over a longer period of time thus reducing their burden on the operators' costs. Capital assets, such as land, owned by the operators might be held as security to compensate for the reduced amount of cash in the fund.

This arrangement would mean that the public purse would have to share some of the risk with the operators since the value of capital assets could fall over time. It is quite likely that much land associated would reduce in value as mining operations progressed and possibly even require a dowry upon disposal. Secondly, such an arrangement could be interpreted as state aid since the government would arguably be assisting the industry by taking on some of its risks. The Authority has, in fact, a certain degree of discretion in the way in which security payments are built up. It is not recommended that there should be any further relaxation in the statutory requirements to put up security – this would simply leave the local communities exposed to the consequences of potentially blighted land.

In conclusion therefore this would not be seen as a viable way of covering the operators' responsibilities towards the local communities affected by generations of mining.

6.3.2.2 *Environmental costs of present or abandoned operations*

Pumping Minewater from Abandoned Mines. Under the arrangements introduced at privatisation, the Authority is considered to have responsibility for minewater attributed to past mining operations of BCC, but the current operators are responsible for ensuring that their mines are kept clear of minewater, and they have a continuing responsibility for any minewater arising from mines they abandon. Because it is often not clear from which source the minewater comes it is, on occasion, difficult to determine who has liability. The question has been raised in the past whether it is reasonable that, in effect, the last remaining mine in an area should bear pumping costs which reflect in large part minewater coming from other abandoned workings owned by the Authority. Whether the Authority should bear some of the pumping costs and, if so, how much is a mixture of policy and fact outside the scope of this report. If it is decided on policy grounds that the Authority should bear some of the cost, it would be necessary to ensure the drafting of the Act did not impede this. Nor does it seem reasonable to regard this as an issue of state aid – the question is rather one of sharing responsibility in the context of the privatisation settlements.

6.3.2.3 *Commercial constraints on producing coal in the UK.*

Assisting the Industry with Development Costs. It has been suggested that the Authority should be able to assist an operator with funding development costs, offsetting this against an increased royalty on the coal produced. Such a scheme would, however, conflict with the principles set out above besides having state aid implications - any financial assistance for the industry is therefore a matter for the DTI. More importantly, it would mean that the Authority was assuming some, if not most, of the risk of the enterprise – an exposure which would fall on the public purse.

As with the conclusions on Security Provision this is not considered to be a viable option.

Insurance. It has been suggested that the Authority might be given powers to act as insurer of last resort for those risks which are expensive or impossible for the operators to cover. All commercial activity carries risks of varying degrees and it is very unusual for a public body to insure against any such risk, let alone those which are more expensive.

Again this would involve transferring risk to the public purse as well as being a state aid issue.

6.3.2.4 *Ownership of coal mining assets*

Re-purchase of Assets (Sale and Leaseback). A final possible method of providing financial support which has been canvassed is for the Authority to re-purchase mining assets from the operators to provide them with development funds thus enabling them to continue to work the coal under leaseback arrangements. This would be returning to a similar situation to the section 36 licences under the Coal Industry Nationalisation Act 1946. This change would be counter to the spirit of the 1994 Act reforms besides involving considerable sums of public money. There would also be the question of which mines the Authority would re-purchase and under what circumstances.

State aid implications as well as conflict with the general principles set out above make this option unviable.

6.3.2.5 Conclusions

It is concluded here that the Authority should not be involved with any direct financial assistance to the industry. In the main, this would constitute state aid and is a matter for the DTI within the context of the government policy on coal. The schemes considered above would also involve asking the public purse to share in the risks of private enterprise – the coal industry, like any other industry, ought to survive in the market place on its own merits. It would be very unusual for taxpayer's money to be used to share in its risks.

There are strong arguments therefore which suggest that the role of the Authority should not be one that enables it to become involved in financial assistance to the mining industry – this is a matter for the DTI.

6.3.3 Strategic development of the UK coal resource

Within its responsibilities as the owner of the coal resource it has been suggested that it might be appropriate for the Authority to be more active in its strategic management. As background, Annex A3 includes a brief assessment of the future of coal against the supply of other fuels for power generation. Coal, used in an environmentally acceptable way, could have a future strategic role to play. As owner, the Authority should be developing strategies for the future of coal in the country's energy mix.

These goals could be achieved in a number of ways by:

- undertaking research into gasification technologies as well as CBM and CMM techniques. There is already policy agreement that the Authority should be undertaking this work and draft legislation has been prepared although it has not been possible to find parliamentary time.
- investigating means of dealing with the hazards from past coal mining activities, in particular minewater problems.
- assessing the coal reserves and their potential for exploitation, identifying seams which could either be economically mined using traditional methods or those which would be more appropriate for gasification technologies. This would be a further development of the work already undertaken with the BGS in mapping out Britain's coal resources.

6.3.3.1 Research and Development

The Government's policy is to encourage the development of cleaner coal technologies⁶ so as to reduce the environmental impact of coal fired power generation. Since the coal industry itself does not have the resources to undertake this research, the Authority would be an appropriate body to undertake it. Such work would include

⁶ Energy Paper No 67 Clean Coal Technologies published by DTI

investigating the potential for underground coal gasification as well as technologies for extracting Coal Bed Methane.

Beyond potential uses for coal, there are other types of research arising from the Authority's responsibilities, for example there is a need to research the environmental problems of abandoned mine workings, essentially minewater.

It is important that the DTI maintain responsibility for identifying R&D programmes so that they are consistent with government policy and because of the potential sums of money involved. The Authority would therefore manage programmes identified by the DTI, taking them through to a conclusion. Research brings with it issues concerning the dissemination of results openly to industry. There are also, however, Intellectual Property Rights issues to be considered.

A policy decision has already been made that R&D should be part of the Authority's portfolio especially in relation to its ownership of coal. From the above argumentation this decision is the right one. A change to the Act will be required before the Authority can adopt this role.

6.3.3.2 Exploration for economic coal reserves

As part of its strategic management of coal reserves the Authority could be identifying new reserves and assessing their economic potential for development in the light of the present and predicted market for domestic coal. A rolling plan could be developed so that a portfolio of sites was identified. These sites would include seams for deep mining; seams for open cast mining, abandoned mines for CMM extraction, and further into the future, possible seams for CBM and UCG extraction. The objective would be to ensure that there are a variety of economic coal reserves available for future development. The Authority could publish the list of sites to encourage the operators to bid for them competitively. To avoid there being any element of financial assistance to the industry the Authority would need to consider charging, on a cost recovery basis, for a detailed report for each site.

This service would not prevent private sector operators finding their own sites and notifying the Authority that it was exploring for such sites.

Coal should have a part to play in the country's future energy mix and contribute to the government's policy objective well into the future provided environmentally friendly means can be developed for its use. The Authority, as the owner of the coal, has the skills and experience to take a lead role here. Indeed, given its ownership responsibilities, it is a natural consequence that it should be able to investigate ways of maintaining its viability as a strategic fuel. Within the framework of government policy and with programmes of work approved by the DTI, the Authority should be able to develop an effective role in the strategic management of the nation's coal resource.

6.3.4 Support and facilitation for the coal industry

6.3.4.1 Advocacy support for the industry

During the consultation stage many in the industry felt the Authority could do more to give it vocal support. It is unusual for a regulatory body to perform such a role and it is doubtful that this would achieve any notable benefits for the industry. The industry already has trade associations such as CoalPro and NALOO to lobby for it and it is questionable that it would be an effective use of public money for the Authority to attempt to duplicate this role.

6.3.4.2 Support for planning applications

This would concern open cast mining applications rather more than applications for deep mining. A planning regime which operates a strong presumption against open cast mining virtually sterilises the coal. As owner of the coal the Authority has an interest in promoting its exploitation, consequently it would make sense for it to be able actively to take an interest in the planning regime. This involvement could be at two levels:

- Ensuring the planning regime established by the Local Planning Authorities for open cast mining gave operators a fair opportunity to obtain permission to develop sites. The Authority already makes representations when it feels that structure plans or other guidelines are drawn up in such a way as to make it virtually impossible for operators to obtain planning permission. The Authority can already complain about the regime, but it should be able to seek a judicial review if it feels there is a bias against coal in the LPA.
- Supporting planning applications for specific developments. The Authority is currently forbidden to support operators' planning applications under the Act. This is actually anomalous - as the owner of the Coal it is in the Authority's interest to do so. The Review concluded therefore that this restriction should be lifted. A change in the Act would be needed to enable the Authority to undertake this role.

6.3.4.3 Management of the Mines Rescue Service

Funding of the MRS has already been discussed above. The Review perceived that this was the key issue of concern for the MRS rather than its management. It is concluded that whether the MRS continues as an independent limited company or is administered by the Authority makes little difference to its effectiveness. There were no compelling reasons, therefore, why the current statutory arrangement for the management of the MRS should be changed.

6.3.5 Additional commercial services

Consultancy Services

The Authority has developed a range of skills and experience over the years arising from its statutory responsibilities and one of the issues which this raises is whether enough is being done to ensure that this expertise is fully exploited. The various suggestions that the Authority should be able to provide services on a commercial basis in order to make full use of this expertise present a range of different policy implications:

- commercial services offered at market rates with the intention of making a profit which can be used to finance other Authority activities,
- joint ventures with private sector service providers aimed at improving the quality or value of the choices available in the market place,
- arrangements for the Authority to provide services, including acting as an agent, for other public bodies.

The first of these is fraught with difficulties in that it would involve the Authority setting itself up in competition with the private sector. A principle already exists in government - “the rule against bias” - that there should be no possibility of bias against the private sector as a result of a statutory body exploiting an advantageous position to provide a competitive service. In effect, by offering a commercial service, the Authority would be exploiting an advantage over the private sector by using information and knowledge to which it had exclusive access.

The second approach is more promising, since it would allow the Authority’s unique skills and knowledge in some areas to be made available to the public in partnership with other organisations with complementary skills.

It would be important, however, to ensure that existing private sector operators had a fair chance to enter into such arrangements. It is also unlikely that it would be appropriate to depart from the normal rule that the Authority should seek only to cover its costs – it would not be consistent with making expertise as widely available as possible for such arrangements to be pursued as a means of generating additional revenue. Finally, it would be necessary to ensure that such non-core activity did not displace essential work on the Authority’s statutory obligations; this would be best achieved by retaining some DTI control, through the corporate planning and budgeting process, over the extent to which these services were provided.

The third option should be entirely uncontroversial. In practice the Authority already acts as an agent, doing some work on this basis for the DTI. If this is to be pursued on a larger scale involving other public bodies, however, it would be desirable that the legislative position were clarified – as has already been pointed out the 1994 Act is very tightly drawn. It would also be useful if there were clearer guidelines on cost recovery.

Clearly the third option is the most viable in the medium term and could form the first stage of the Authority venturing into providing external services. A migration to the second option, a joint venture, would be a natural evolution if the agency arrangement proved to be successful.

6.4 Conclusions

The Review concluded that there were opportunities for the Authority to extend the scope of its activities and responsibilities. Essentially this was to enhance its role in the strategic management of the coal resource. These new responsibilities would encompass R&D work, exploration and cataloguing of viable coal reserves. It could also take a more active role in the planning regime to promote the exploitation of its coal and avoid sterilisation.

There is potential also for the Authority to provide limited consultancy services drawing on the expertise it has developed over the years, although further investigation would be required. If this supported the idea, then it should be a staged process beginning with the development of inter-governmental agency services.

Two BCC liabilities currently being managed by the DTI could be transferred to the Authority sometime in the future as and when the policy issues had been resolved. The transfer of functions of the Office of the Subsidence Advisor, should also be further examined.

However the Review did not consider there was scope for the Authority to be involved in the provision of any financial support to the industry – this is a matter for the DTI.

Lastly, whilst the Authority was a viable body as it stood, in the longer term if there was a reform of the government machinery regulating fossil-fuels, there could be a case for including the Authority in a broader organisation.

7 Funding and Expenditure Regime

7.1 Overview of the Authority's finances

The Authority's Annual Report covers a full set of accounts as well as reporting on activities over the year. Annex A7 provides copies of the latest Balance Sheet and Income and Expenditure Accounts.

Gross income in 1999/2000 was £49.5m, of which nearly 70 per cent was from the DTI through grant-in-aid payments; the remainder was obtained from retained income from property sales, clawback, MRSDS fees and gross royalty payments.

Gross expenditure for 1999/2000 amounted to £38.6m. Just under two thirds of this was used for historic liabilities, with just under a fifth for subsidence settlements.

A surplus of £11.3m was made after allowance for tax and interest. Of this some £6.17m was paid into the Consolidated Fund, being that proportion of the royalties which are appropriated by the government. This left a retained surplus of £5.1m.

The Authority's net financing requirements are covered through the grant-in-aid requirement, which are settled each year through the DTI's RAM round. The grant-in-aid is used primarily for liability commitments such as subsidence and environment. To date, the allocated budget has proved adequate in meeting the Authority's financial requirements.

7.1.1 Sources of Income

The gross income in 1999/2000 was made up as follows:

Licensing and annual fees:	£0.92m
Mining Assets:	£6.17m
MRSDS and Mining Records:	£6.34m
Historic Liabilities and Subsidence	£1.61m
Grant in Aid:	£34.42m
Total	£49.48m

Mining Assets primarily include royalties and PRR payments.

Since the last financial year the Authority has been permitted to retain receipts from property sales. It already retains other income from property, including clawback payments.

7.1.2 Use of Funds

Gross Expenditure during 1999/2000 can be analysed as follows:

Licensing	£1.0m
Mining Reports & Records	£5.7m
Historic Liabilities	£24.6m
Subsidence	£7.2m
Mining Assets	£0.15m
Total	£38.6m

Historic Liabilities relate to the Authority's ownership of abandoned coal mines and cover making safe ground collapses, monitoring and dealing with minewater and mine gas emissions. The £24.6m includes approximately £7m required for remedial projects for minewater breakouts.

The services the Authority provides on licensing, the MRSDS and Mining Report's Service are run on a cost recovery basis under the Treasury's Fees and Charges Guidance. In practice, the MRSDS generated a surplus on 1999/2000 of around £0.7m. In a number of previous years surpluses of similar magnitude have also be made.

7.1.3 Corporate Plan Forecasts

Budgeting for the costs of meeting future liabilities is difficult, as it is virtually impossible to predict the number of incidences over time which will require Authority intervention. For those activities where forecasting is possible, over the next 5 years it is expected that:

- Income from property sales will fall to less than £1m p.a. from the 1999/2000 figure of £7.3m.
- Income from licensing will fall marginally.
- Income from leasing will also decline possibly to less than £2m p.a..
- Expenditure on minewater remediation projects will increase to about £8m p.a..
- Expenditure on subsidence will fall to less than £7m p.a..
- Requests for Mining Report is expected to increase to around 450k per annum which at current fees would generate around £6.8m p.a..

Looked at from its two broad, core activities there is a clear distinction in terms of the flow of funds:

- For coal ownership and management (including mining information) earnings netted approximately £6m in 1999/2000. This figure allows for gross income from these activities less their running costs as they are run on a cost recovery basis. This surplus is expected to erode markedly over the next 5 years as the amount of royalties earned over that period will fall due to the decline in coal production.

- Legacy and liability activities are essentially the beneficiaries of grant-in-aid requiring the bulk of the £34m in 1999/2000 after allowing for property sales and clawback. This figure is forecast to decline over the next 5 years to around £23m as the claims for subsidence and other liabilities are predicted to fall over this period.

The Authority has an established budgeting and monitoring regime and reports quarterly to the Coal Unit on income and expenditure.

7.2 General Principles

The Authority's current activities envisage several different types of financing relationships:

- a) provision of public services (e.g. environmental work, meeting subsidence liabilities) financed by the taxpayer through the grant-in-aid.
- b) provision of other services (e.g. MRSDDS, licensing) on a cost recovery basis.
- c) realisation of assets, with the proceeds usually passed back.

The most straightforward is that which involves activities such as MRSDDS or licensing activities, which are financed on a cost recovery basis. There are, however, a number of activities of the Authority which cannot be financed in this way (e.g. its environmental work or the way it meets its subsidence liabilities). Typically these are expected to be met by the taxpayer through the grant-in-aid.

At the same time, fees for services and grant-in-aid do not form the only sources of income: there are in addition (1) the proceeds for realising assets and (2) the royalties and production related rents which in effect represent a form of taxation. Finally, there are flows of funds into the Authority as it builds up the security required to ensure that the current operations are able to meet future subsidence and shaft treatment liabilities. The basic expectation has been that these income flows are paid into the Consolidated Fund, although in the case of some items the Treasury have agreed that receipts may be retained (on the basis that it reduces the amount of grant-in-aid required by the Authority).

Proposals put forward by the industry and the Authority would entail altering this pattern in three ways:

- a) some of the new financial support ideas described in Chapter 6, which would benefit the industry, might be provided at below cost or at no charge, financed by grant-in-aid.
- b) although much of the cost of such additional activity might, in theory, be financed through grant-in-aid, it has also been suggested that the Authority could finance some of it through:
 - i. charging above costs for some existing services (e.g. mining reports) or new services embarked upon with a view to making a profit (e.g. consultancy) – “revenue generation”; or

- ii. retaining more of the existing income which would otherwise be surrendered to the Consolidated Fund – “recycling”.
- c) others suggest that, if the intention is to give greater support and encouragement to the industry, it would be more straightforward to reduce the amount taken from the industry in the form of royalties and production related rent.

Proposals under (a), insofar as they are or are not justified as a proper use of public funds and are allowable under state aid rules, have already been considered in Chapter 6. The analysis below therefore concentrates primarily on issues raised under (b) and (c) involving revenue generation from the MRSDS and the opportunities for recycling of royalties. Neither of these approaches is, however, without its problems. “Revenue generation” effectively means that members of the public are financing activities designed mainly to benefit the industry. “Recycling” may mean that these operators who are contributing most are not those who benefit most from any additional work the Authority carries out. Any fundamental change in the way royalties etc. are calculated and derived also risks disturbing the balance between operators, some of them could argue that their apparently favourable position now was paid for in the price of the privatisations in 1994.

7.3 Royalties

Under the restructuring of the coal mining industry the private sector successors to BCC acquired certain long term leases over coal reserves along with the mining assets which they purchased. A number of operators, mainly in the opencast sector, continued to mine under section 36 licences issued to them in the period during which BCC licensed private sector activity. Other operators converted their section 36 licences to new “Part 2” licences issued by the Authority under the 1994 Act. The Authority now collects the royalties or Production Related Rent payable from these operations. Nearly all of the royalties are appropriated by the government and paid into the Consolidated Fund. They can, therefore, be seen as a tax on coal production. However, this has been a declining figure over the last few years; in 1999/2000 it was only about £6m and is expected to decline to below £3m over the next 5 years.

Royalties are determined by the Authority on the basis of the business case for mining the coal, and they vary for each development. The Act requires the Authority to acquire the “best terms available” allowing for the current economic situation and the market for the coal itself. This requires assessment of the operators’ business case. Although this process takes time and involves the use of contracted mineral specialists, what is required by the Authority appears to be no more than would reasonably be required for any business proposal and it is clearly necessary for evaluating the viability of a development.

During the consultation stage it was apparent that royalties were a sensitive topic with most operators. There was almost unanimous feeling within the industry that the method for determining the rate charged was not entirely understood and the process was too slow – this delayed production with the knock-on effects for contracts and delivery. There was also concern over mineral consultants having access to confidential business information. Difficulties encountered switching from section 36

licences to Part 2 licences, which are considered to have financial advantages, were also a source of frustration for some. To reduce and simplify the regime would remove an element of agitation for the industry and indirectly help it by reducing one of its costs.

Many of the companies consulted thought that royalties were an acceptable cost of production. To abolish them would also discriminate against those companies who had already purchased 99 year leases at privatisation. There was however a call for the process to be considerably shortened and for the determination of the rate to be much more transparent; being set according to a known and understood formula. This would speed up the licence applications. Either a flat rate or a simple tariff arrangement should provide greater flexibility and allow adjustment to allow for changing market prices and economic conditions.

The following were considered as variations on the existing arrangements:

1. Applying flat rate royalty – This would provide, in theory, a very simple solution and one that was easy to apply. All operators would know in advance what their royalty commitment would be. It would also significantly speed up the licensing process and could be responsive to changes in the market price of coal. However, it would have the significant disadvantage of not distinguishing between the varying difficulties encountered in winning the coal and the market rate for a given quality of coal. Unless a “lowest common denominator” rate was set (i.e. no one would pay more than the lowest rate currently paid) it would clearly mean that some operators would be paying higher royalties than at present which would be widely seen as unacceptable. This does not, therefore, appear to be a viable option.
2. A published schedule of royalties – This option might involve devising a schedule of rates determined by a number of factors such as ease of winning, coal quality etc. This would have virtually the same advantages as the single price but it would not discriminate to such an extent because the royalty level would reflect costs of mining and market price. The “lowest common denominator” principle could be used to determine the rate for each category.

In line with the government’s policy of reducing burdens on business, a simpler and more flexible royalty regime, similar to option 2, looks attractive. It could also incorporate a mechanism allowing for regular review and adjustment of rates to reflect the prevailing market price for coal. Any new regime should also allow operators to switch easily from section 36 to Part 2 licences which, in fact, may bring to an end Section 36 licences.

The Review briefly considered the Authority recycling the royalties back as financial assistance for the industry. However, as concluded in Chapter 6 this would conflict with the general principles set out in that chapter and take the Authority’s beyond the role envisaged for it. State aid implications are also a major obstacle to their acquiring such a responsibility.

Although essentially an issue for Stage 2 of the Review, it is recommended that further investigation be carried out to determine if a simplified and more flexible

royalty regime, along the lines above, would be more appropriate. If this resulted in any recommendations for change then amendments to the Act would be required.

7.4 Income from licensing

This is undertaken on a cost recovery basis under the Fees and Charges Guide. Whilst some opencast operators felt they should not be required to have a licence for exploration purposes, most operators were tolerant of a cost-recovery licence fee for mining operations. The principle of cost recovery is the norm in the public sector for specialist services rendered and there is no reason why this should not continue to be the case for the coal industry.

7.5 Income from the MRSDS

The possibility of raising extra revenue from the MRSDS was considered by the Review. This would have the advantage of increasing income for the Authority which could either be used to reduce the grant-in-aid or for the Authority to use for its strategic coal management. For every £5 increase in the fee an extra £1.8m could be raised provide this did not result in a decrease in the demand for the Reports.

The Intra-Governmental Group on Geographical Information (IGGI), of which the Authority is a member, is currently looking at the various charging regimes in use for public access to geographical information. Whilst a number of bodies only recover costs, some, such as Ordnance Survey, are permitted to make a profit. The Group is determining if a uniform approach to charging can be used across government and possibly enable rates to be set over and above cost. It has yet to report on this issue and it is as yet unclear what its advice will be. It is possible that if it supports setting charges towards a market rate then this would come into conflict with the government's e-commerce targets of providing free access to government information.

In the case of the MRSDS it is debatable whether the fee should be set on a commercial or a cost recovery basis. The nature of the information means that specific knowledge and expertise is required to provide the interpretative service which would offer added value for the house seller or buyer. However, the Authority has a monopoly on the supply of mining information and it cannot be seen to be exploiting this advantage over the private sector (the rule against bias principle) or, more so, over the citizen buying (or selling) a property. There are also ethical reasons for not charging excess; much of the housing in mining areas is not necessarily of high value and in many cases this would be placing an extra burden on the lower end of the housing market. Such a move would also have a possible conflict with the government's proposed Homes Bill on house vendors preparing "seller's packs".

Chapter 3 discussed problems associated with the reliability of the data on the MRSDS. To improve its quality would require significant investment that might be raised by increasing the search fee. The precise impact this would have is uncertain, but it is thought that the very high cost of the work to improve the quality of the

information would increase the fee to unacceptable levels. This would need to be investigated further.

It is concluded therefore that subject to the findings of the IGGI review there is no justification for charging above cost recovery rates for this information, although, given its nature, cost recovery is an appropriate rate to apply. In the light of the problems discussed in Chapter 3 on the reliability of the data, further consideration should be given to raising additional revenue to finance the work to improve its quality and accuracy.

7.6 Other revenue raising options

Chapter 6 suggested that the Agency could provide consultancy services exploiting its expertise and skills. This could eventually be undertaken in partnership with another government agency, or a private sector company, although initially this should be on an inter-governmental basis. If this activity were adopted then this would have revenue raising potential.

Within the constraints described in Chapter 6 above, the Authority ought, in the longer term and where it has appropriate skills and expertise, to be able to raise revenue by selling its services to other bodies.

7.7 Conclusions

The overall current financial arrangements for the Authority are broadly satisfactory and it is recognised that the arrangements work well as they stand. The royalties regime should be reviewed in Stage 2 with the objective of simplifying it. There is a possible opportunity for the Authority to increase its revenue by exploiting its expertise and knowledge in coal and this should be investigated further. Otherwise there are very limited opportunities for the Authority to increase its revenue from its mining information and the MRSDS.

8 Recommendations and Conclusions

This Chapter summarises the broad conclusions of the Report with recommendations for future actions. Issues that are considered to be the domain of Stage 2 of the Review are detailed in Annex A9.

8.1 Status and functions

The Authority's powers and duties are taken from the Coal Industry Act 1994. The Act was drawn very tightly to ensure that the Authority did not become actively involved in the industry and that it behaved only as an interested owner of the coal in an open market. Other key duties were to regulate the industry, to manage certain BCC liabilities, dispose of BCC property and to provide information on mining activity.

This Review concludes that there is still a need for a Coal Authority both now and for the foreseeable future. Although government policy is more supportive of the coal industry than at the time of the first quinquennial review, essentially the role the Authority plays in the industry has not changed. It is still making a relevant contribution to the administrative process, particularly with regards to its ownership of the coal, the regulation of the coal mining industry and managing the liabilities of past coal mining activity. The Review considered privatisation of the coal resource but concluded that it should continue to be owned by the Authority on behalf of the nation.

Other forms of organisation were considered in the Review, including abolition and dispersal of functions, as well as privatisation of the Authority's work, but it concluded that a Non-Departmental Public Body is the most appropriate organisation to undertake such statutory functions following the restructuring of the industry in 1994.

The Review concluded that the functions currently undertaken by the Authority are still appropriate and necessary for the administration of the industry and that it should continue to undertake them. To distribute these functions to other bodies would result in inefficiencies both in terms of the carrying them out and in the necessary communication between the people undertaking them. The Review strongly recommends therefore that these should remain in the Authority.

Activity in some functions has declined over the last 2 years; the fall in coal production has resulted in a decline in licensing activity and a fall in subsidence claims has reduced this work. Other activities however have increased, such as minewater treatment (as a result of greater concern over environmental impact) and the provision of mining information. Despite this change in the balance of its work the Authority still has a contribution to make in all aspects of its remit.

8.2 Performance

Within the constraints of the Act the Authority generally undertakes its duties competently and effectively. The Review found only a few instances in which it considered the Authority could improve on its current performance.

Whilst the Authority has a mission statement, published performance targets and lower level objectives it does not have any high level objectives. It is recommended that a set of high level objectives are developed in conjunction with the development of the next corporate plan together with a dynamic IS Strategy.

The Authority succeeds in meeting a number of its targets, although in the area of licensing it needs to develop greater credibility with the industry in terms of having meaningful targets on licence applications and encouraging the perception that those are being met. The prompt payment code was not met in 1999/2000 although procedures were put in place to improve performance for 2000/01.

It is recognised that the Authority has already made significant progress in developing internet access to the MRSDS, however other areas of communication with the public, such as subsidence claims and licensing/leasing activity need to be developed along similar lines to meet the government's 2005 e-commerce deadline. E-commerce projects should be identified in the IS Strategy so that targets can be set to achieve this aim.

There are also issues around the reliability of the Mining Information Database. Although unreliable Mining Reports are rare, the impact of just one can be traumatic for the individual involved. Whilst attempting to correct any inaccuracies in base data is not considered to be feasible, Stage 2 of the Review needs to investigate how such instances should be handled in the future.

The current regime for licensing CMM extraction appears cumbersome especially with the need for a PEDL licence from the DTI in addition to an Authority licence – this requires further investigation especially as it is expected that activity in this fledgling industry will increase over the coming years. Whilst it is not practical to expect amending legislation to simplify the current arrangements in the near future, the Authority and the DTI should develop an MoU to smooth the process for operators.

8.3 Enhancements to the Authority's Responsibilities

The constraints the Act imposed on the Authority have impeded it from being able to effectively manage the nation's coal resource and to take a strategic approach in developing it as a fuel that has a role in the country's future energy mix. It is concluded therefore that some amending legislation is needed to provide the Authority with the powers to be more strategically active in its management and to be able to safeguard coal resources. This would include the ability to undertake R&D work, particularly to develop environmentally acceptable ways of using coal as well as the identification of viable coal seams for future exploitation. The Authority should also be allowed to be more supportive of planning applications by operators and to be able to challenge any non-coal planning applications which would sterilise coal resources.

Annex A10 summarises the options for change identifying those which require amendments to the Act.

The Authority works closely with the Coal Policy Directorate of the DTI and both bodies essentially complement each other in the public administration of the coal industry. Whereas the Authority covers a number of executive functions associated with the regulation of the industry and for managing the physical liabilities of the British Coal Corporation, the DTI is responsible for the sponsorship of the industry and handling executive functions connected with the BCC's employee liabilities. The Review concluded that there might be a case for rationalising this division between policy and executive functions over the next 5 years so that the Authority's role is clearly to undertake all executive functions pertaining to the industry leaving the DTI to handle policy development. This would involve transferring a number of functions to the Authority, in particular coal health claims and concessionary coal. These transfers would require changes to the Act but more importantly they would need a number of policy issues to be resolved first of all. This would leave the Authority concentrating on the type of case management work appropriate to an NDPB. It is suggested that the desirability of such a move should be reconsidered as and when the legislation amending the Authority's other powers is being prepared.

As the importance of the role of the Subsidence Advisor has also declined over the last year or so, new arrangements involving the Authority and using Citizen Charter principles would be more appropriate.

The funding of the Mines Rescue Service was not an issue for the Authority although this was an area of concern. It is understood that HSE are investigating possible solutions to this problem.

The Authority has built up considerable expertise and experience in a number of fields connected with mining over the years. These could be exploited to provide a consultancy service to other bodies. The Review considered there may be some limited benefits in this provided there were no conflicts with the Authority's core activities. There was also the "rule against bias" to be considered. The Review concluded that the Authority could be given powers to provide consultancy service to other public bodies in the first instance and that possibly later, after further consideration, this could be extended to a partnership arrangement with a body with complimentary skills.

The Review concluded that it was not for the Authority to acquire responsibilities to provide financial assistance for the industry, this had state aid implications and was therefore a matter for the DTI.

8.4 Financial regime

The Review concluded that the current arrangements for financing the Authority were satisfactory and that there was little need to change these.

However, the royalty regime should be investigated further in Stage 2 to determine if a more transparent and flexible arrangement could be devised. The net effect of any

changes would be that royalty payments would reduce. It should also be much easier and faster for operators to change from a section 36 licence to a Part 2 licence.

Alterations to the charging arrangements for the MRSDS were also considered given the possible revenue raising potential. The Review concluded however that, subject to the findings of the IGGI review on charging for geographical information, the rule against bias left virtually no scope for charging above cost recovery rates for Mining Reports or for the Authority to provide “added value” services in competition with other providers.

8.5 Other possible changes falling outside the remit of this Review

The Review noted two areas which, although falling outside its Terms of Reference, might need attention in the future. The issue of licensing CMM has already been mentioned above, the other was the possible merger of the Authority with other bodies to form a new organisation to administer a group of industries which had similar interests. Of the two scenarios considered, a Fossil-Fuels Authority appeared to have the most potential.

Annexes

A1 Terms of Reference

OVERALL AIM

To determine whether any changes are necessary to the functions and organisation of the Coal Authority.

FIRST STAGE: PRIOR OPTIONS

To examine whether the Coal Authority should be retained as an NDPB and, if so, should continue to carry out some or all of the functions it presently delivers.

In the course of this, to consider specifically:

- whether an NDPB is the best way of meeting DTI objectives in this area and the Authority's past performance in doing so;
- whether the role and functions of the Coal Authority contribute to the delivery of wider DTI and Government objectives;
- whether existing functions still need to be undertaken or reduced and whether new functions could usefully be undertaken by the Authority;
- whether there is potential for closer working with other parts of the public sector, or the private sector, on particular activities, including possible transfer of activities to or from those bodies;
- how functions can best be delivered and whether there is scope for other organisational options, including discontinuing, contracting-out, market-testing, merging or rationalising, privatising, or restructuring internally, some or all of them;
- whether the statutory framework within which the Authority operates is appropriate or whether changes to its powers would be desirable;
- whether the funding regime within which the Authority operates is appropriate or whether changes (commensurate with public accountability) would improve the ability of the Authority to carry out its functions.

CABINET OFFICE GUIDELINES

These Terms of Reference are based on Cabinet Office Guidelines. In particular these define the key issues to be addressed in Stage 1 of the Review. Essentially this is focused on “Getting the Organisation Right”

- **The bigger picture** – how does the NDPB contribute to the delivery of wider Departmental and Government Objectives?
- **Links with others** – what links does, or should, the NDPB have with other parts of the public sector, including local government, and with the private sector?
- **Past Performance** – how has the NDPB performed against its, aims, objectives, key targets and quality standards? How has it used the freedoms and flexibilities it enjoys? How well has it worked with others in delivering its own Departmental and Ministerial objectives? Has the balance between the NDPB’s involvement in delivery and policy formation been right?
- **Responsiveness** – what do the NDPB’s customers and other interested parties think about its role and performance, and how responsive it has been to their needs? Are there other groups whose needs the NDPB should have been addressing but have not? What do the Agency’s staff and their trade unions think about how well it has performed?
- **Delivery mechanism** – how should the NDPB’s services be delivered in the future? Which organisation option in the future? Which organisational option is best suited to delivering responsive, efficient and quality service in the future?
- **Good practice** – what examples are there of good practice in how the NDPB has delivered its services? Is there evidence that it is systematically using quality schemes like the EFQM Excellence Models, Charter Mark and Investor in People?

A2 Conduct of the Review

The Quinquennial Review of the Coal Authority was launched by the Minister for Energy and Competitiveness in Europe, Mrs Helen Liddell, on 30th October 2000. This Report covers the first stage of the Review considering how the Authority has performed, what organisational status would be most appropriate for it and the extent it is still consistent with the government's policy for coal. Annex A1 sets out the Terms of Reference. Stage 2 of the Review will be undertaken by consultants and will report on the efficiency of the Authority.

A2.1 Review Team

The Review was undertaken by Brian Morris, a DTI civil servant.

A2.2 Steering Group

A Steering Group to oversee the conduct of the Review was established. Peter Mason, Head of the Coal Unit chaired the Group. Other members were: John Harris Chairman of the Coal Authority, Ashley Bennett, HM Treasury, Ms R Ferguson, Cabinet Office, Mark Rolls DETR, Lynn Griffiths, Welsh Office, Ben Maguire, Scottish Executive, Graham Lyndsell DTI/Coal Unit. Gordon Riddler, a mining consultant with background experience with the British Geological Survey and Mineral Industries Research Organisation, was the Independent member.

A2.3 Announcement and Communication

In accordance with Cabinet Office guidance, the Review was widely publicised and the views of customers and Authority managers were invited. The Minister for Energy and Competitiveness in Europe announced the Review to Parliament on 30th October 2000 together with a Press Release. The Authority also announced the Review on its website, giving the Terms of Reference and a contact point for those wishing to contribute to the Review. In all, some 52 companies and coal-related organisations were contacted, as were MPs whose constituencies were in the mining areas.

A2.4 Consultation

Some 25 companies in the coal industry and affiliated organisations were directly consulted in the course of the Review and a meeting was held with Michael Clapham MP. Senior management, non-executive directors and some key staff in the Coal Authority were also interviewed. A list of those consulted is at Annex A4. Some 8 organisations and individuals provided written responses; these are also listed in Annex A4.

The time given by those consulted in the Review and the open and constructive views they provided were very much appreciated. Their contributions were invaluable in assisting with the completion of this stage of the Review.

A2.5 Cost of the Review

The Review cost approximately £51,500.

A3 Summary of the Issues Identified at the Consultation Stage of the Review

This Annex describes the current background issues affecting the coal industry and reflects the views of the organisations contacted during the Consultation Stage. The list of consultees can be found in the following Annex - A4. The issues covered reflect the points of view which most consultees felt to be important. Comments are also made on the constraints which would prevent certain suggestions being developed further. Many of the issues raised relate to “how” a function is undertaken, and would appropriately be addressed in Stage 2 of the Review.

A3.2 Background Issues

It is important to place the Review of the Authority in the context of the current and predicted situation for the coal industry and current government policy for coal. Some 80 per cent of domestic coal production is used for power generation. It has to compete not only with foreign coal imports but also alternative fuels such as gas.

A3.2.1 The climate for coal and its future

The coal industry has seen a marked decline in production over the last 10 years; this has mostly come about due to the generation industry switching to gas as a cheaper fuel. Furthermore coal is not seen as being environmentally friendly at a time when there is growing concern about greenhouse gases - much of British coal is high in sulphur content then foreign coal and all coal, compared to natural gas, creates higher carbon emissions. Despite the fact that the British coal industry is now the most efficient in Europe it still needs to compete against coal from countries outside the EU which are able to deliver to UK power stations at much lower prices. Taken with imports of cheaper coal and its generally depressed world prices, it is thought that there will be only limited investment in new traditional deep mines in the future. Some potential new underground mines have, however, been identified recently which might be economic if recent signs of recovery in the market price for coal are sustained. Two new developments at Margam in South Wales are thought to have potential. UK Coal has also announced that it is considering three new sites. Allowing for possible closures, it is probable, however, that the number of operating pits will remain static or even possibly decline further during the next 5 years. It is thought that only economic and highly productive collieries, exploiting thick seams, will survive in the longer term.

Although the operating costs for open cast are lower than those faced by deep mines, these producers are now experiencing stricter environmental and planning controls that could constrain new future developments.

The introduction of operating subsidy and the new electricity trading arrangements have begun to ease the difficulties coal has faced in the short term although over the next 5 years the situation is much less clear.

In the longer term (the next 10 years) there could be a new role for coal. In this time it is expected that the UK will be a net importer of natural gas as the reserves in the North Sea decline. Nuclear power stations will also be coming to the end of their operational lives and in some cases decommissioning will have commenced. It is also unlikely that new and renewable sources of energy will generate sufficient power to fill any energy gap which is developing. Britain still has significant reserves of coal which could be used to fill this gap provided it can be used in an environmentally acceptable manner. There are, in particular, substantial reserves under the North Sea which could be accessible using modern technologies such as Underground Coal Gasification and CBM extraction.

To maintain some diversity and security of supply it is possible therefore that coal, as an alternative fuel would have a key role to play. The recent EU Green Paper⁷ concluded that coal used in an environmentally acceptable way would have such a role in contributing to the future security of energy supply for Europe. However this would involve some intervention by public authorities. New, more environmentally acceptable technologies, such as CBM and UCG (see below), could become cost-effective, although it is yet unclear if the volumes produced would be sufficient to fill any energy gap.

The conclusions from this assessment are that there should be a long term future for British coal provided it is competitive in a world market and that environmentally acceptable ways are found to extract the energy from it. The Authority could have a strategic role to play here in identifying ways and means of exploiting Britain's coal resources to meet these objectives.

A3.2.2 ECSC Treaty

The ECSC Treaty will expire in July 2002, and with it the current state aid regime. There are currently no firm proposals for a successor regime although it is expected that a small number of Member States will argue for a new regime with an element of subsidy. Currently the ECSC Treaty contains strict rules about State Aid for the coal industry. This extends to operating aid essentially due to adverse conditions in the world market, aid for a reduction in activity, to cover exceptional costs, for R&D and for environmental protection. Assistance for development costs and leaseback arrangements are prohibited under the current regime.

The Authority has produced an internal draft paper on its future role in the industry. In the paper it stresses that its attitude would be governed by three precepts:

- The UK does not intend to subsidise coal operations in the normal run of events.
- In determining the appropriate attitude to any coal operation, the long-term rather than the short term should be the criterion.
- In any conflicts between the various activities of the Authority, its regulatory role must remain paramount.

⁷ Commission of the European Communities Green Paper "Towards a European strategy for the security of energy supply". 29th November 2000.

In the context of the role of the Authority in the coal mining industry and as the owner of coal it should have a strategic role to play in exploiting the coal resource rather than assisting the industry directly. This is where its strengths lie and it would be appropriate for it to focus on the management of the coal resource. The Review has concluded that it should not become involved in financial assistance for the industry – this is a role for the DTI. The possibility of the Authority providing financial support for the coal mining industry was considered. The summary of the conclusions is given below for two possible arrangements with Authority involvement:

- *Schemes providing support for the industry in new developments.* Any such scheme would conflict with EU rules for State Aid. Recent advice from Counsel for the Authority on ECSC State Aid virtually eliminates any assistance of this kind except in very obscure cases.⁸
- *The Opencast Restoration Guarantee Fund.* This was considered as a possible use of royalties but according to advice from Counsel, currently conflicts with section 5(6)(b) of the Act. Under specific conditions this might not be seen as state aid under the EU rules provided the Authority abided by the “market investor” criteria. In these circumstances it should not carry a risk for the undertaking without remuneration. There would however be discrimination issues here against deep mine operators).

It is concluded therefore that there is little scope for the Authority to use the income from royalties to provide assistance to the industry.

A3.2.3 The constraints of the Coal Industry Act 1994

The Coal Industry Act is very specific about the functions and the status of the Authority. In particular with regard to the role it can play in the Industry. Experience with UCG research has already demonstrated the difficulties associated with activity which goes beyond the bounds of the Act. Essentially, the remit is limited to regulating the industry and to act strictly as any “interested private owner” of the resource; that is, not to engage in any way in exploration for coal nor to undertake its commercial exploitation.

A3.3 Changing balance of work in the Coal Authority since its creation

The decline of Britain’s traditional coal mining industry over the last decade has meant that the balance of the Authority’s work has changed since it was created. Licensing activity and the leasing of coal reserves has reduced as a direct result of the industry’s decline. However, interest in CMM extraction could possibly reverse this trend. (The Authority has already been told by CMM companies that they intend to apply for a number of licenses in the next year.)

Activity on subsidence claims has also levelled out at a lower level than 5 years ago because the liabilities from the mining operations of the British Coal Corporation are

⁸ Assistance to the Coal Industry, Advice from Nabarro Nathanson to the Coal Authority dated 19 May 2000

diminishing. Activity in property disposal, whilst this is predicted to continue at a reasonably high level for the next 2 to 3 years, will decline with most of the sites having been sold.

Conversely, environmental work has increased over the years, in particular that on minewater. The management of mining information and the production of mining reports continue to be a growth area.

A3.4 Proactive involvement of the Authority in the Industry

Consultation with the coal industry and associated organisations indicated that many considered that the Authority should play a more active role than at present. A number of suggestions were given as to how greater involvement could be achieved although in most cases these were either prohibited or limited by the Act. These covered financial support, advocacy support and strategic support.

As noted above, the Authority has itself produced an internal draft on a future role it could play. It has already been proactive in consulting and listening to the issues raised by the producers and others. This has resulted in proposals for it to respond to the needs of the industry in a number of ways:

- Promotion and support through the ability to be proactive and exercise greater flexibility;
- Concepts through which investment and development might be secured to increase the medium and long term capacity of the industry; and
- Ways to contribute to research and development into alternative means of utilising the coal resource.

Its aim here would be to have powers actively to manage the coal resource rather than be constrained by the strict interpretation imposed by the limited purpose and wording of the Coal Industry Act.

Of these, the Review considers only the third to have potential.

A3.5 Mines Rescue Service (MRS)

This is an essential element for safety in deep coal mining and the maintenance of high standards, which are necessary for an effective rescue service, were recognised as vital. The Service is not relevant to open cast mining.

Concerns were raised about the impact of the funding of the service which is based on mandatory rate per tonne of production levied on the industry (currently 13 pence per tonne). The problem was accentuated because the rate had increased recently due to the drop in production. Although the Service had diversified into health and safety training to supplement income from the operators this was not sufficient to contain the rate needed to cover its costs. Although the current levy appears to be at a rate the industry can bear, any further pit closures and/or output reductions could result in a

significant additional burden on operator's costs. This could become critical for some marginal pits and, clearly, each future closure magnifies the impact upon those which remain. The HSE is currently looking into the funding of the MRS.

A3.6 Ownership of Coal

Ownership of the nation's coal resource is seen as being core to the Authority's responsibilities and this raised a number of issues with consultees.

A3.6.1 Guardianship and Sterilisation

The Authority, with the British Geological Survey, has produced a coal resources map of the UK. As owner of the coal the Authority needs to ensure that all the recoverable reserves are identified for future extraction. This information needs to be made widely available in the public domain to encourage operators to plan new developments. The BGS and Authority are currently developing a digitised version of the coal map and are planning for mining records to be available on the Internet.

Operators in the open cast sector, expressed concern about coal reserves being sterilised by other developments with the consequence that recoverable reserves had been lost, if not forever, then certainly in the very-long term. Although the Authority does make representations when such proposals arise they do not have any powers to prevent these developments. Granting the Authority Compulsory Purchase Powers could prevent this when significant reserves are being sterilised. This raises the question of if the Authority should have such powers to intervene in a development and whether the coal being rescued is significantly important to warrant such intervention. It is expected that such a move would essentially benefit coal which would be won using opencast methods. However there are currently significant difficulties with such powers particularly with environmental concerns.

Mothballing has also been considered by the Authority as an option to prevent the loss of deep mine workings and would involve placing currently uneconomic pits on a care and maintenance basis so that they could be re-opened when the climate for coal had improved. Experience to date indicates that the costs of mothballing are prohibitive and there are risks in that the future market price for coal may never make reopening viable. Keeping such mines open on a significant scale would require state aid which would not be permitted under the current ECSC rules.

The Authority felt that it should be able to do more to manage the coal resource rather than be constrained to behave as a passive owner. If provided with extra powers through amendments to the Act it would want to manage the resource more actively. Any changes to enable it to take a more strategic role in managing the coal resource should assist in making it more effective a guardian.

A3.6.2 Royalties and Production Related Rent

Royalties and Production Related Rent are collected from operators under Part 2 of the 1994 Act. During the restructuring of the industry in 1994 a number of companies, such as RJB, purchased 99 year leases on the coal together with the

colliery operations and hence do not have to make regular payments to the Authority. Those bodies with either Part 2 or section 36 licenses are required to make monthly payments to the Authority based on production. Collecting royalties is a legal right of ownership, i.e. mineral rights, whether the owner be in the private or public sector.

Royalties were a sensitive topic, with most operators expressing concerns at the means by which the rate was determined and the time taken for this. There was also concern at mineral consultants having access to their business case. As royalty payments are passed to the Consolidated Fund it is seen by the operators as a tax on production.

Royalties are determined by the Authority on the basis of the business case for mining the coal. Therefore the royalties can vary for each development. The Act requires the Authority to acquire the “best terms available” allowing for the current economic situation and the market for the coal itself. This requires investigation and assessment of the operators’ business case; this takes time and involves the use of contracted mineral specialists.

Operators, whilst accepting the need for royalties, suggested that the process should be more transparent and set according to a known and understood formula. This would speed up the licence application and remove the veil of secrecy. Many suggested that it should be either a flat rate or a simple tariff arrangement. There should also be flexibility in adjusting the rate to allow for changing market prices and economic conditions.

A3.6.3 Research and Development (including Underground Coal Gasification)

The Government’s policy is to encourage the development of clean coal technologies so as to reduce coal’s environmental impact in power generation. The Authority saw three distinct approaches identified in Energy paper 67 as a means to reducing the emissions from coal as being relevant to their interests:

- Several technologies that support cleaner advanced coal-fired power generation. This is seen as a priority task.
- Technologies for exploiting Coal Bed Methane (CBM) or Coal Mine Methane (CMM).
- Technologies for Underground Coal Gasification (UCG).

Research and Development into cleaner coal-fired power generation is well advanced and some plant has already been demonstrated. Flue Gas Desulphurisation (FGD) in particular is already a proven technology. The wider use of these technologies would help ensure that there continues to be a future demand for competitive coal.

Section 3(5) of the Coal Industry Act imposes on the Authority the duty “*to have regard to the desirability of the exploitation, so far as economically viable, of coal bed methane in Great Britain*”. Besides the requirements for a coal licence a Petroleum Licence is required from the Oil and Gas Directorate of the DTI. Several developments already exploit CMM (methane from worked mines) but further R&D is required in the UK to exploit CBM. The development of clean coal technologies is

important if energy from coal is to conform to the government's environmental objectives. Coalbed Methane and Underground Coal Gasification (UCG) both appear to have potential for the future as well as making those coal reserves not amenable to exploitation by conventional means e.g. under the North Sea, more accessible. Whilst the Act facilitates CBM activity it does not give any powers for investigating other technologies.

The techniques used are quite different to traditional coal mining and more akin to oil and gas exploitation (e.g. sophisticated drilling expertise being necessary). It is highly likely that companies from the oil and gas industry would work those seams which were economically viable.

Coal Mine Methane has already attracted the commercial attention of three companies, with others showing an interest. Two, Alkane and StrataGas, are already operating pilot sites, the third, Octagon, has recently commissioned a scheme between Wakefield and Doncaster. All are interested in expanding further. It was generally felt that the Act should be changed to enable the Authority to get involved in pilot projects to establish the feasibility of these new techniques.

A3.7 Licensing

Licensing is a key function for the Authority and arises from its role as a regulator.

A3.7.1 Coal operations

Although the principle of licensing was accepted by most, a number of operators had concern about the time taken for the process to be completed and the need to advertise the application. The process as currently undertaken is in accord with the Act and this would need to be amended to liberalise the regime. Once the Authority has all the information it requires, it processes each application within its 5 week target. The problem appears to be the process of collecting all the required information before the process can be completed.

A3.7.2 Licensing of Coalbed Methane and UCG

With developments in exploiting Coalbed Methane (CBM), Coalmine Methane (CMM) from worked mines and UCG, an issue on who is responsible for licensing the extraction of these gases. The Oil and Gas Directorate (OG) of DTI is the authority for licensing gas extraction which includes CMM from abandoned mines. This double licensing creates a significant degree of bureaucracy and confusion and could adversely impact on a newly emerging industry - particularly as it is one which will exploit coal in a more environmentally acceptable way.

Although outside the remit of the Review, the regime for licensing Coal Bed Methane and Coal Mine Methane needs to be reviewed with the objective of rationalising and simplifying this process. This would require changes to both the Petroleum Act 1998 and Coal Industry Act. Essentially two items need to be addressed to clarify the situation:

- It needs to be ruled categorically with OG whether the coal occurring between the previous territorial limits and the median lines offshore is also in the ownership of the Authority and governed by the 1994 Act.
- It needs to be established with OG whether the processing of coal in the seam is a mining operation within the terms of the 1994 Act and does not fall under the oil and gas licensing regulations.

In the meantime a close working relationship between the Authority and OG is essential and this should be underpinned with an MoU.

A3.8 Liabilities

A3.8.1 Minewater

Consultees in the environment sector considered that there was little significant concern over the Authority's management of this liability. It was expected that the proposals in the planned Water Bill would give it the necessary compulsory purchase powers to acquire land at reasonable prices to treat the breakouts. The current lack of such powers meant that in some cases it was not able to handle the more serious escapes first. A number of consultees desired that the number of breakouts resolved each year should be increased from the current four, although it was accepted that more grant-in-aid would be needed for this. It was also recognised that pumping water from abandoned mines to prevent breakouts was a key activity.

Some consultees felt that the Authority had the expertise to take on the additional responsibility of handling breakouts from non-coal mines. These are currently handled by the Environment Agency. Extra funding and resources would be required to take on this extension of responsibility.

The current methods of managing and controlling minewater problems are very expensive and some thought that the Authority should be able to undertake research to enable it to find more cost effective ways of managing the problem.

Another problem was that once remediation projects had been developed there was an on-going cost. The combination of developing new sites as well as running existing ones would require an increase in grant in aid.

A3.8.2 Subsidence and Other Historic Liabilities (including surface hazards)

Once the Authority had acknowledged responsibility for surface hazards it was generally accepted that remedial action was quick and efficient.

A3.9 Property management and property disposal programme

There was little comment from consultees on the Authority's management of property although there was concern about coal tips which are seen as environment threats and, in some cases, a danger to the community living nearby.

It was generally felt the Authority was constrained by its remit in the Act to obtain the “best terms reasonably available” which appears to conflicted with a broader need to take account of the best interests of the community, particularly in those areas which are part of the coal fields regeneration schemes. However, obtaining “best terms” is a legal requirement and any changes to this would require the Act to be amended.

A3.10 Mining Reports and Records

There were some concerns about the reliability of the information produced by the MRSDS in isolated instances. Although the Reports in nearly all respects provide reliable information, the consequences of any Report being inaccurate can be significant for individuals attempting to sell their property. Given the age of some of the data captured (going back well over one hundred years) resolving this issue would require considerable resources in checking and rectifying any erroneous information.

A particular issue here is the Heriot-Watt Report on the impact of the large number of mineshafts on properties in Stoke-on-Trent which is having a significant affect on the value of property in the area. Amongst its recommendations the report suggested that the Authority should provide fuller information and reassurance about its responsibilities to deal with subsidence damage in addition to supplementary guidance to solicitors and other professionals. Whilst this issue has an important implication for the reliability of the mining information database it lies outside the scope of this review.

Some consultees thought that both the mining records and the MRSDS should be expanded to encompass non-coal mining information as well as other geological data (e.g. radon levels) to provide a “one-stop shop” for property purchasers. The Authority’s involvement with the NLIS (National Land Information System) initiative to develop such a facility would meet this requirement. This project will develop a system which will enable conveyancers to acquire reports on mining, environmental and geological information.

Other consultees expressed an interest in accessing the MRSDS over the internet. The Authority is currently running such a pilot with a limited number of users as part of the governments e-commerce initiative.

A4 List of consultees

Organisations and Individuals Consulted

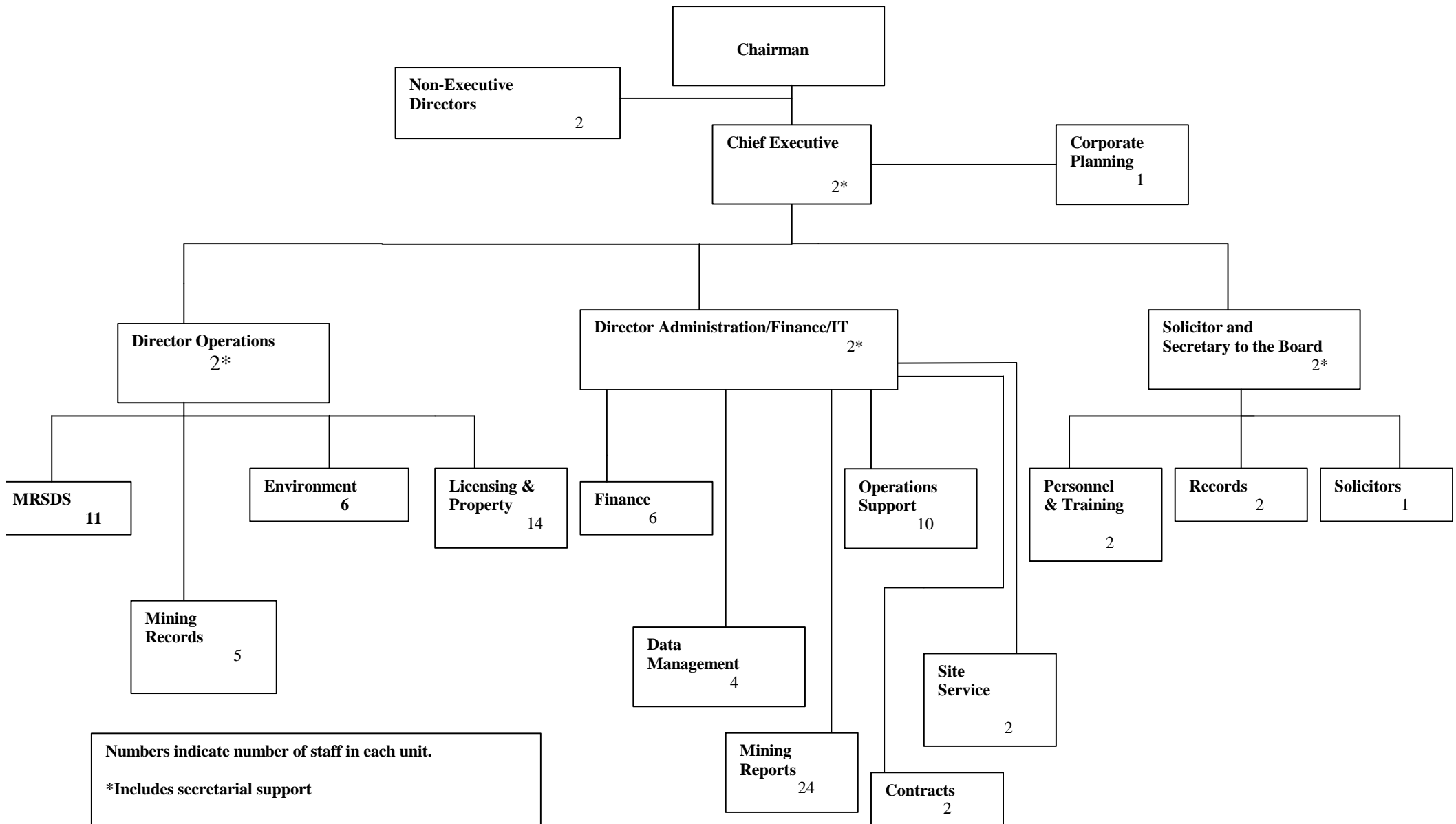
Alkane	Cameron Davie David Oldham
ATH Resources	Mike Tod
BACM	Pat Carragher (by telephone)
Betws Anthracite Ltd	Martin Cook
British Geological Survey	David Falvey Mike Leigh Ian Jackson
Celtic Energy Ltd	Dale Hart David Warren
Coal Communities Campaign	Steve Fothergill Barbara Edwards
CoalPro	Phil Deakin
English Partnerships	Euan Hall Tina Hothersall
Environment Agency	Dave Griffiths
Federation of Independent Mines	Andrew Walker
H J Banks Ltd	Harry Banks
Hatfield Coal Company Ltd	Geoff Ainley
Health and Safety Executive	Ken Harrison
Michael Clapham MP	
Mines Inspectorate	Dan Mitchell Graham Gilmore
NALOO	Mel Hunt
RJB Ltd	Richard Budge
Scottish Coal Ltd	Brian Rostron
Scottish Environmental Protection Agency	Martin Marsden
South Wales Federation of Independent Mines	Bernard Llewellyn Roger Leek R Jeffries
The Chartered Institute of Arbitrators	Gregg Hunt Sarah Probets
The Law Society	Tony Reeves
The Subsidence Advisor	Malcolm Webb
Tower Colliery Ltd	Geoffrey Davies
Union of Democratic Miners	Neil Greatrex
Walter Mining Ltd	Peter Weavers

Coal Authority	<p>John Harris - Chairman Kenneth Fergusson - Chief Executive Albert Schofield - Director Operations Malcolm Edwards - Director Administration Sally Brook-Shanahan - Solicitor and Secretary John Hawksley – Non-Executive Director Barrie Jones – Non-executive Director John Delaney - Corporate Affairs Manager Steve Pennell – Data Manager</p>
DTI	<p>Rachel Clark - Coal Unit Alan Heyes – Clean Coal Technologies Geoff Swan - Oil & Gas Licensing Erica Zimmer & Terry Martin – Minerals Alec Berry – formerly Coal Industry Bill team Hugh Savill – European Policy</p>

Organisations and Individuals providing written comments

National Union of Mineworkers	Arthur Scargill
Smiths Gore	D A Gray
I & H Brown Ltd	J Scott Brown
Wardell Armstrong	A J Smith
Anderson Strathern	Alan Menzies
W Hardie	
British Waterways	D J Fletcher
Public Record Office	Catherine Harding
Royal Institute of Chartered Surveyors	Keith Leighfield
Health & Safety Executive	Dan Mitchell

A5 Organisation chart



Numbers indicate number of staff in each unit.
 *Includes secretarial support

A6 Performance Targets

The Coal Authority's Corporate Plan identifies a number of Performance Targets. For 2000/2001 these are as follows:

Leasing and Licensing of coal :

At least one visit per year to operational mines – 100 per cent

Subsidence:

Inspected within 5 weeks – 98 per cent

Decision given within 4 weeks – 96 per cent

Contact made within 4 weeks – 97 per cent

Work started within 6 weeks – 99 per cent

Mining Reports:

Turnaround time from the time the request is received:

80 per cent of Reports turned around in 2 working days, and
95 per cent within 5 working days.

In 1999/2000 the Authority exceeded both targets with 86 per cent and 96 per cent respectively.

Property:

No targets exist for this activity.

Historic Liabilities:

Made safe: 100 per cent within 6 hours of notification

Work commenced: 100 per cent within 5 days of notification.

Minewater:

Four new schemes per year.

Financial operations:

Prompt payment code 95 per cent paid within contract time.

A7 Finance

*THE COAL AUTHORITY
INCOME AND EXPENDITURE ACCOUNT
YEAR ENDED 31 MARCH 2000*

	Year to 31 March 2000 £000	Year to 31 March 1999 £000
GROSS INCOME		
Grant In Aid	34,422	39,762
Operating income	<u>15,056</u>	<u>16,491</u>
Total gross income	49,478	56,253
 ADMINISTRATIVE EXPENSES	 (38,584)	 (46,178)
 OPERATING SURPLUS	 <u>10,894</u>	 <u>10,075</u>
Exceptional income	<u>4,295</u>	<u>1,338</u>
 SURPLUS ON ORDINARY ACTIVITIES BEFORE INTEREST	 15,189	 11,413
Interest receivable	696	971
Interest payable and similar charges	<u>(1,843)</u>	<u>(2,074)</u>
 SURPLUS ON ORDINARY ACTIVITIES BEFORE TAXATION	 14,042	 10,310
TAXATION ON SURPLUS ON ORDINARY ACTIVITIES	<u>(2,745)</u>	 <u>-</u>
 SURPLUS ON ORDINARY ACTIVITIES AFTER TAXATION	 11,297	 10,310
APPROPRIATIONS BY GOVERNMENT	<u>(6,169)</u>	<u>(19,152)</u>
 RETAINED SURPLUS/(DEFICIT) FOR THE YEAR	 <u>5,128</u>	 <u>(8,842)</u>

In both the current and preceding years, the Authority had no discontinued operations.

THE COAL AUTHORITY

BALANCE SHEET

31 MARCH 2000

	2000		1999	
	£000	£000	£000	£000
FIXED ASSETS				
Investment properties	15,240		18,126	
Other tangible fixed assets	6,137		7,936	
		21,377		26,062
CURRENT ASSETS				
Debtors: amounts falling due after more than one year	10,676		9,566	
Debtors: amounts falling due within one year	8,276		4,433	
Cash at bank and in hand	592		421	
	19,544		14,420	
CREDITORS				
amounts falling due within one year	(9,021)		(10,961)	
NET CURRENT ASSETS				
		10,523		3,459
TOTAL ASSETS LESS CURRENT LIABILITIES				
		31,900		29,521
Financed by				
CREDITORS				
Amounts falling due after more than one year		10,471		9,347
PROVISIONS FOR LIABILITIES AND CHARGES				
		51,483		57,841
CAPITAL AND RESERVES				
Corporation Liability Fund	515		518	
Capital reserve	15,164		17,956	
Revaluation reserve	5,857		7,696	
Income and expenditure account	(51,590)		(63,837)	
		(30,054)		(37,667)
		31,900		29,521

Source: The Coal Authority Annual Report and Accounts 1999-2000

A8 Wider Organisational Issues

A8.1 Establish a Minerals Authority?

This would be a new Authority made up of the Coal Authority and other mineral bodies with the aim of regulating all mineral operations in a consistent fashion. This concept is initially attractive from the point of view that the techniques used for extracting all minerals are broadly similar. Essentially they are either deep mined or dug out of the ground using open cast methods (non-coal mining techniques also use solution cavity mining where this is appropriate (e.g. salt extraction)). There would therefore be attractions in bringing the regulatory regime into one organisation, as is the case in some other countries. However, there are key differences between the UK coal industry and the other domestic mineral industries.

- The Authority owns and manages the coal on behalf of the nation whereas other minerals are, in the vast majority of cases, privately owned. Because there would be no intention to nationalise the non-coal minerals it does mean that there would be very different approaches to managing the coal and non-coal resources. The key difference lying in the single ownership of coal compared to the many private owners of the other minerals.
- The technical risks are much greater for the coal industry than they are for other mineral industries.
- Legislation for the coal industry is different to that for other mineral industries.
- Coal as a fuel is still an important part of the energy industry – British coal contributes about 20 per cent of the fuels used in UK power generation. Other minerals have very different uses and customers.
- The planning and regulation regimes are different for deep mined coal compared to other minerals.
- The coal industry has a long tradition as an industry apart from other the mineral industries (although these also have a long tradition). Something which is still strong today despite its decline in recent years. In particular, the industry, when consulted on the concept of a Minerals Authority was firmly against the idea because it felt it had special issues which required focused attention.
- The creation of a Mineral's Authority would also give the wrong political signals in that the government would be seen to no longer value the coal industry by submerging it with other minerals industries.

From this brief survey it is clear that from the point of view of the coal industry there are strong arguments militating against the creation of a Minerals Authority. Suggesting a clear demotion of coal in the government's energy priorities.

A8.2 Establish a Fossil Fuels Authority?

This would have the powers to regulate the oil, gas and coal industries. This would involve the some of the functions of the DTI's Oil and Gas Directorate (OG) and the Coal Authority being merged into a new single body it would therefore involve the executive functions of OG being moved from the DTI to form part of a new NDPB or Executive Agency.

The concept of an Authority managing fossil fuels which have a common use in the creation of energy seems attractive. There are also common features in the regulatory regime, which make this a much stronger option than that for non-coal minerals. All three fuels are owned by the Nation or the Crown and there is also a licensing regime as well as government revenue scheme based on economic activity (in the case of coal it is output and for oil and gas it is on profits). There is also an overlap in interests in regulating and licensing gas production from coal. Further both bodies have environmental responsibilities.

Between the two industries there are some areas of difference and synergy:

- Whilst the Oil and Gas Industry is governed by the Petroleum Act 1998, the Authority and the regulation of the coal industry is cover by the Coal Industry Act 1994. These Acts had quite different objectives and a common legislative environment would need to be created.
- The companies and expertise making up the two industries are quite different. The oil and gas industry is made up multi-national operators such as BP/Amoco, Philips, Shell etc. These are companies which operate on a world-wide scale and are financially very strong. Their expertise is drilling for oil and gas, usually in the North Sea, extracting the fuels and bringing these fuels to shore for processing and distribution via pipe-lines. The opposite could almost be said of the coal industry: they are essentially domestic companies, very much smaller and financially weak to the extent that they often do not have adequate capital to invest in new reserves. However, with UCG and CBM technologies being developed over the coming years the oil and gas companies, who already have the drilling skills required, could be attracted to a new generation, coal related industry. In particular, there could be significant potential for coal under the North Sea to be exploited using UCG/CBM technologies for which the oil and gas companies would be very well placed to exploit.
- Whereas the oil and gas industries have a strong vertical market structure, the coal industry relies essentially on the power generation industry for its contracts. On the other hand, the power generators are major customers for both industries.
- Environmental obligations vary: the Authority has responsibilities for past mining on mainland Britain – essentially dealing retrospectively with pollution. OG is more concerned about regulating and controlling the current impact of oil and gas production in the North Sea.

It needs also to be clarified if the Act gives the Authority ownership of the coal on the UK Continental Shelf. This is important from the point of view of exploiting these reserves using underground coal gasification techniques.

It is premature at this stage, and not appropriate for this review to comment on the oil and gas licensing regime. However, a new Authority for Fossil Fuels would appear to merit attention in the future especially when the potential for UCG and CBM is clearer.

A9 Issues for Stage 2

This Report has noted the following seven issues which should be addressed in Stage 2 of the Review.

Organisational and Performance Issues

The current organisational structure should be reviewed to determine if this is the most effective way of organising the functions of the Authority particularly in light of any changes to functions as a result of this Report (5.3).

The impact of the changing balance of work on the organisation, as well as allowing for any future additions to its responsibilities, should also be reviewed (3.1.2).

Problems with meeting payment code targets should be investigated if these targets have not been achieved in 2000/01 (3.1.10).

Licensing and Royalties

The licensing process should be examined to determine if this can be improved (3.1.4.1).

CMM dual licensing process involving the Authority and the DTI's PEDL licence should be investigated to determine if, within the existing licensing regime, the process can be simplified and if a MoU between the two organisations would assist in achieving this objective (3.1.4.2).

The current royalty and Production Related Rent regime should be investigated to determine if simpler, more transparent and flexible arrangements would be more appropriate (7.3.1).

Mining Information

The handling of contentious issues, such as those around Stoke-on-Trent and, rarely, inaccurate information in Mining Reports, should be investigated (3.1.6).

A10 Summary of Issues for the Future of the Coal Authority

This Annex has been arranged so that the recommendations are organised by those for which changes to the 1994 Coal Industry Act would be required before they could be implemented and those which can be implemented without legislation..

Note: Shaded cells in the recommendation column indicate that this is an issue for Stage 2.

1. RECOMMENDATIONS NOT REQUIRING CHANGES TO THE ACT

<u>Topic</u>	<u>Section Ref.</u>	<u>Proposal/Issue</u>	<u>Recommendation</u>
<i>CA Status</i>	4.2	The relevance of the Authority to current government policy and to DTI objectives	The Authority is still relevant to current government policy and there is still a need for an organisation to undertake the provisions of the 1994 Act. The Authority also supports the relevant objectives of the DTI.
	4.3	That the Authority continues to exist as an NDPB.	NDPB status is the most appropriate for the Authority. There is still a clear role for the Authority in regulating the industry and managing the legacy of past coal mining.
	6.1	The Coal Authority could be part of broader fossil fuels authority.	Although outside the remit of this Review, this could be investigated as part of a broader review of the administration of the fossil fuel industry sometime in the future.
	4.1	Ownership of the coal resource.	The Authority should continue to own the coal resource on behalf of the nation.
<i>Management and organisation</i>	3.1.2 and 5.3	The current organisational structure should be reviewed.	This should be reviewed in stage 2 of the QQR to: confirm this is the most effective means of managing its responsibilities, take account of the changing balance and scope of the Authority's work, and take account of any of the changes in responsibilities recommended in this Report,

1. RECOMMENDATIONS NOT REQUIRING CHANGES TO THE ACT

<u>Topic</u>	<u>Section Ref.</u>	<u>Proposal/Issue</u>	<u>Recommendation</u>
	3.1.1	The need for high-level objectives with performance targets.	That the Authority establish a set of high level objectives link to its mission statement and that targets and lower level objectives are derived from these.
	3.1.7.2	IS Strategy	An IS Strategy should be developed and maintained as a by-product of the corporate planning process.
	3.1.7.4	Government e-commerce targets by 2005.	The Authority should have clear plans included in its IS Strategy for completing its e-commerce targets.
<i>Role and functions of the CA</i>	5.1	Relevance and organisation of the existing functions and responsibilities.	All of these are still appropriate to its current role and should remain in the Authority.
	6.3	The Authority takes responsibility for financial schemes to assist the industry	This function is for the DTI as it has state aid implications. It is not appropriate for the Authority to undertake these functions.
	6.2.2	Office of the Subsidence Advisor	Merging this function into the Authority and bringing it under citizen's charter arrangements is currently under review.

1. RECOMMENDATIONS NOT REQUIRING CHANGES TO THE ACT

<u>Topic</u>	<u>Section Ref.</u>	<u>Proposal/Issue</u>	<u>Recommendation</u>
<i>Financial issues</i>	7.2	The Authority could provide added value services.	This would bring the Authority into competition with the private sector with an advantage of being the monopoly holder of the basic information – this conflicts with the “rule against bias”.
	6.3.2.1	Funding for the Mines Rescue Service	In line with other financial issues it would not be for the Authority to provide financial assistance to the MRS. One possibility is for the MRS to be treated like any other emergency service.
	3.1.10	Meeting the 90 per cent target of the Prompt Payment Code.	If the target is not met in 2000/01 then Stage 2 should investigate the problems preventing this.
<i>Licensing</i>	3.1.4.1	To examine ways to reduced the time from initial application to grant of licence.	This is an issue for Stage 2. But would warrant review in the light of the concern expressed by the industry.
	3.1.4.2	The need for a PEDL licence in addition to a Authority licence for CBM/CMM extraction	To be investigated in Stage 2. An MoU to underpin the need for a close working relationship between the DTI Oil & Gas Directorate and Authority to simplify the licensing process.

1. RECOMMENDATIONS NOT REQUIRING CHANGES TO THE ACT

<u>Topic</u>	<u>Section Ref.</u>	<u>Proposal/Issue</u>	<u>Recommendation</u>
<i>Mining Information and Mining Reports</i>	3.1.6	Accuracy of some data on the Mining Information database and providing further information on properties at risk (Heriot Watt Report)	A Stage 2 issue. Although perceived to be mostly reliable, the means of handling contentious issues around the accuracy of the information needs to be examined.
	3.1.7.3	Giving customers of the MRSDS a choice depending on their particular interest.	The Authority is already developing a number of options for customers to obtain Reports through the MRSDS.
	7.3.3	The Authority should increase the fee it charges for the Mining Reports so that these could generate a profit to support the industry.	This would conflict with government principles against exploiting a monopoly position. The IGGI Review of charging for geographical information is required before a final judgement can be made on this issue. Stage 2 should be able to pick this up in the light of the IGGI Review reporting.
<i>Minewater</i>	3.1.8.1	The Authority should attempt to increase the number of minewater remediation installations.	This will require an increase in the grant in aid.
<i>Property</i>	3.1.9	South Wales Coal tips	The Authority already closely monitors the condition of these tips and it is important that this continues whilst they exist.

2. RECOMMENDATIONS FOR WHICH AMENDMENTS TO 1994 COAL INDUSTRY ACT WOULD BE REQUIRED

<u>Topic</u>	<u>Section Ref.</u>	<u>Proposal/Issue</u>	<u>Recommendation</u>
<i>Ownership of coal</i>	6.3.3	Greater freedom in the strategic management of the coal resource.	There is already policy agreement that Authority should have R&D powers. The Authority has a strategic role to play in identifying means and ways to exploit the nation's coal resource.
	6.3.4.2	Support for operators in applying for consent for new developments.	The Authority should be able to actively support operators in their planning applications.
<i>Role and functions of the CA</i>	6.2.1	DTI executive functions Concessionary coal and Coal Health Claim together with the custodianship of ex-BCC files should be considered as candidates for transfer to the Authority when the policy issues have been resolved.	These functions should be considered for transfer as and when the legislation amending the Authority's other powers is being prepared.
	6.3.5	The Authority could exploit its expertise in coal geology and managing mining liabilities to generate income.	The possibility of the Authority providing a consultancy service should be explored. But should be confined initially to providing a service to other public bodies. The "Rule against bias" is a constraining issue here.

2. RECOMMENDATIONS FOR WHICH AMENDMENTS TO 1994 COAL INDUSTRY ACT WOULD BE REQUIRED

<u>Topic</u>	<u>Section Ref.</u>	<u>Proposal/Issue</u>	<u>Recommendation</u>
<i>Licensing</i>	3.1.4.1	Exploration licences	The regime should be liberalised such that operators need only notify the Authority that they are exploring for coal, but with constraints on their activities.
<i>Royalties and Production Related Rent</i>	7.3.1	The current regime for determining the level of royalties or Production Related Rent.	Stage 2 of the Review should determine if there is a more transparent and simpler means of determining royalty/PRR rates and if a more flexible system, taking account of the changing market price of coal is feasible.
	7.3.1	It should be possible to change easily between section 36 and Part 2 licence types.	This should be investigated further in Stage 2.