Mapping a regulatory life cycle from birth to death: a case study of the Standards Board for England

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MAPPING A REGULATORY LIFE CYCLE FROM BIRTH TO DEATH: A CASE STUDY OF THE STANDARDS BOARD FOR ENGLAND

Abstract

This paper investigates the introduction and forthcoming demise of the Standards Board for England by utilising the concept of the organisational life cycle. It begins by looking at two distinct approaches to the life cycle – the traditional stage approach and the problem-cluster approach – before adopting a version of the latter. The development of the Standards Board is divided into five phases that are triggered by a series of crises: creation; identity; trust; strategy; death; each of which have been created by a variety of distinct external factors in terms of policy and legislation. A model is offered to illustrate this organisational development. While the authors accept the inherent limitations of the life-cycle metaphor, and stress that each regulatory agency will face its own unique configuration of problems, this paper does suggest that by using a problem-cluster life cycle, meaningful comparative studies can be encouraged.

INTRODUCTION

In its relatively brief (ten year) history the Standards Board for England has undergone significant change. Established in 2001 as the major investigatory body for ethics in English local government, it was transformed into a strategic 'light touch' regulator (DCLG 2006) before its demise was announced following the last general Election in 2010 Its operations were relocated from London to Manchester in the north of England. In its Annual Review 2005-2006 *'Taking an objective approach: regulation with a local focus'*, the SBE heralded a shift in its activities and a change of name to Standards for England. "Though we believe that local issues are best dealt with locally, it is important to strike the right balance between local ownership and national regulation."(SBE, 2006: 6) That balance appears to have shifted more towards local ownership, and perhaps foreshadowed its death. Its responsibilities changed to include support and guidance to, and monitoring of, local authorities. Its investigative activities changed to only investigate the most serious cases where the local standards committee believed that it was not able to deal with the matter. This shift to a more local ethics regime mirrored developments in the wider policy arena where central government is keen that local authorities engage more with their local communities in a wide range of policy areas. At the same time, in an era of government fiscal constraint, the cynic might argue that a more localised approach meant that the costs of regulation are transferred to local authorities.

It is, therefore, timely to take stock of the SBE, assess its trajectory and map the changes that it has undergone against a background of ethical regulation more generally. The organisation has consistently provoked diverse reactions from both supporters and detractors (Lawton and Macaulay, 2004; Lawton et al, 2005, Macaulay and Lawton, 2006) and it would appear that the changes it went through did little to allay differences. A 2008 report indicated that some stakeholder perceptions of the Standards Board were still negative, although in radically divergent ways: it was described as both a "sledgehammer to crack a nut" and a "toothless tiger" (SBE, 2008: 2).

In the letter from the Local Government Minister Bob Neill MP to the Standards Board, announcing its demise he repeated the claim that '.there is a concern that the regime is a

vehicle for vexatious or politically motivated complaints' and that 'the abolition of the regime will restore power to local people'. Some of the initial concerns at the outset of its existence did not disappear and it is a moot point whether the Standards Board could have done anything to allay those fears.

This paper proposes to use the case of the Standards Board to map a model of an organizational life cycle (OLC) for ethics regulatory agencies. OLCs are more readily associated with private companies and chart entry into the market place (*birth*), initial success factors (*growth*), organisational inertia (*decline*) and, ultimately, organisational collapse (*death*) (Jones, 2007). It should be noted that some OLC models are more complex, with as many as nine stages (Chen and Kuo, 2004) and also that there are competing models to explain each stage in the OLC, which will be drawn on in this paper.

From this case, and from research on comparative cases elsewhere, the paper will develop a more general OLC model for ethics regulatory agencies which will look at the entry requirements for such agencies and ways in which they can protect against organisational fragility; the extent to which they can command and shape their relative agendas so that they grow at an appropriate rate; organisational isomorphism in regulatory agencies; strategies for adapting to changes in the external environment; potential crisis points and indicators of organisational collapse. The case of the Standards Board seems to fit an OLC and offers myriad instances with which to trace birth, growth and (arguably) decline. Ultimately this paper aims to use lessons from its organizational history to develop theory which will be of use to other ethics regulatory agencies.

CRITICAL APPROACHES TO THE ORGANISATIONAL LIFE CYCLE

As O'Rand and Krecker (1990) demonstrate the life cycle metaphor is prevalent in all branches of the social sciences, from anthropology to sociology, as well as being a popular concept in business and management literature. Use of organizational life cycles can be dated back as far as the 1930s (Mooney and Reilly, 1931 cited in Smith et al, 1985) and found particular prominence in the 1960s and 1970s.

The basic life cycle model moves through four stages: birth, growth, decline, and death (see figure 1, below).
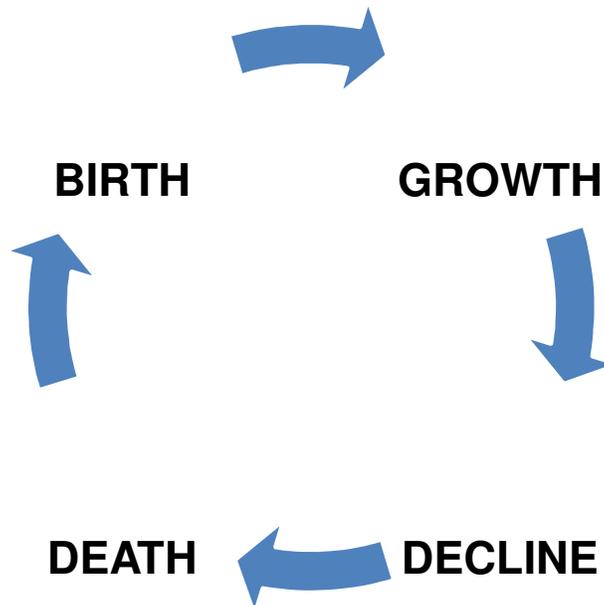
Figure 1: The Organizational Life Cycle (Jones, 2007)

It could be noted, however, that other commentators refer to the life cycle in similar (but not the same terms): growth, maturation, decline and death (Quinn and Cameron, 1983). Others have identified far more stages than those outline above: Chen and Kuo (2004), for example, argue that there at least nine stages of the organizational life cycle.

The organizational life cycle has usually been studied in relation to new small firms, particularly those that are entrepreneurial and operate in high growth sectors such as technology (Phelps, et al. 2007; Kazanjan and Drazin, 1989). More recently it has been applied to areas such as corporate governance, to track the changes that have occurred in the CSR strategies of major organisations (see Filatotchev and Wright, 2005). It is not a concept that has readily been applied to regulatory agencies. A preliminary view could apply the four-stage model to the case of the Standards Board in the following way:

- *Birth* – the initial motivations that led to creation; its early mission and purpose; organizational structure; and, crucially, whether or not potential seeds of decline were sown in the earliest phase of the OLC.
- *Growth* – how the Standards Board shaped the ethics agenda for English local government; its leadership; the ways in which it initially changed to meet emergent needs of stakeholders.
- *Decline* – organizational overload; changing leadership; reaction to criticisms; pressures from central government; the move to new mission.
- *Death* – is organizational collapse inevitable?

However, the concept of the organizational life cycle has faced quite extensive criticism in recent years, to the extent that "organizations do not have even approximately predictable life cycles" (Phelps et al, 2007: 4). As many have argued the life cycle is a systematic account of change which can not only *identify* but also *predict* stages of organizational development. In this respect it is assumed that organisations undergo the same stages of development and

that the life cycle is therefore generalisible (Quinn and Cameron, 1983; Hanks et al, 1993; Levie and Hay, 1998; Phelps et al, 2007).

Unfortunately for the concept of the life cycle, empirical research appears to have strongly discounted the claims of predictability and generalisbility.   Levie and Hay (1998) demonstrated that for large empirical samples, life cycle stages were neither uniform nor predictable. The business environment, indeed the practice of management itself, is far too dynamic to account for such easily assimilated stages (indeed, recent approaches have sought to factor in flexibility and the "freedom to manoeuvre" in the growth stages of the life cycle - see Olsson and Magnussen, 2007). Evidence suggests, therefore, that the traditional life cycle model is, at best, limited and, at worst, groundless:

> As is demonstrated by the diversity of different models and the absence of consensus, firms do not grow equally at a regular pace, nor do they, except at the most fundamental level, share the same problems at the same stage of development (Phelps et al, 2007: 6)

There is another approach to the organisational life cycle, however, that may bear more realistic fruit. In the early 1970s Greiner proposed a model of organisational growth based on the concept of the life cycle. Instead of looking at similarities in life stages, however, Greiner proposed a model based on evolutionary growth and revolutionary flashpoints: this allowed analysts to study individualistic features in the growth of different organisations; moving from the general to the particular. Greiner's model also steers away from the notion that growth is linear, and accepts that there are almost limitless exogenous factors that can impact upon the development of an organisation that simply cannot be predicted in advance. For Greiner the task of management is to ensure that revolutionary impacts are handled to successfully incur further evolutionary growth (1972:40). Greiner identified five phases of development:

1. *Phase 1* – growth through creativity which leads to a crisis of leadership
2. *Phase 2* – growth through direction which is challenged by a crisis of autonomy
3. *Phase 3* – growth through delegation which can result in a crisis of control
4. *Phase 4* – growth through co-ordination, which leads to a crisis of red-tape
5. *Phase 5* – growth through collaboration

Crucially, for Greiner, "each phase is both an effect of the previous phase and a cause for the next phase" (Greiner, 1972: 41). Phelps et al.'s more recent (2007) work develops Greiner's approach of tracking the organizational life cycle through problems rather than generic stages. They argue that although each organisation must be treated as a discrete entity there are, nevertheless, a number of problem clusters, which they refer to as 'tipping points (Phelps et al, 2007), these include: people management; strategic orientation; fomalization of systems; new market entry; obtaining finance; operational improvement. Phelps et al argue that these tipping points can be overcome through the development of knowledge management in developing an organisation's "absorptive capacity" to cope with external shocks.

> Tipping points are encountered during growth or are the consequence of environmental changes, and will depend on the specific context of the firm in its environment. To continue growing, a firm must successfully resolve the challenges presented by the tipping point. To do this, it must have the capability to find new knowledge so that it succeeds in a competitive environment (Phelps et al, 2007: 8).

It is towards these second approaches that this paper turns. Although the authors accept that both models are still far more concerned with smaller, privately owned firms, we believe that they offer an interesting framework within which to explore a number of research questions, both empirical and theoretical (see table 1: below):

Table 1: Research Questions

	Research Question	Nature of research
1	How and why has the SBE changed its role?	Empirical
2	Have the resources available to the SBE changed over time?	Empirical
3	What theory of change will help us assess the development of regulatory agencies?	Theoretical
4	What are the challenges, and key success factors, for ethical regulatory agencies?	Empirical
5	In what ways can different regulatory agencies learn from each other?	Empirical/Theoretical
6	How, and why, do regulatory agencies change over time?	Empirical/Theoretical

By using the problem cluster approach it is anticipated that the ongoing development of the life cycle of the Standards Board can be interpreted and outlined as a series of external problems that have been faced, or are yet to be tackled, that may contribute to a wider model of development within regulatory agencies.

THE LIFE OF THE STANDARDS BOARD

The following section will chart some of the key moments in the ongoing history of the Standards Board in terms of key issues that is has had to deal with.

i.   A difficult birth

The Standards Board for England was established in 2001 and was created by the *Local Government Act 2000* along with two other key pillars of what has become known as the English local government 'standards framework'; a new national Code of Conduct for local authorities and the creation of local standards committees to deal with breaches of the Code (Lawton and Macaulay, 2004; Macaulay and Lawton, 2006). The Standards Board was born out of a perceived crisis and from its inception was viewed by many as an unnecessary organisation. On the back of several high profile scandals in English local government (including the infamous case of Doncaster Metropolitan Council, which saw 60 investigations and 35 convictions) the Labour government launched a national inquiry into standards, which was conducted by the *Committee on Standards in Public Life*. The CSPL (1997) report found that contrary to external perception, ethical standards in local government were very high and that, if anything, the sector was already extremely tightly regulated, being held accountable to a number of external agencies (Local Government Ombudsman, Audit Commission, District Audit) as well as the then Office for the Deputy Prime Minister (now Department for Communities and Local Government). As a result the CSPL report made it clear that responsibility for local standards must remain local: "the basis for any system of

good governance must be for the primary responsibility to be given to those in charge of the organisation itself" (CSPL: 1997: 43).

The birth of the Standards Board was thus in direct contradiction to the recommendations of the report that led to the ethical standards framework being established. As a result there was arguably a cluster of problems that the other elements of the framework did not face. First, there was an impression that the Standards Board was a politically motivated creation in the way that standards committees, for example, were not. Indeed this perception was borne out by central government, who argued that: "Maintaining an arms length relationship with both central and local government is important to reinforce the message to the public that the Board will deal with any complaints in a rigorous yet impartial manner" (ODPM 2005: 7). As a result of this approach there was also further external pressure on the Standards Board to solve the problems of local government – problems that the CSPL report showed were largely non-existent. Thus there has been an ongoing level of criticism regarding the Standards Board that may be regarded as to some degree unfair. Taken together these problems may be termed the crisis of *creation*.

ii. Who are you?

The problems faced during creation went on to make a further crisis point, which may be termed the crisis of *identity*. From the outset there were diverging factors that led to the organisation being split in very different strategic directions. The remit and mission of the Standards Board was largely based on recommendations from central government and its original remit was primarily twofold: to issue guidance on the Code of Conduct, and to investigate complaints against breaches of the Code. The investigations were conducted by Ethical Standards Officers who decided on whether or not a breach had occurred; the severity of the breach; and the follow-up actions. In the most serious instances the investigation could be referred to the Adjudication Panel. In terms of guidance, the Standards Board has issued specific publications on a range of topics and also present twelve roadshows around the country in order to further disseminate information. In addition the Board hosts an annual conference which draws together members, monitoring officers, standards committee members and other stakeholders from each local authority in England. The Standards Board also contributed significantly to the revision of the local government Code of Conduct in 2005 and commissioned several major academic research projects.

This led to two substantial, if contradictory, sets of criticisms. First, the Standards Board was accused of being a 'toothless tiger': they were charged with neither investigating enough complaints, nor referring those that were investigated for sanction. The Standards Board, since its inception, received around 3,500 complaints a year (a figure that has remained constant), with approximately one-sixth of cases being referred for investigation (a figure which also remains consistent). In contrast, the second criticism has been that the Standards Board is too heavy handed in its dealings with local councillors: "the centralised nature of the regime has encouraged a culture of intrusion and snooping out of all proportion to the problem" (Daily Telegraph, November 15, 2004). A number of further problems have been identified over the years including the fact that investigations are too slow and have, in some cases, lasted for several months; that complainants are given anonymity, even when their claims have been proven to be false; members have not been

informed of any complaints until they are actually under investigation; even when found innocent, all complaints are made publicly available on the Standards Board's website, which has led some exonerated councillors to fear that they will be the victims of "no smoke without fire" judgements upon their character (see Macaulay and Lawton, 2006).

iii.   Lacking confidence

The early criticism of the Standards Board hinted at a deeper and more fundamental issue in the standards framework: the relationship between central and local government. This became manifested in a crisis of *trust* that was highlighted in the second CSPL local government enquiry in 2005. The initial 1997 report argued that there was "a suspicious attitude on the part of central government towards local government (CSPL, 1997: 40) that was manifested in the creation of the Standards Board itself: as has been noted central government considered an independent agency to be the most effective way to dispel public concern that corruption within local authorities was endemic, especially after such high profile scandals as Doncaster. Moreover there was concern that dealing with ethics and standards at the local level may form an impression that local authorities were simply looking after their own. The CSPL's (2005) report indicated that this divisive relationship was far from over: it complained that attempts at increased localisation had not gone far enough and recommended changes to the legislation, to facilitate the CSPL's original vision of local authorities dealing with local issues.   Despite initial resistance from central government, whose own ODPM review of 2005 argued that centralisation was a strength rather than a weakness, there was eventually an acceptance that localisation was the way forward in terms of investigations, leaving the Standards Board to become a strategically different organisation.   The 2005 Discussion Paper *Standards of Conduct in Local Government: the Future* stated that the Standards Board should become "a strategic arms-length body dealing only with the most serious cases nationally and ensuring capacity is increased at local level through increased support, advice and guidance" (DCLG, 2005: 10).

iv.   A new strategy

The recommendations from the 2005 report became made law under the *Local Government and Public Involvement in Health Act 2007*, which led to the crisis of *strategy* that the Standards Board faced. It was not entirely clear what a light tough regulator would do in practice. The Standards Board had already instigated several major changes in order to position itself strategically: in 2006 it moved from its London headquarters to Manchester in a deliberate attempt to appear less London-centric. It also became a more streamlined organisation: whereas the 2007-08 budget was set at £10.7 million, based on the current provision of 104 staff; 2009-10 saw a considerably lower £8.4 million budget, with a staff of 81. (These crisis points have been illustrated in figure 2, below.
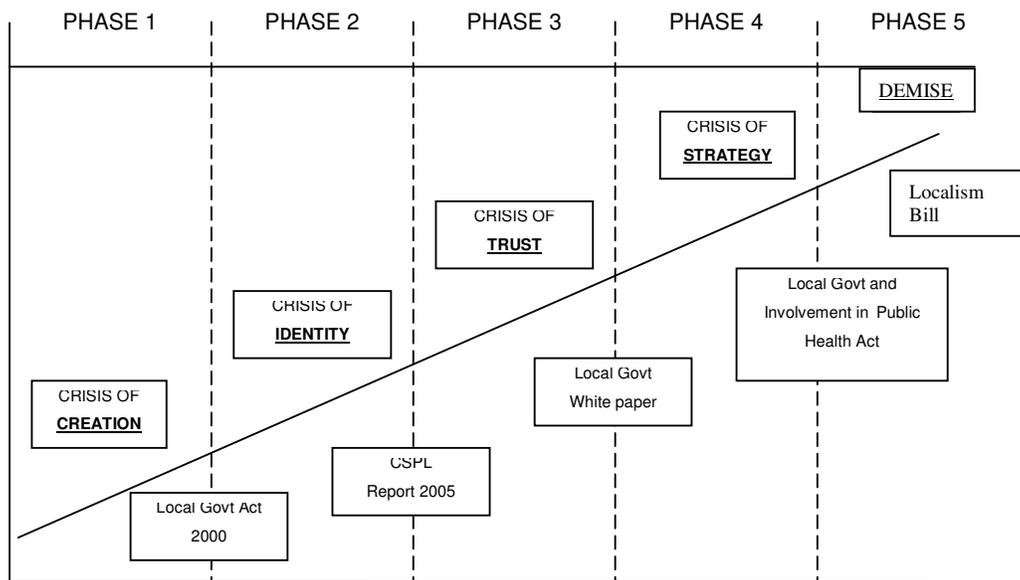
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PHASE 1   |   PHASE 2   |   PHASE 3   |   PHASE 4   |   PHASE 5

                                                        ┌──────────┐
                                                        │ DEMISE   │
                                                        └──────────┘
                                          ┌──────────┐
                                          │ CRISIS OF│
                                          │ STRATEGY │          ┌──────────┐
                                          └──────────┘          │ Localism │
                            ┌──────────┐                        │ Bill     │
                            │ CRISIS OF│                        └──────────┘
                            │ TRUST    │
                            └──────────┘          ┌────────────────────┐
            ┌──────────┐                          │ Local Govt and     │
            │ CRISIS OF│                          │ Involvement in Public│
            │ IDENTITY │                          │ Health Act         │
            └──────────┘                          └────────────────────┘
                                  ┌──────────┐
┌──────────┐                      │ Local Govt│
│ CRISIS OF│                      │ White paper│
│ CREATION │                      └──────────┘
└──────────┘
                    ┌──────────┐
                    │ CSPL     │
                    │ Report 2005│
                    └──────────┘
            ┌──────────┐
            │ Local Govt Act│
            │ 2000     │
            └──────────┘
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Figure 2 Phases of the Standards Board Evolution

We first applied the organisational life cycle concept to the Standards Board in 2008 and this is what we said then:

Only time will tell what the future will bring, but factors look likely to include the extent to which the organization can convince key stakeholders that it continues to be relevant, even when the reasons for its creation no longer obtain. It will also need the continued support of its sponsors for resources and legitimacy. It will also need to demonstrate, in an era of evidence-based policy making, that it is achieving its goals. Similarly, as the early impetus and enthusiasm amongst its own staff inevitably decline, it will need to periodically refresh itself internally. The SBE does this with a limited term of office for its Board members and the fact that it is on its third Chief Executive in its relatively short life.(Lawton and Macaulay, 2008)

v. Demise
As indicated above the announcement to abolish the Standards Board came after the last General Election when the Coalition Government embarked on a general quango hunt. The Standards Board had never been popular with the Conservative Party and the Liberal democrats had bigger issues to pursue. The writing was on the wall. The government's proposals in the new Localism Bill are to abolish Standards for England (as it had become known), remove the national Code of Conduct for councillors and the requirement to have a local standards committee and to allow councils to choose whether or not they wish to have a local code of conduct or standards committee. The changes are wrapped up in the language of localism. The bill is currently going through Parliament and is likely to pass into law at the end of 2011/beginning of 2012.

At the time of writing (October 2011) the authors are analysing data collected from semi-structured interviews with key internal and external stakeholders. The data will reveal explanations and justifications of the life of the Standards Board and its ultimate demise.

9

REGULATORY AGENCIES AND RISKS

In general, it might be considered that regulation focuses on authority relationships where one organization controls another at 'arms length' rather than through internal management accountability and these relationships are mediated through standards or 'rule-like' structures (James, 2000). These 'rule-like' structures may be constituted through hierarchies, markets or networks/partnerships. A hierarchical approach involves direct management and control; a market approach would involve local authorities (the customer) going elsewhere if they are not happy with the product offered by the SBE; a network/partnership approach would involve different stakeholders, including other regulatory agencies, forming the regulatory framework. The SBE has tended to operate through a hierarchical structure, with some elements of a network approach (e.g. working with Improvement and Development Agency and Audit Commission in training), but moved latterly to more of a partnership arrangement with local authorities.

However, Adams (2002) identifies different types of regulators in his description of the Queensland regulatory system. These are:
(i)   *Regulators that do not enforce* and these include those involved in mediation, or in providing accreditation, or acting in a diagnostic role and providing technical assistance to the industry as a whole. This latter role characterises some of the work of the SBE.
(ii)   *Regulators that enforce*, more or less strongly.
(iii)   *Regulators that license*
(iv)   *Regulators having multiple types of responsibility*, and this description fits the SBE

The type of regulator will reflect the regulatory environment at large. For example, some countries may be characterised by an adversarial style of regulation, with strict laws of investigation and stricter enforcement. In the UK, the regulatory style is more benign with a 'soft touch' approach in evidence. Similarly, the regulatory style will reflect a view on whether regulation should be based upon internal motivation and peer review rather than control. Indeed, the integrity bureau for the city of Amsterdam takes the former view and much of its work involves training (Huberts, Six and Lasthuizen, 2008).

Each of these different types will face different regulatory risks and these include:
• The risk of regulatory capture by those who are subject to the regulatory regime. In our example, it may be considered that the principal-agent relationship between the SBE and local authorities changed as local authorities become more confident, and experienced, in dealing with breaches of standards of conduct.
• The possibility that, as the goals of an organization change, and, perhaps, become more diffuse and/or ambiguous, they are captured by those who work within the organization.
• The agency may lose its independence if it becomes too closely associated with one political party and becomes a political football at election time.
• Where the agency is just one organization that makes up part of a wider regulatory framework, its powers may become taken over by another agency or it may struggle to take root in the regulatory landscape. Macaulay and Lawton (2003) note how the UK is characterised by a patchwork quilt of ethical regulators.

- Lack of capacity and capability to function in the way that it was intended.

Clearly the SBE is not the only body that regulates or oversees ethics. One of our research questions is the extent to which organisations can learn from each other and the extent to which a comparative approach might be useful. Quah (2007), for example, identifies 4 models of anti-corruption agencies:

1. the universal model with powers of investigation, prevention and communication (such as the Hong Kong Independent Commission Against Corruption, created in 1974)
2. the investigative model involving a small centralised investigative commission (such as the Singapore Corrupt Practices Investigation Bureau established in 1952)
3. the parliamentary model that reports to Parliamentary committees and are independent from the executive and judicial branches of government the multi-agency model that weaves together a number of agencies e.g. US Office of Government Ethics works with Justice Department

Generally, such bodies are created in response to deep lying corruption, often in the police force. The extent to which such deep-lying corruption existed in English local authorities prior to the creation of the SBE is a moot point and has led critics to argue that a sledgehammer has been created to crack a nut. If ethical failure is systemic then a focus on the personal weaknesses of individual politicians may not help much.

CONCLUSION

The authors accept that the life cycle is at its heart a metaphorical analysis and that organisations are not organisms. As has been previously argued, however (Macaulay and Lawton, 2003), metaphors can be judged on their appropriateness to the subject matter. This paper has adopted the problem-cluster model of the organisational life cycle to chart the development of the Standards Board for England because it is an appropriate metaphorical model: while regulatory agencies are clearly different, they may face similar types of problems and issues that can be usefully interpreted through the notions of crisis and response. As such the problem-cluster life cycle is one potential means of promoting meaningful comparative analyses of regulatory agencies in terms of growth and development. The life cycle of the Standards Board even in its short history changed considerably from a (primarily) investigative body to a strategic organisation offering guidance and advice.   The journey ended abruptly and it remains to be seen what the consequences of its abolition will be.

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