

# Oral evidence

## Taken before the Public Administration Select Committee

on Thursday 10 November 2005

Members present:

Dr Tony Wright, in the Chair

Mr David Burrowes  
Paul Flynn  
Julia Goldsworthy  
David Heyes  
Kelvin Hopkins

Mr Ian Liddell-Grainger  
Julie Morgan  
Grant Shapps  
Jenny Willott

*Witness:* **Baroness Fritchie DBE**, a Member of the House of Lords, Commissioner for Public Appointments, gave evidence.

**Q1 Chairman:** Could I call the meeting to order and welcome our witness and guest this morning, Baroness Fritchie. When we used to know you, you were a mere Dame; you have now become even more illustrious and we congratulate you on that. You are coming to the end of your long tenure as Commissioner for Public Appointments and we have had close and fruitful dealings with you over the years. We have always appreciated your attendance at these committees and our relationship. As you do wind up we would like to not do what we would normally do which is to have a session devoted entirely to your annual report in all its glory, but to focus on some of the themes that the Committee is now particularly interested in. One of these is the whole business of the relationship between ministers and public officials and whether we need to visit that in a variety of ways. You are very central to that. The second big area is a review that we want to do about what we call “Ethical Regulation in Government”—whether we have got that territory right—and you are an ethical regulator. Would you like to say something just to start us off?

**Baroness Fritchie:** Yes, thank you very much. I am grateful to be asked to be here; it is very good when you come to the end of something to be able to reflect and this is a good place to reflect. I am not planning to talk in a long way because I know you would rather ask questions. I sent a copy in advance of my response to the Graham Committee’s recommendations<sup>1</sup> and I just want to say that the copy that I sent to you was a copy which I sent to the then Minister for the Cabinet Office, John Hutton, in June this year. I wanted him to know before he and the Government came to a view what my views would be and then I subsequently met with him. As you know, the Graham Committee sat almost two years ago—they began in January 2004—they took a year to take a really good in depth look at these things, they brought their recommendations out in January of this year and normally government response is within a couple of months but we are now

into November and we still have no government response. I thought it was important before I came before you at least to know where I stood on some of those issues. That is all I really want to say and I am happy to take questions.

**Q2 Chairman:** Thank you for that. Your job is to keep an eye on the whole process of public appointments and to make sure that nasty things do not happen and that merit is preserved. Ministers on the whole would like more role in the public appointments process as they originally did have. Can you, just in a nutshell, explain why they should not have it? If ministers are responsible for everything they do and people like us hold them to account for it, why should we not just let them appoint who they want to public posts and then be held to account for it?

**Baroness Fritchie:** First of all, I absolutely understand and agree that ministers are held accountable and therefore they must have confidence in the people who are being appointed. The second thing is that the system that has been set up—that was suggested by Nolan all those years ago in order to have public confidence and give ministers confidence in the system and be confident in who was appointed—within departments is not used well. I have come before this Committee many times and I have said the same things over and over; I am weary but not bowed to repeat some of them. In the process, as things stand now, before any changes are made, in the process of public appointments ministers should be asked right at the very beginning: “What kind of person do you want to be appointed to this role? It is coming up for appointment or it is a first appointment in a new body, what is the role of the body, what kind of skills, abilities and qualities and expertise do you want the person chairing this to have?”. The minister’s thoughts, ideas and desires should be put very carefully into a role specification and the minister should sign it off and say “That’s absolutely right”. The minister should also be asked at the same time, “Are there any people that you know or know of that you think are people

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who have these qualities who should be considered?”. Again they can say, “Yes, what about somebody like this or this or this?” and those names can be put into the hat.

**Q3 Chairman:** You are describing “what is” but what I am really trying to get you to talk about after all these years of experience of doing it, is whether we are not making a great big meal out of this. I have just been reading an article by Peter Preston in *The Guardian* talking about Jamie Oliver and school food. I mean, there is Jamie Oliver, his show is on television, he focuses national attention on the issue of food and schools. Preston says, quite rightly, in a well-ordered world a minister would then get on to Jamie Oliver and say, “Come on, can you just come and head up this School Food Trust for us, given that you’re a great catalyst for all this?”. What the minister would be met with is what you are describing: “Oh well, you can put an application in and we’ll have the independent assessors and we’ll do all this business”. Is it not a bit much?

**Baroness Fritchie:** No, because I do not think there is anything to stop anyone saying to Jamie Oliver, “We want you to play an important part in whatever it is we want to take forward, but we are not asking you to take on the governance responsibility of the board. We are not asking you to be head of an organisation where you are responsible and accountable for all the governance issues as well as all the adding value to the performance issues.” On the boards of the bodies that I oversee are people who have particular responsibilities and, as people have said to me in the past, why can we not ask a famous pop star to come and do this for us, of course you can but is it not more likely that they were more interested in and able to give time to something that would enable him to spearhead the think tank—the thinking of what needs to be done—rather than for them to take on the governance role of a body.

**Q4 Chairman:** These are questions for ministers to decide. If the minister screws up with an appointment he takes the rap.

**Baroness Fritchie:** There are two issues here, one is why should ministers not do something? What I was trying to say in rather a long way was that ministers are already able to do a great many things that they do not do because they do not get involved and they could say, “I want a simple process, I want a short process, I want simple application forms, I want to see this happen and I want people of this calibre.” Because there are some ten thousand of these—not just one that comes out of interest from a television programme—there has to be a system in which ministers can have confidence and the public can have confidence.

**Q5 Chairman:** But they cannot appoint Jamie Oliver?

**Baroness Fritchie:** To what?

**Q6 Chairman:** To the School Food Trust.

**Baroness Fritchie:** Is there such a thing?

**Q7 Chairman:** Yes.

**Baroness Fritchie:** Is it a new body?

**Q8 Chairman:** Yes, set up to sort out school food. Jamie Oliver believes in sorting out school food.

**Baroness Fritchie:** I would be keen to see what the skills, abilities and qualities are for the person who is going to lead that body and if they say, “We want someone who’s inspiring, who’s on television, who has the confidence of the public, who can only give us 20 minutes a week” that might be the very person, but they first have to do the thinking and they have to make sure the person has the time to do it. The chair of a body is legally liable for a whole range of things, whereas saying he is special adviser to this new body is a different thing. If Mr Oliver wants to apply for and give time to public office in that particular way I think that is perfectly reasonable. However, to kick start something new and make it work they require skilled expertise. They could use his evident enthusiasm but it does not have to be by appointing him chair of the board.

**Q9 Paul Flynn:** In the 1980s Margaret Thatcher appointed Richard Branson to clear up litter and graffiti. Do you think of that as a successful approach or a lesson which suggests it is possibly not the best idea to appoint the first person who comes into the head of the minister?

**Baroness Fritchie:** I do not think she set up a body of which he would be the chair. What she did was to ask him, I think, to spearhead the thinking and develop some ideas that would really make a difference. His public profile was one that, at that time, the public would pay attention to, so I can understand why you would want to properly involve all sorts of bright, interesting and charismatic people who should be listened to because they really understand their subject. My concern is that if you put them on top of a board where there are a lot of other things they are responsible for, they are not necessarily interested.

**Q10 Paul Flynn:** The results suggest that it was not successful.

**Baroness Fritchie:** No.

**Q11 Paul Flynn:** You said when you last came to this Committee that the public perception was that public bodies are full of stale, pale males from the southern counties. What progress has been made to make sure that the public perception now is that the bodies are full of bronzed, fresh females from the northern counties?

**Baroness Fritchie:** That is an interesting juxtaposition. I have made some progress but a very small part of my role is to promote diversity. It is for government departments and for ministers to be clear about the kinds of people they want on

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their boards, the people who broadly reflect the communities they serve. Quite rightly they will do the bulk of the work. I undertook a MORI poll this year to look to see if there had been shift in public perception of public concern since the one I did when I first came and there had been a bit of a shift. There had been more understanding; there had been more recognition of things being fairer, easier to access and a broader range of people appointed, but it is a long haul. I keep saying that it is a decade of development, it is not one or two initiatives and there is a long, long way to go.

**Q12 Paul Flynn:** There has been some unhappiness expressed about the Medicines and Healthcare Products Regulatory Authority on the grounds that it is over-influenced by the pharmaceutical industry. I believed the chairman worked for some 20 years for a pharmaceutical body. Would you have a role in that, ensuring that the body with enormous power should not be over-influenced by the interests of the pharmaceutical industry? Where would you come into that?

**Baroness Fritchie:** I would come into that through conflict of interest as part of my role is to ensure that there is a fair and open process that is easy to find and smooth to travel through for people who want to be considered for public appointments. Part of that is to make sure that when people are sent application forms it is very simple and straightforward and when conflicts of interest are mentioned there is some indication of what a conflict of interest might be. I did a piece of work with PricewaterhouseCoopers where we audited government departments in relation to conflicts of interest and most put on the form: "Do you know of any conflicts of interest?" but they do nothing if people leave it blank or say no. I did some very interesting work in Northern Ireland to specify what might be a conflict of interest and indeed I used a pharmaceutical company as an example there and said, for example, on a specialist body, an advisory body to government, appointing someone from a pharmaceutical company might give them unfair competitive advantage if you are looking at what kinds of things are going to be researched in the future. Therefore I require government departments to look at conflicts of interest and perception of conflicts of interest. However, it is not for me to jump in and tell government departments and ministers precisely who they should have on those boards.

**Q13 Paul Flynn:** Do you think it is a matter of concern that the committee on the safety of medicines have set up a special committee to look into the dangers from one of the SSRIs (Selective Serotonin Re-uptake Inhibitors). Seroxat had to be disbanded because the majority of the members had a financial interest in the company that actually made the drug. Their investigation was delayed and in fact the restrictions on the use of that drug—which was killing people—came from America, not from Britain. Is this an area in which

there is a failure in the appointment system and a failure of understanding of the vested interests of those people appointed to these powerful bodies?

**Baroness Fritchie:** Yes.

**Q14 Julia Goldsworthy:** Following up on the pale, stale male, it reminds me of an example which I was looking at preparing for this which was the fact that the Department for Trade and Industry was taken to the High Court for appointing a woman to the South West Regional Development Agency Board and Malcolm Hanney—one of the interviewees who was clearly the best candidate—made a Freedom of Information request and the DTI was found guilty of breaching the Sexual Discrimination Act. I just wondered—because this has been referred to you—whether you have responded and whether you think the Ministerial Code was followed. Have you made a judgment?

**Baroness Fritchie:** I have made a judgment and I plan in the annual report for next year—having got Mr Hanney's permission and agreement—to use this example as a case study so that it is made very clear. There are a number of things. One is that the law is quite grey in some areas in relation to gender discrimination and positive action, and therefore I looked at this and found in favour of Mr Hanney in a complaint in relation to the Department. I would like to say here that the then Secretary of State for that Department was all over the papers; this was not her appointment, she was not the person responsible and therefore it made sense to take her out of the picture because she was not the minister. However, I found in his favour. He had planned to take it on to tribunal and judicial review and at the preliminary stages in the tribunal the Department agreed to settle and agreed that they had indeed breached the rules. The difficulty is this one—and we are back to the Chairman's question about a minister's right to appoint who they want—that ministers absolutely understandably want people who are fit for purpose, who would broadly reflect the communities they serve. However, the Sex Discrimination Act says that you cannot appoint someone because of their gender unless there is a particular reason for that to be so, and there is not in this case. Therefore all other things being equal you are not allowed to do that and in this case that was what happened. We had three candidates above the line and Mr Hanney was ranked number one by the panel and the Minister chose to select ranking number three because they wanted to balance the board. That is discrimination. I have been in discussion with government departments—they with their lawyers, us with our lawyers—and I have sent out an amendment to the Code to make clear that it is a balance of skills and expertise and experience on the board. The important thing—and I suppose the point I was labouring on earlier—is that the real effort has to go in at the beginning. The real effort has to go in to make sure that the broadest range of candidates possible come forward and can be

selected, not wait to the end and then say, “Oh dear, we don’t have enough of this or that”. That is my concern.

**Q15 Julia Goldsworthy:** Is that a problem with the Code or is it a problem with the way that the Department administered it?

**Baroness Fritchie:** I think it was a mixture. It was a problem with the understanding of the Code. When I feel there is unclarity in my Code—and I do sometimes—I seek to change it as indeed I did in relation to ministerial involvement and met with some resistance. However, in this case they believed that the “balance” needed was a gender balance and therefore that is why they made that decision. The law becomes clearer and clearer and because of some European legislation recently enacted, it is likely that many public appointments can now be considered as employment rather than appointments, so they are now in a loop—an inner circle—that they did not used to be in and that is one of the things that makes life a bit difficult. Just a mention on your stale, pale male. I feel I ought to say—in defence of men, really—that when someone challenged me that all of the appointments were full of pale, stale males from the southern counties, I countered with something like, “I will not demonise older white men who have given great service, however we also need diversity”.

**Q16 Chairman:** You spent a lot of your time banging a drum to get more women into public life and here was an attempt to do it because balance on a board is thought to be important and you rule against it.

**Baroness Fritchie:** One of my over-riding principles is appointment on merit and therefore the best candidate must be the candidate who is appointed. That is the difficulty in relation to my Code, therefore the effort to get more women into public life is on merit rather than on anything else.

**Q17 Jenny Willott:** If the third candidate on the list was a man and they had been appointed by the minister rather than the person at the top of the list, would you have found a problem with that?

**Baroness Fritchie:** I probably would not have known about it. As the employment law now affects public appointments more, the information I have from solicitors currently is that, when the panel (who have done the work to find the right group of people for the minister to consider so the minister can make a selection) does their work, the minister has to have said in advance—this is their involvement in the beginning—“I want you to find people who fit this bill and I want you to present them to me with pen pictures of the best three above the line, each of them having merit”. If you put three people and say, “Here are three different candidates and these are their abilities and qualities”, then the minister is perfectly free to choose any of them. However, some ministers—or some departments without consulting the ministers—rank them in order one, two and three and when you do that you make it very difficult to choose someone who is not ranked number one,

particularly if a member of the panel has told someone, “By the way, we’ve ranked you number one”.

**Q18 Jenny Willott:** What is the role of ministerial appointment if you have a panel who is going to interview and then put people in whatever order they might come out at? Is there then a role for ministerial appointment? If someone clearly comes out best in the interview at the panel stage then clearly that is not going to be able to be over-ridden under discrimination legislation by the minister, so what is the point in having a ministerial role?

**Baroness Fritchie:** Currently—and this may change depending on the Government’s response to the Graham Committee—one of the principles in public appointments is that ministers must have a choice, but that choice must be from: “Here are three candidates ranked in a line” rather than “Here is one, two and three”. If it is “Here are three candidates, and this is why this one is outstanding” and so on then the minister is free to choose whomsoever they think is the best fit. There are times—because these processes do take time; I recognise some of them are lengthy—when things have moved on and so long as there is not a new criteria added the minister may say, “Aha, given what has been happening in the last three months, this person fits the bill better than that person” so the minister still has a choice if you offered three equally ranked people. The whole thing is set up to provide the minister with a choice. Should a minister want to be involved in the whole process all the way through they can, but the panel is there to serve the minister and to get the best fit, and deliver the best choice to the minister so the minister can have confidence in who they appoint.

**Q19 Jenny Willott:** That is if they are presented one, two, three.

**Baroness Fritchie:** That is the difficulty. Sometimes government departments rank them one, two, three.

**Q20 Chairman:** Had they all been above the line then it would not have mattered.

**Baroness Fritchie:** Absolutely.

**Q21 Julie Morgan:** You were saying that it was really important for the minister to be involved right at the beginning and to set the scene, so to speak.

**Baroness Fritchie:** Yes.

**Q22 Julie Morgan:** You also said that ministers can put names in the hat.

**Baroness Fritchie:** Yes.

**Q23 Julie Morgan:** What is the appropriate way of putting a name in the hat and what happens if a minister may have names who may, by the very nature of things, have political affiliations with the minister? Could you tell us what you see as a fair process in that scenario?

**Baroness Fritchie:** Again two things, one is the minister may or may not know those people but may say, “Someone of the calibre of so and so, they seem

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to be doing a good job” or “What about such and such a person?” and they may also name people that they know. Those names must go into the hat and be sent application forms and invited to consider applying like everyone else and they will be treated the same as everyone else. The second thing in relation to political activity, political affiliation is never asked. I think there are two bodies where a political balance on the board is important and is set out in statute, but other than that the monitoring form is detached; we just want to find out and be able to report to you and to the public in general how many people of different political backgrounds and activities actually are appointed to get a sense of whether something is becoming politicised. Therefore their political activity will not be presented to the panel and the panel will decide whether this person should be long-listed or short-listed or interviewed and if they drop out at any stage then they have dropped out. What is asked of people is: “Have you in the last five years been active on behalf of a political party? If so, let us know”. Then once a year I publish the political activity figures for those who were appointed or re-appointed, not for all those who applied. Therefore someone’s political affiliation is not part of the equation. Someone’s political activity on behalf of a party, which is already in the public domain, is gathered but detached from the application form and then used to give some information at the end.

**Q24 Julie Morgan:** Obviously in some appointments—because of the nature of the appointment and the people who apply—it is known.

**Baroness Fritchie:** Of course.

**Q25 Julie Morgan:** And an affinity perhaps with the minister would be known. That does, obviously cause concern amongst the public. How do you overcome that situation?

**Baroness Fritchie:** I get very worried if we go into a direction which says that no one who is politically active or knows any politicians should ever be considered; this is unfairness to the ninth degree and therefore all candidates must be treated fairly. If there is likely to be public interest in this then it is likely to be explored if that person gets as far as interview; how will you counter this or that would be explored at interview as a potential conflict of interest possibly. On the panel there would be an independent assessor, someone independent of that process who takes part in it, who is able—should there be a complaint about it—to stand up and affirm to me and give information to me that this was a proper process and this person has been properly appointed.

**Q26 Julie Morgan:** I believe there is evidence that the number of people with political affiliations who apply for public appointments is shrinking, which seems a great shame.

**Baroness Fritchie:** Not political affiliations; many of those appointed will have political affiliations. It is people who are politically active. Of all those who

are appointed I have no idea how many are affiliated to different political parties; we do not ask that question because it is a private matter. It is only active on behalf of a party which they are asked.

**Q27 Julie Morgan:** Is that shrinking?

**Baroness Fritchie:** That has reduced. It goes up generally around the time of a general election, people tend to take more interest in matters political and more people come forward and therefore the figures go up. In general it has gone down. I think it is about 14.4% or something like that last year of those who were appointed declared they had been active on behalf of a political party. They may be councillors or all sorts of things.

**Q28 Julie Morgan:** It is very important not to deter them.

**Baroness Fritchie:** Absolutely right, but it is also a very important point to recognise that of the 85.6%—or whatever it is—of those people who did not declare political activity, many, many of them will be members of political parties and will be politically interested.

**Q29 Julie Morgan:** Just to go back to the beginning where the minister has a favourite person that he or she might like appointed, how are those people actually approached? Are they just sent the advert or if they are invited to apply it does go a bit outside the pure equal opportunities process?

**Baroness Fritchie:** Ministers are not asked to tell us who they would like us to appoint; they are asked who they would like to be considered. If there is a recruitment consultancy managing the process then they themselves are likely to have the advertisement and then seek to contact a range of individuals from organisations where people who have those skills or experiences or expertise may be. Therefore they would be saying: “There is an appointment coming up, is it something you would like to consider? Can we send you an application form?”. That is how that is done. It may be—I do not know if it is so—that an individual rings up and says, “In this department we have a vacancy and your name was one of several that came up as a person who seemed to fit the bill”. I think they are unlikely to say, “The minister has suggested that we give you a ring”.

**Q30 Julie Morgan:** So you do not think there is any direct link with the minister and the people?

**Baroness Fritchie:** I do not know. It may be a minister says to someone, “You seem just the sort of person, why don’t you apply?”. We are back to my original question. Then we can stand up and say that the minister has not tapped someone on the shoulder; the minister has suggested that this is a person who should be considered and the process will define whether or not this person is the most meritorious. That stands up to public scrutiny.

**Q31 Jenny Willott:** You said 8.9, 1.5, 2.5—or whatever they add up to—%; of how many? Do you know what the actual numbers are?

**Baroness Fritchie:** Yes, I do. It is one of those things I thought you might ask me and I very carefully brought a piece of paper that I now cannot lay my hands on.

**Chairman:** Can you turn to something else and come back to it.

**Q32 Jenny Willott:** Following on from that, you said that you published the numbers of people who have been appointed who are politically active. Do you actually keep the figures for people who apply that are politically active, because it would be interesting to see if the proportions are roughly the same or if people who are politically active are more or less likely to get appointed?

**Baroness Fritchie:** No, I do not because I am the regulator and I report what has happened. If we have something like 3,500 appointments turning over every year then you may well have anything from 20 to 500 applications for each one of those, and the different government departments manage those processes and they would have the figures. I have not required them; I have enough difficulty making sure they collect the figures that they have to collect and I occasionally ask them to give me more information on disability or something else, for example, and it would be an interesting thing to do to be able to say: if there was an interest let us just take a three month period in a year and let us ask departments in advance to save that information and then we could present it. Certainly that could be done but I only collect information on those who are appointed.

**Q33 Jenny Willott:** You talk about declaring political activity where the onus is on the individual concerned. Who determines what constitutes political activity? Some of it is extremely clear; if you have donated x amount of money then it is black or white, but there are so many shades of grey within political activity, I was wondering who actually decides what is declarable or what is not?

**Baroness Fritchie:** The Nolan Committee, when it was first set up, set out in their original report the kinds of areas they thought should be there. They say, for example: "Obtained office as a local councillor, MP or MEP, stood as a candidate for one of the above offices; has spoken on behalf of a party or a candidate; acted as a political agent; held office such as chair, treasurer or secretary of a local branch of the party; has canvassed on behalf of a party or helped at elections or undertaken any other political activity which you consider to be relevant". So that is the list and it is pretty clear. Although I did have one rather disgruntled person who felt that he should not have had to declare political activity; he had been actually driving people on behalf of one party to the polling station on voting day. He said he only did it for his wife; she was a member of the party and he was not and therefore why would that count? But of course he had undertaken an activity. The figures you asked for are: of the 14.4% who were politically active (not affiliated) 8.9% Labour, 2.5% Conservative, 1.5% Liberal Democrat and 1.5% other.

**Q34 Jenny Willott:** Do you actually have the numbers of how many people 1.5% actually is?

**Baroness Fritchie:** Yes, I can certainly send them to you.<sup>2</sup>

**Q35 Grant Shapps:** Going back to your original opening questions, Baroness Fritchie, I do not really think the system works and I draw as my evidence that only one in five people think it does work. In your own report you say that, that the public perception is that it does not work. I want to put it to you that the reason it does not work is that actually everything you do is against the grain of the natural process. You have been set up for a very specific reason that we all know: the 1992 to 1997 Major Government looked sleazy and the 1997 to 2005 Labour Government looks like cronyism and you are the answer, together with your predecessor Sir Leonard Peach. Really, what you are trying to do is apply sticking plasters to all these little problems that it actually goes so against the natural process that really it is making the whole thing bureaucratic.

**Baroness Fritchie:** I wholly disagree.

**Q36 Grant Shapps:** I thought you would.

**Baroness Fritchie:** I think you are completely wrong and I will tell you why. Something working is not just down to people who are not involved with it knowing about it; that is a failing and more people need to know and understand. There are a great many things for the citizens in this country to know and understand about. Of course it is sad that one in five people know nothing about it and more needs to be done, but we have to manage public money very carefully. Marketing and spin would not be helpful so careful work needs to be done. For me a natural order of things is not anybody appointing who they like in any way they like to be responsible for public policy and public money. Good governance is certainly something that is on everyone's lips. I believe in good governance. I do not believe in bureaucracy for the sake of the process; I do believe in a fair, open and proper system. I also believe that the people who go into it need to have confidence in it. If you have a system where people are merely picked because they know someone, then you are picking from a very small part of the population who often live in a very small part of this United Kingdom. I think you are wrong.

**Q37 Grant Shapps:** Yes and obviously I am heartened that you think I am wrong and of course you are right to give a spirited defence; it is what you have been doing for the last six years and no-one wants to think they have wasted their time. However, in the example that the Chairman gave right at the beginning he was saying that if a minister wants somebody then surely they should be able to select them, to which you said, no; actually what the

<sup>2</sup> *Note by witness:* The figures requested are published in the Tenth Annual Report of the Office of the Commissioner of Public Appointments. The relevant figures are "Declared Political Activity", p72, and "Appointments and re-appointments in 2004-2005 by declared political activity", p80. Available at [www.ocpa.gov.uk/](http://www.ocpa.gov.uk/)

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minister does—quite properly—is draw up a spec of the type of characteristics that that person might have, the kind of person that the minister would want to put in place. But we all know from our own real life experience—buying a house when you draw up a spec for the kind of property you like; or, in my case, interviewing and taking on people for my small business that I started 15 years ago, you draw up a job spec for that person; or even in finding a partner or spouse, the person you are going to end up with—you have in your mind a set of categories, a set of qualifications if you like, that you think that that person is going to have and lo and behold when you find the house you want, the person you are going to spend the rest of your life with or the individuals you employ, in fact they are completely contrary to the things you originally drew up. Your system prevents that natural process from taking place.

**Baroness Fritchie:** You are describing a system that is natural to you; that is not natural to me.

**Chairman:** It is certainly an insight into the Conservative approach to marriage and relationships, I must say.

**Q38 Grant Shapps:** We have probably all bought a house and ended up with a house we never thought we would look at.

**Baroness Fritchie:** You have made my point beautifully for me, thank you. A house you never thought you would look at. If a minister thinks they know everybody who is right and through force of circumstance because the description says “Here is a person that you would not normally look at, we would like you to look at”, they say, “Oh my goodness, you are right, this is a better person; it is better than the person that I thought I knew”. Therefore I quite understand that ministers need to have confidence in the people who are appointed but I do not believe that ministers know everybody who are good at everything to do with public bodies and from this small black book of names they would be able to select just the right people from throughout the United Kingdom.

**Q39 Grant Shapps:** I accept that entirely, but you are not putting yourself in the position of employment agency are you, which is almost the way you seem to describe yourself in that response? I am not suggesting that the ministers know everybody; they clearly need outside help to find the right person from agencies or whatever the equivalent is within government. What you really do is add layers of bureaucracy to the process; you make it much more complicated and critically you remove the responsibility from us, as Members of Parliament, to really effectively scrutinise the decisions of the ministers because it is made much more third party to the ministers so you cannot really hold the ministers to account anyway. In many regards you are part of making this place less effective with the best will in the world and for all the right reasons. That is the outcome of it, is it not?

**Baroness Fritchie:** No. Absolutely not. I would really appreciate some time for you to come to my office and see what we do. I am not a recruitment agency; I set a framework and I try to be a reasonable regulator with a light touch that says, “Let us look at a simple framework that says here are the proper things to do”. It is a matter for the government departments and the ministers to decide how wieldy or unwieldy they decide to make that process. In some cases they make it very unwieldy because the minister is not consulted and involved at the earliest stage of the process and therefore when we get to the end she or he says, “I don’t like the results you’ve got; what are you going to do about it?” and it is that. We need to speed up the process; the process needs to be simplified; departments need to have a central team for doing this on a regular basis so they get better and better at doing it. A whole range of new things need to happen, but people who are in any party or in no party in this country have to have confidence. Those who spend billions of pounds of public money and make decisions locally and regionally that affect communities, they must have confidence in the people who are appointed and the best way to do that is to have the widest range of good people who can come forward, be considered and be appointed on merit.

**Q40 Grant Shapps:** So it adds bureaucracy, makes ministers less accountable, the public does not think it works but you think you are doing a good job.

**Baroness Fritchie:** The public do not know about it. It is not that the public does not think it works. When it is explained to them and in the MORI poll they said, “This is fantastic; can we have more of it” and indeed—if you would like to have the whole of the MORI poll—they go on to say, “We don’t want ministers involved at all because we do not want to have them politicising at the end; we would much rather have confidence in people who have just come through a proper process”.

**Q41 Grant Shapps:** We could have government entirely by proxy and administration; we do not need politicians at all if you follow that to its natural conclusions.

**Baroness Fritchie:** Of course those ministers are accountable to those bodies and therefore, as they make the final selection and they make the appointment—and they disappoint as well as appoint—then of course they are accountable to Parliament because they have set in train what kind of people they want, what they have to do and how they should get there and then they make the final choice. I do not think they could be much more accountable and have a fair and open system.

**Grant Shapps:** I look forward to my visit.

**Q42 Chairman:** The public like to think that it is all done by cronyism.

**Baroness Fritchie:** Yes they do.

**Q43 Chairman:** So in that sense if the purpose is to change public attitudes, they do not want to change. They are comfortable with the attitude which says it is done by cronyism, so in a sense that objective can never be achieved.

**Baroness Fritchie:** I agree to a point. I do not think they are comfortable; I think they are satisfied. They are uncomfortable about it, but they are satisfied in being uncomfortable.

**Q44 Chairman:** The consequence of Grant's question really is that we are in a sort of hybrid state. We neither have pure ministerial appointments nor pure independence. We are in this sort of no man's land of ethical regulation which people believe has not changed anything. Would it not be better to go for one model or the other?

**Baroness Fritchie:** I am not ready to give up on this model yet and indeed yesterday I wrote to a government department to say that I had seen in the press some concern about appointments through cronyism. The person has not complained to you and although the department has not complained to me yet, the individual has gone to the newspaper to vent their spleen. I then wrote to the department to say that given this situation I am very content to come in at their invitation and audit their system and give them—should they deserve one—a clean bill of health and I will come out with them to challenge these people who are just going out shouting cronyism, cronyism, cronyism. I think there is a job to be done for me with the departments to stand up and fight back.

**Q45 Julia Goldsworthy:** Are you not frustrated by the kind of plethora of ethical regulations that there are out there and how confusing that is to the public? I am just trying to work out who falls under what remit. The Monetary Policy Committee does not fall under your remit; it is entirely in the gift of the Chancellor.

**Baroness Fritchie:** Yes.

**Q46 Julia Goldsworthy:** The criteria and the selection are totally vague; it does not have to be based on merit so there is not one over-arching structure which everybody has to adhere to.

**Baroness Fritchie:** I am frustrated and this Committee recommended some time ago that there should be a review of other bodies and that I should be actively involved. Some 18 months ago you suggested this and the Cabinet Office have set about doing it. They have not involved me yet and they have not given me the final list. Therefore yes, it needs to be looked at and yes, more people should be under a system rather than having all these people outside saying that we are a bit different. I agree.

**Q47 Kelvin Hopkins:** There is clearly—according to our papers—considerable public disquiet about public appointments. They do not trust the system.

I do not think that is something we can ignore. The Chairman has talked about two extremes and we are somewhere in an uncomfortable middle position. Would it not be simpler to move to a much more independent system where ministers do not have the control they do now?

**Baroness Fritchie:** Yes, it would be simpler. In one fell swoop you would get rid of cronyism.

**Q48 Kelvin Hopkins:** Would this not be healthy for our democracy?

**Baroness Fritchie:** That is a debate which I think is beyond me and I think we need to discuss and debate what the implications and the impact of such a thing should be on a whole range of things. I think this is the place that that debate can be had and I think you are about to have some of that. I would be very happy to be part of the thinking as well as the discussing. Yes, it would be an interesting debate. It depends what you are trying to do. If you are trying so say, "Minister, you are accountable but you have nothing to do with it, are you happy with that, because that is what the public want?". Or are you saying, "We're trying to find the best range of people to come forward and impartially to be appointed on merit and because there is public disquiet about cronyism or potential politicisation you now can have nothing to do with it"? The reasons for appointing people are complex and our concerns are many. Public perception is one that is very, very important. If you want a radical solution, which radical solution do you want and what would the impact be? If you are asking me where I would go right now I would go right now, to say that ministers should have an involvement in the process but should not be given the choice; they should get the person who comes out top, which is what the Graham Committee said and what the Government is now considering.

**Q49 Kelvin Hopkins:** If it was an entirely independent, transparent system where people appointed were obviously able people—it would not necessarily be media luvvies either but we could have a media luvvie on as well—public trust would be satisfied. We might get better government because we would get more independent minded people on there. We would have a range of views and we might move a little towards a more healthy pluralistic society again.

**Baroness Fritchie:** I think there is a kind of lead lag time between when you do something and when everything else catches up. I think the press and public are like Matilda who cried "Fire!" all the time; cronyism is cried whenever there is a known name. I was very heartened when the Chairman of the BBC was appointed when whatever comments were in the press no-one suggested that he got there easily or on anything other than merit. Indeed, one newspaper I read said he was very pleased to have gone through a rigorous process because no-one could gainsay the fact that he got there easily or on anything other than merit. That is the other side of it; people who are very publicly known, whilst it may be irritating to fill in forms and go to



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interviews, they can stand up and say, “I got there on merit, so say what you like but I will come back at you with your cronyism and prove you wrong”.

**Q50 David Heyes:** You mentioned earlier the use of recruitment consultants. I think your words were “to go to people they know in a specialist field”. Are these what are normally called headhunters?  
**Baroness Fritchie:** Yes.

**Q51 David Heyes:** How extensive is that?

**Baroness Fritchie:** It varies from government department to government department. In Wales hardly at all; in Scotland hardly at all; in Northern Ireland when I was there hardly at all. Some government departments hardly at all and some government departments regularly. Those head hunters are on a call off contract so that there is a list of people who have been looked at and have been put on contract with that department and those are the people they go to. If you are looking for a specialist, someone with a scientific background, then there is a particular place that you would go to find someone who has to have scientific knowledge to be on a body. Or if you have a small department and you have cut away layers of your administration then you do not have people available to undertake a big appointments process where you might be asked for a thousand application forms, a thousand information packs and have to deal with between five and seven hundred people who fill them in and send them back. You do not have people sitting there to do that, so sometimes government departments use these agencies to manage the administration of it rather than necessarily to find them the names.

**Q52 David Heyes:** How do you, in your role, monitor, regulate and audit that work and ensure the probity of what they are doing?

**Baroness Fritchie:** In several ways. First of all on every appointment's process there should be an independent assessor and the independent assessor is someone independent of the process who can make sure that it is a fair and proper process. Secondly I became quite alarmed that when I had complaints and I began to investigate them sometimes the recruitment consultants were saying, “But we didn't know about that rule”. I did some investigation and indeed I produced two reports. The first was to find out what government departments did in relation to recruitment consultants and I discovered that in some cases they just assumed they knew the rules. They gave them none of the Codes of Practice, none of the information; they assumed they knew the rules and left it to them. Therefore I produced a report for government departments about working with recruitment consultants. I would say a ladybird guide; not a big, long complicated guide. I also produced a report for recruitment consultants and twice a year generally I meet with a range of recruitment consultants to talk about the issues and what is of paramount importance as far as I am concerned. That is the way I do it.

**Q53 David Heyes:** The thinking behind the question really is that there is the risk of bias on the part of recruitment consultants recruiting in their own image, so it's their cronies and not ministerial cronies. Firms like Veritas, a branch of Capita for instance, Capita are seeking and winning vast government contracts and one imagines that another arm of that firm would have a bias towards people who share that view of the world in recommending people for the appointments. What kind of things do you do to make sure that that is not going on?

**Baroness Fritchie:** Conflict of interest is where some of that comes into play. I did have a complaint about 18 months ago which led me to look at candidates who had been sourced by the recruitment consultants and candidates who had come in through open competition. We went through a great many of the application forms to see if just because they knew a person they were getting unfair advantage because the person who had filled in the application form was known to them. We did quite a lot of work. Not enough to have found definite bias but enough to give me concern to go to recruitment consultants and government departments to say, “Here are the danger areas and here are the things you have to satisfy in order that everyone is treated equally”. Then I had meetings with the independent assessors who sit on all the panels to say, “This is what he looked for and this is how you do it”.

**Q54 David Heyes:** Is that any more than an exaltation to them to be careful? What controls are in place to ensure that there is not that bias?

**Baroness Fritchie:** I think there are three controls. The first is the independent assessor who sits on the panel and who should be up to date with how things are done, what the rules and regulations and proper processes are, and can challenge the recruitment consultant and indeed can say, “I want to sit in if you are interviewing these long lists of people; I want to sit in on everyone so it is not just you and them, it is you and me—the independent assessor—and that person so I know you have treated them fairly and I will record that”. Secondly, I audit government departments every year so roughly every three years a government department will be audited or I will do a specialist audit—a themed audit—across all government departments where I go and look at just those kinds of things. Thirdly, through the complaints system where someone complains and I look very carefully at these things. I am a small office with a small number of people and I think we punch above our weight; we have some very good people. I know the system must be a fair and proper one but the process is not the most important thing; the most important thing is that we have a system that enables us to get good people who do a good job. That is the purpose of it. Therefore I take things up regularly with permanent secretaries; I write and tell them what I am worried about, these are the

things that you cannot do, these are the things you have to look at. I send them audits of their departments so that they know and then I follow up to say what have you done about it. I do a fair bit, as much as I think I am able.

**Q55 Chairman:** Before we end, can we go back to Jamie Oliver. If I am a busy person, if I am doing loads of things to earn a living and I get a call from a minister who says, "Look, I really would like you to find some time and come and do a bit of public service by heading up this body" you might just think about it. If you get a call which says, "Look, I'd like you to send an application form in; could you get your CV together, could you do all this, could you get it in to this committee, then there will be an independent assessor come and look at it. You may not come out top of the list so you may not actually get the job in the end" you are going to say "No, I'm going to get on with my life". Is that not right?

**Baroness Fritchie:** Yes.

**Q56 Chairman:** Do you not think that the issue of proportionality kicks in here? When you say that you agree with the recommendation that says that a minister can choose but only from a person that has already been chosen, what kind of choice is that?

**Baroness Fritchie:** That would not be a choice. Going back to my answer to Mr Hopkins I was saying, "If you were having a new system, if you are saying you can choose but only one of these three". I will try to be brief because there is a lot in there; maybe we can have a conversation later about these kinds of things. First of all, Mr Oliver is not representative of the thousands and thousands of people who apply for public bodies. He is important but so are all these other people who want to have the opportunity to serve on a public body and therefore we have to have a system that takes account of occasional exceptions as well as the large number of people—the three or four thousand—who are appointed each year. We have to consider that as well. Therefore we have to have a system that is fair to all. I do know that there are important people who have busy lives and would find room in them, if asked by someone like a minister. I mean if someone asked me to do something and I was busy I might think, "Well, how flattering and how important; that is recognition and maybe I can do it". I might think that. However, I think that on balance I would rather sacrifice a few very good people for the many very good people that now have an opportunity to come forward. Indeed, I would be saying about something like the appointment to someone on a body, "Do you want that person to do the tasks of

the chair of the board or do you want that person to be a president, an ambassador, and here are the five things that play to your strengths and will you come and do this?" and I would get them to do that.

**Q57 Chairman:** I understand that. Why do we not just lay an obligation upon permanent secretaries to ensure that all appointments are conducted on the basis of merit?

**Baroness Fritchie:** Part of the Graham Committee's report, and I think previous suggestions from this Committee, have suggested that that should be done, that they should be accountable. You will know through our conversations here and in other places that I have interesting tussles with permanent secretaries in the system as it stands now, trying to get the system to work. Laying it on permanent secretaries is good for holding them accountable but not abandoning everything else or else how will we know that we have good governance until things go wrong?

**Q58 Chairman:** That may be the note to end on because it opens up all sorts of issues. In the limited time that we have, we have had quite a good run at some of these things. I know you will feel frustrated because we have just scratched away at the top of them, but it is has opened up the territory again and we are very grateful for that. We may want to talk to you further. Well some of us are going to see you afterwards. Thank you very much for a very enjoyable session and thank you very much for your tenure of office. We wish you well in the other place, as we say.

**Baroness Fritchie:** Thank you very much. Can I say two things very briefly? One is I will write to you before I go with where things were, where things are and the list of things that I think are important. Of singular importance is the independence of independent regulators.

**Q59 Chairman:** We would have wanted to ask about that; I am sorry that we have not.

**Baroness Fritchie:** I have a lot I would like to offer there. Secondly, at my very first meeting I remember coming in and saying, "Thank you very much for asking me, I've been looking forward to coming" because I had never been before one before. I think everyone thought I was immediately mad. However, I have found these challenging and supportive as well as stimulating and many of the things that have come out of these meetings have been put into practice as a result of our discussions. So thank you very much for giving me the time, the challenge and the support.

**Chairman:** That is very kind; thank you very much indeed.

*Witness: Mr Ed Straw*, PricewaterhouseCoopers, here speaking in a personal capacity, gave evidence.

**Q60 Chairman:** Let us move straight on to our second half where we are delighted to welcome Ed Straw who has come to help us with our enquiries. Ed Straw is versed in looking at organisations of all kinds and helping them to get better. We are particularly interested in what you have been saying about the Civil Service and for our purposes, just for the moment, we are particularly interested in what you have been saying about the relationship between the political side and the administrative side of government. I do not know whether you want to say something briefly at the beginning or whether you want to go straight into questions.

**Mr Straw:** I just have a couple of things I would like to say. I would like to emphasise that I am speaking in a personal capacity and not for or on behalf of PricewaterhouseCoopers; it leaves me freer to speak. Secondly I see this about power. I would like to give Parliament more power, independent scrutiny more power, ministers more power, delivery management and staff more power, and citizens more power. I would like to reduce the power of the central Civil Service. With power comes accountability. I have a very different mindset. Where I come from is about you being elected to get the job done, the job on behalf of citizens is about delivering good decisions, happiness and health, and that is my focus.

**Q61 Chairman:** Thank you for that. The reason why you are particularly interesting to us is that most people who come and talk to us want to come and worry about the politicisation of the Civil Service. You want to come and celebrate it in a way and advocate it. Can you tell us why you want to do that?

**Mr Straw:** If you look at the way organisations work there needs to be first of all accountability, whoever that might be, and proper and strong accountability. Secondly, if you are appointed to do a job you need control over your resources that you need to do that job. All organisational theory says that. If I were the chief executive of Unilever and I arrived and was told that I might just about be allowed to employ one or two advisers, and I consequently get sniped at over those, but the rest of the organisation I have no control over the recruitment, appraisal, reward, promotion, performance management or anything else, I would not take the job. It would simply be impossible to do. In many respects those are the circumstances that we put politicians into, but politicians are held to account by the electorate to deliver. My second point is that if you look around the world as organisations change and start to under perform then there is a need to make some radical shifts. Marks & Spencer would be a very good example where for years and years and years its business model worked very well, they recruited graduates, they worked the business model and away they went. The market changed, the environment changed and there was a need for a very different approach. It is interesting to note in Finland that they used to have our sort of system. They found that it was not working—it was not delivering public service improvement and change—and at that point, termed politicisation, the top tiers were appointed by ministers because it meant that

one could get hold of the organisation and produce the radical change that is needed. One other example, perhaps, is in the US (I was told this story by someone who termed himself a careerist civil servant) where they had 200 federal payroll systems. They reduced it to 12; they are now reducing it to four. I asked who drove that and he said the politicians, of course; the careerists are never going to drive that sort of change. I am the same. I sit in an organisation. I am happy with the status quo and the status quo in the Civil Service by and large is very good and I am not going to vote to change it.

**Q62 Chairman:** We have a theory which says that people come in to run the machine for a while and then we have a machine there waiting to be run. They say, “Tell us which direction you would like to steer it and we will steer it in that direction”. That model has been our traditional one. I am not entirely sure what you are saying is wrong with it.

**Mr Straw:** For me, if I look at public services I look at the rate of change of public services, I look at the enormous amount of waste and inefficiency; demonstrably it is broken. This is not working. So you feel heat I think; I am one of those people, the assistants and the specialists, observing this. It is not working. If I compare other organisations that I work with to this one I conclude that it is not working.

**Q63 Chairman:** Of all the survey evidence we have of people’s beliefs in and trust in figures of various kinds, civil servants do rather well; politicians do miserably.

**Mr Straw:** All sorts of people do miserably and quality of public service is regarded as very variable, but nowhere near the levels that it should be. There is, I think, trust in civil servants. I do not see the confidence that there should be in their service delivery. You just have to look at the performance of some of these organisations. I want to make a distinction here if I may: this is not about the civil servants who are, in my experience, as good, bad, indifferent as in any other organisation. I have worked with a lot of them; they are really good people. It is about the organisation of the Civil Service.

**Q64 Chairman:** Your remedy is that we should enable the politicians to import who they want into the upper echelons of government.

**Mr Straw:** I have two responses to that, one is that we seem to regard the organisation of the Civil Service as necessarily independent as the judiciary. Why? It does not happen in any other country that I am aware of. Secondly, who owns the Civil Service? Who is it actually accountable to? I have never really had the answer to that. Thirdly, how does the accountability and governance work? I hate the word politicisation because actually the Monetary Policy Committee—which I use as an example—is rampant de-politicisation in many respects in order to get the job done. Using people like Lord Carter to get the job done is not termed politicisation but could be termed politicisation for example in

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relation to the Legal Aid Review and National Offender Management Services. We have to get clear lines of accountability. I do not see anything wrong with the model in New York which says, "We are citizens, we elect a mayor, he appoints a police chief who does what the mayor wants. He delivers performance on the ground, those performances are reported directly to the citizens and then we have an election." That does not seem to me so difficult.

**Q65 Mr Burrowes:** When we had the seminar I particularly remember you alluding to local authority examples as supporting your approach to active involvement of essentially the leaders, chief executives and the senior management in councils who are very much signed up to the political leaders agenda, those ones that show success. I was wondering if you could just draw that out a bit further.

**Mr Straw:** Where there is an elected mayor model?

**Q66 Mr Burrowes:** Do you think that the local authority model is a better approach in relation to a much more active involvement of politicians in appointments and the signing up to their agenda?

**Mr Straw:** Yes, talking to many local authorities and many councils there is often very little power for the elected people and the unelected power dominates in those circumstances. Sorry, that is not democracy so far as I am concerned, it is not accountability. I have no difficulty whatsoever in there being an executive mayor, there being a close relationship then with the chief executive which there needs to be to get the job done, in order for services to be delivered that the citizens want and for those two to run that organisation and get it done. It is very simple for me and I do not know why we get so gummed up with power in the wrong places.

**Q67 Mr Burrowes:** I have been a councillor for 11 years in Enfield and have seen changes of administration when the chief executives and senior management changed at the same time as the political leadership. There seems to be much more focus on delivery and there have been results.

**Mr Straw:** It is obvious, is it not?

**Q68 Mr Burrowes:** You seem to be taking it a stage further in relation to challenging the whole concept of the Civil Service to the point almost of abolishing a lot of its original principles. Is it not more the case of accountability rather than simply seeking to take the rug out of the whole of the traditional aspects of the Civil Service?

**Mr Straw:** I think in many respects you are right in the sense that there is clear accountability, clear measures of performance, clear stimuli to improve, real consequences for individuals and organisations for success and failure, so good governance as well. Then actually after that it is just applying best organisational practice, and best organisational practice will vary. I am pleased to see that the Civil Service is taking up one of my other proposals which is the professionalisation and specialisation of staff and that is absolutely crucial to getting the job done.

I think it is improving but at what point do 100% of people employed in the Civil Service have the qualifications, training and experience to do the job? If you ask that question that way round then you get a lot of blank looks because in so many areas and departments it will be less than 20%.

**Q69 Mr Liddell-Grainger:** We went to the Civil Service College last summer and I was impressed. It has gone from being a Civil Service College to a management based profit centre. Do you approve of that and the way they operate?

**Mr Straw:** For me this is about learning and there are all sorts of specialised organisations around the world from which I and many others have learned. If you want to change a culture, go and get your learning from outside. My concern is not so much how it works; my concern is that this is a captured training organisation which, no matter how hard it tries, is going to reinforce the status quo of the existing culture. Personally I would abolish it.

**Q70 Mr Liddell-Grainger:** That is precisely what I wanted to find out. You talk about the way the Civil Service operates; would you privatise major parts of the Civil Service?

**Mr Straw:** The contestability point, the being able to make a change point, I think is very important. For example, Sport England was not performing well, DCMS sacked the board and the chief executive appointed a new chair, new board, new chief executive, saved 12 million; new strategy, new organisation working. There is a crucial point there in relation to agencies and any delivery organisations—of which there are many—that at that level you have to be able to change the board and the management. You might want to call that politicisation; I call that governance and accountability. The National Offender Management Service—if it ever comes into being—is a very good example of providing contestability for the punishment, rehabilitation and reduction of re-offending by offenders by taking away the monopoly provision of prisons and probation. I think there are all sorts of ways of achieving it and they are vital.

**Q71 Mr Liddell-Grainger:** Do you think there should be an agenda for change on streamlining the Civil Service and local government learning engines? What you are advocating is that they should be pushed into learning. If that is not achievable do you bring outside influences in to bear in the hardest possible manner saying "You are not up to it. We know you are not up to it; we're going to take over your functions actually". Are you saying that it should be wholesale?

**Mr Straw:** There are intervention regimes at present.

**Q72 Mr Liddell-Grainger:** I am talking about harder interventions.

**Mr Straw:** I would like to get onto it actually. I have not studied local government in the way in which I studied central government and whether it happens or not I do not know. I would like to think that maybe I will get round to writing another paper

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which is about the stuff of local government and how that can be reformed and developed. As a generality in relation to what you are saying and those principles of governance and accountability, they have to be right but I have not got there yet on local government.

**Q73 Mr Liddell-Grainger:** If local government mirrors national government—which it does to an extent, although it is a much more simplistic form—where there are major failures, we do not always know the major failings in departments because they cover them up, keep them quiet or people are moved. That is not the same as local authorities where you are much more accountable, therefore my question is, can we take that basis through to a government department?

**Mr Straw:** You are absolutely right. The antidote to corruption, cronyism and all the rest of it is transparency. I believe firmly in regulation and ethics and all the rest of it. I and my organisation are very much subject to those, but the real way in which all of those issues are controlled is transparency, the transparency of decision making. Voting on the Monetary Policy Committee is a classic example of the way in which you can achieve real accountability and prevent corruption without these superstructures.

**Q74 Mr Liddell-Grainger:** Gus O'Donnell came to see us and he is certainly different from any cabinet secretary we have had before. He is not an automatic Oxford man and he comes over slightly differently. Is he a breath of fresh air or is he becoming native so quickly that you will actually just call him O'Donnell?

**Mr Straw:** I have met him recently. He says that he appreciates and has picked up some thoughts from my paper. I think he is certainly different in style. As to achievements, we shall see. Could I emphasise the point there which I made earlier on: all history says that if this system is going to change it will be Parliament that changes it. It will be the politicians picking all this up and running with it. It will be Parliament asserting, quite rightly on behalf of the citizens, its power and authority and not just doing it occasionally once a late afternoon, but doing it on a consistent basis because there is a real sense of responsibility. I hope that Gus makes great changes and improvements. History says it will be for you to do that.

**Q75 Julia Goldsworthy:** Clearly the decisions that the Monetary Policy Committee makes are transparent but if the Chancellor is responsible for appointing who he likes with no clear system of short listing, no guaranteed mayor, no criteria for reappointment and basically there have been some people who have been given positions on the basis of informal telephone conversations with officials in the Treasury, where is the accountability back to the Chancellor for making those appointments?

**Mr Straw:** I am a citizen; I want a decent economy. As I understand it that means stable inflation and that means stability in interest rates setting. I do

not care whether he selects a gorilla, an elephant or his mate next door if that organisation delivers that and he is accountable to me for that delivery. Interestingly, the accountability comes because it has a very clear role to optimise interest rates and then a very clear performance measure: inflation. If only every other part of public service had that clear role and objective and that clear performance measure. Then we all measure the Chancellor on the delivery of that and there is transparency—as I said earlier on—with decision making and it is a learning organisation because those specialists who come to those jobs go back to their peers, their dinner parties, their academic groups and people in corporates, and they are discussing like mad as to why he did that, why he did the other and so on. For me whether the Chancellor appoints his mate or not is not the issue. If I make one other point, anyone who has been in significant office wants and has to have people around him to do that office, people they know and can work with and trust and they know they are going to deliver. Often that does not mean going through some administrative recruitment process; it means knowing people and trusting them. I come back to the Lord Carter example. He has done some brilliant work on the National Offender Management Service; it was his report—not anyone else's—that will hopefully set that up. He is doing work now on Legal Aid because the Legal Aid budget has gone up to 1.2 billion. None of the internal processes, the apolitical processes, the processes of appointment regulated by Nolan and God knows who else have delivered on that. He, a political appointment, was brought in to do that and he is personally known to those people.

**Q76 Julia Goldsworthy:** If interest rates start rising and inflation starts going up as well Gordon Brown will say, "That is an independent organisation so that is not my fault; we can't be blamed for that.". Richard Lambert was appointed and is not the heavyweight economist that others are. Who is accountable if it is an elephant who cannot do the job?

**Mr Straw:** I would say that Gordon Brown is accountable. Interestingly he gave away power to get more power.

**Q77 Julia Goldsworthy:** He has not said to the Bank of England, "You can appoint who you think".

**Mr Straw:** Absolutely and in his job I certainly would not, given the history of performance on interest rates. We need a bit of institutional memory here about how we screwed it up in the past. Gordon Brown is the Chancellor. So far as I am concerned as an elector he is accountable; he is also accountable to you. I would like to see him more accountable to you; I would like to see independently established figures for borrowing and spending and all those things which are protected in the Office of National Statistics or whether they may be. I would like to see much greater scrutiny by Parliament of ministers et cetera. But this is as good as it gets at present and I think there is a lot to learn from that fine work.

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**Q78 Chairman:** When you were sitting there listening to Dame Rennie just now you must have thought, "This is madness". You must think ministers should appoint who they want to do what they want.

**Mr Straw:** My agenda is, as I said, getting things done. You can get off on the hook of "we have to prevent the tiniest piece of cronyism, we have to open up everything to everyone, we have to limit all corruption". Meantime there is massive waste and inefficiency going on which actually I regard as criminal as corruption. It is the way you set up that regulation.

**Q79 Chairman:** Would you accept a certain amount of cronyism in exchange for efficiency gains.

**Mr Straw:** I do not call it cronyism; I call it—as Unilever would call it, as indeed think tanks would call it, and I suggest you in your offices call it—appointing people to get the job done.

**Q80 Grant Shapps:** Still on the same line, you present a real quandary—certainly to me and I imagine to others here—which is, I hate the idea of the politicisation of the Civil Service as an abstract notion. When we said we were going to discuss it, Alastair Campbell said it was a real problem, civil servants or paid political appointees telling the Civil Service what to do and the rest of it. On the other hand I very passionately believe that the power of politicians and parliamentarians should be at the heart of everything we do because we are the only ones who are truly accountable. I have started, I suppose, to move in a way towards your direction which is to think that bodies like the Commissioner for Public Appointments are complete nonsense (but having said that I now have to go and visit her so she can prove otherwise). Essentially that is your line, is it not?

**Mr Straw:** The whole regulation of politicians and ministers needs sorting. That includes that bit of regulation and of ministers that resides with the Civil Service. There is huge role confusion. You cannot both regulate someone and report to them and be accountable to them for delivery; it does not work. You have to take that out and clean up regulation. Regulation includes as much about disclosure and transparency as it does about having bodies and people doing it. That is absolutely vital. If you could sort that I would be very pleased.

**Q81 Grant Shapps:** So scrap bodies like . . .

**Mr Straw:** Stand back, take a look at their role, balance that role against other things. At the minute we have the role of regulation and anti-cronyism up here and waste and delivery and efficiency down here. Balance them and then design really effective regulatory mechanisms which work. I am thinking about recent cases as well as those in the long distant past that really work. I, in my organisation, am on the end of some pretty ferocious regulation, codes of ethics, standards of behaviour, disclosure and goodness knows what. We do them because we know it is necessary, but it is a reasonably coherent system and we know why we are doing it.

**Q82 Grant Shapps:** I remember when you were last here somebody pointed out that your organisation was being sued for millions of pounds and a number of us left afterwards to say, "My goodness, if only government was actually exposed to the same level of scrutiny then government would be sued presumably for billions every day". Just to take the exact example of the MPC which has been raised several times, it is politically appointed—100%—you say it works because it is transparent, because they publish their minutes, because it is open to a lot press and public scrutiny. I want to put to you that the reason the MPC actually works is actually a minority example because it is quite sexy, it is quite interesting, people are prepared to publish newspaper articles about what the MPC is doing, thinking and saying. Most of these other bodies, if they were done in the same way, would not get an inch of copy anywhere in the daily newspapers; they are just not that interesting so those are the ones that end up needing to be administered, and what have you, by bodies.

**Mr Straw:** Horses for courses. I agree with you entirely and I am not saying organise everything round the MPC. I have argued in my paper for project teams; I argued in relation to the comment here about the accountability for agencies. Things are different. Indeed, when people were jumping up and down about what had happened over Iraq and the dodgy dossier, I made the point that the organisational arrangements for scrutiny of decisions going to war are very different from the organisational arrangements that you need for tax collection. That point is writ large across the organisation. The MPC I think works: clear role, clear performance measures; it is independent of both government and Civil Service in its decision making. Specialists are appointed for expertise and reputation; transparent deliberations and decisions.

**Q83 Grant Shapps:** Would you accept the reason it works is because of the immense press and therefore public scrutiny of the MPC which just would not exist elsewhere?

**Mr Straw:** You can create that level of transparency and accountability in all sorts of different ways. For example, in the States you can go onto the website and you can look at the crime figures in your borough and you can compare them against the crime figures on average for the city for burglary and so on and so forth. If I were in Enfield and I had that level of information and burglary was going up more than it is in neighbouring boroughs I am suddenly creating a lot of local press interest and I am suddenly creating a lot of discussions.

**Q84 Grant Shapps:** It is a whole other area but it has not really worked in health, has it? I mean the publishing of league tables of hospitals has not really helped.

**Mr Straw:** Then where is the accountability chain in that? How do I hold my local hospital to account? Well, I elect a government which produces ministers; I do that once every four years. There is a whole chain of appointing trusts and boards and goodness

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knows what who appoint chief executives who appoint doctors who deliver services. What if there were elections every four years for the chief executive of the hospital? I then have a direct link between the citizens and the users and that chief executive. The problem there is that there are no real personal organisational consequences for success or failure, than those being measured by the citizens and customers.

**Q85 Chairman:** They could lose their job.

**Mr Straw:** They could lose their job at a ferocious rate which I think is a rate that is far too frequent. What I am drawing attention to is the whole accountability in government's framework is just gummed down.

**Q86 Chairman:** You have just given us examples of Lord Carter and the whole point about those examples was that there was no accountability; you simply put your person in and tell them to get on with it. Now you are worried about accountability chains in the Health Service.

**Mr Straw:** I think if I am a minister I have a problem, it is called Legal Aid. I appoint this person to do a review and come up with answers. That is a very tight and close relationship and accountability. If I go right up through this chain and then right down to your local hospital the accountability chain is just too fragmented and too disperse.

**Q87 Kelvin Hopkins:** The whole flavour of what you have been saying suggests that we have come to the end of politics and that government is now just technocratic.

**Mr Straw:** I think in a sense that politics has changed. It was where you were mediating, if you like, between classes and redistribution of income and now it is much more about the quality of public services that are delivered. I think that is absolutely right and I think therefore the pressures on you are very different and the demands from the public are very different. That means that the pressure is on you to be able to understand how you get good public service delivery. There are some out and out political decisions where you can say that there is a genuine choice between this and this. I think there is quite a move from representative democracy to decision specific democracy where people want to be involved in decisions which affect their lives, be it a local flood defence scheme or what is to be done with the local forest. The public deliberative engagement processes which are now emerging have meant that there is, to a small extent that shift to decision specific democracy. I think things are changing.

**Q88 Kelvin Hopkins:** Over the last 30 years we have seen the top 1% of the population double the proportion of the gross national income they receive, from 6% to 12%, and at the same time seen poverty increase. Someone like me would say, "I think that is disgraceful, I think it is unacceptable. We should raise taxes on the mega rich and give a lot more money to the poor". That is politics, it is not technocracy.

**Mr Straw:** Absolutely, and that is your decision and what you are elected for and I respect it totally.

**Q89 Kelvin Hopkins:** Let us take the MPC for example. If you raise interest rates this inevitably raises unemployment and forces house prices down; my constituents become unemployed and they start to lose their homes. Then the MPC becomes very political. It is not just a technocratic job, it is political.

**Mr Straw:** At that stage it is interesting because I would respond possibly politically that a stable economy over a long period does far more for the health and wealth of everyone and therefore having that stability is in the interests of everyone. I would also go further and say that having extremes of poverty is in the interests of no-one and it is actually a society issue. In a way I almost see that as an apolitical issue because I think there is a broad consensus in the country that says we should not have that poverty. What are the solutions that we can find both in economic terms but particularly also in social terms, in education terms, in parenting terms to that? That does not have to be a political decision.

**Q90 Kelvin Hopkins:** On your point which is about the Civil Service, you say there is no other civil service like it in the world but the state in France, for example, does that not have a very strong core civil service? L'Etat is something very big in France and much stronger even than our civil service.

**Mr Straw:** Yes and no. No-one that I am aware of holds the independence of the Civil Service on the same state as the independence of the judiciary, which is what we have here in fact. It is completely beyond me why the status of the Civil Service has been so elevated.

**Q91 Kelvin Hopkins:** Do we not have a situation in Britain now where power is so centralised in the hands of the Prime Minister that we have lost the more pluralistic forces in society, one of which was the Civil Service?

**Mr Straw:** People have said to me, "Look, we cannot go down the road that you are suggesting because the Civil Service is an essential counter-weight to the power of Number 10". I am sure you understand that better than I do. That is why I say that we need a re-distribution of power which is a re-distribution to Parliament, to independent scrutiny, to ministers, to delivery organisations (management and staff) and to the citizens. Then you get the power in the right place. The problem with the power distribution at present is that it produces this gummed up system which just cannot deliver in the way it should.

**Q92 Kelvin Hopkins:** When you were talking about the distribution of power I started to become slightly optimistic, but then you missed out the key re-distribution of power from the centre of government, from Downing Street and the Prime Minister's office.

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**Mr Straw:** I should have emphasised that too, yes.

**Q93 Kelvin Hopkins:** I hope that politics is going to continue and we will not just see government as being like running Marks & Spencer—the example you used.

**Mr Straw:** It is not and I only draw from various places in order to inform how I think government should work.

**Q94 Chairman:** Do you think we should have a prime minister's department, a strong corporate centre in government?

**Mr Straw:** It is a dichotomy in the sense of: get strong scrutiny, get strong Parliament, get strong statistics, performance measures, accountability governance, and if you want—and this is what happens in Finland—joined up service delivery, then you need a strong centre that is strong in a different way, that does strategy, planning, budgeting, and you need a ministry of finance and a prime minister's department together, and I am not even sure you need departments thereafter. You have to think about the role of secretaries of state and then you need major delivery organisations.

**Q95 Chairman:** So all the guff that we go on about endlessly about independence, impartiality, committees like this, worrying about whether we should have a Civil Service Bill that enshrines these principles, you think this is nonsense, do you not?

**Mr Straw:** No. I would very much like you to reconstruct the way in which government works. I would like Parliament to assert itself and I think it

would certainly take some votes and probably take an Act. I would very much like you to base it on my proposals.

**Q96 Chairman:** So an incoming government would involve a mass cull of the Civil Service. It would bring your own people in and the old lot would go out. That would give this sense of direction and purpose to government.

**Mr Straw:** There are many other things that need to be done in the way in which I have outlined and there is also a transition to be handled.

**Q97 Chairman:** At the moment we are going to tool up government to make it better, to do the thing it is not very good at and we know all about this and you talk about professional skills for government and all that. That is your argument which says that this is how we work our system, we have this machine which gets driven by different political masters periodically and we need to make this machine work better than we do now. You are saying that that model actually, although it may be desirable to do those things, is never really going to do the essentials. To get the essentials done you have to change the balance between the political bit and the administrative bit.

**Mr Straw:** Absolutely. And you have to change the machine that exists at present.

**Chairman:** We are going to have to stop there. Thank you again for a very stimulating session. We have been interested in what you have been writing so thank you for coming in to talk to us about it, not least because it does challenge many of the things other people come to tell us about.

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**Thursday 9 February 2006**

Members present:

Dr Tony Wright, in the Chair

Paul Flynn  
Julia Goldsworthy  
David Heyes

Kelvin Hopkins  
Mr Gordon Prentice

*Witness:* **Baroness Prashar CBE**, a Member of the House of Lords, gave evidence.

**Q98 Chairman:** Let me call the Committee to order and welcome our witness this morning, Baroness Prashar. We are very pleased to have you along; thank you very much for coming. You are here really because you have just ceased to be the First Civil Service Commissioner and you have now gone onto other things. We are currently doing two inquiries where you may be able to help us: one is one that we are calling Ministers and Civil Servants, looking at that whole relationship; the other one is looking at the so-called ethical regulators in government of which the Civil Service Commission is one. We shall probably range in our questioning through these two areas if we may. We have had a memorandum from the Civil Service Commissioners that we are grateful for. Would you like to say anything by way of introduction, or shall we just ask you some questions?

**Baroness Prashar:** I should like to make a few brief comments, if I may. May I first of all say thank you for inviting me to give this evidence. It is now six weeks since I gave up my role as the First Commissioner but I am glad to be here and happy to share with you my views based on the experience of the last five and a half years. You have had various memoranda from the Office of the Civil Service Commissioners over the last 12 months including the annual report, but by way of introduction I just want to make some brief points which I hope will give you my perspective and analysis, particularly on your inquiry which you entitle Ministers and Civil Servants. My view is that over the years not much attention has been paid to the development of the Civil Service. Insufficient investment in the Civil Service as an organisation in the past, together with a focus mainly on one part of its role, which is working with ministers, has led to an organisation today which is not always able to keep pace with the demands being placed upon it. The capability and the capacity of the organisation are therefore lagging behind and this has been compounded by the fast-changing context in which it is operating. There is now general agreement that there is a need for urgent reform and nobody would dispute that fact. The Committee are fully aware of the reform programme which the Civil Service is currently engaged in. But you are also aware that there are others who have argued that the reform of the Civil Service, on the scale needed, could only be achieved through the appointment of either a more politically partial Civil Service or greater involvement of ministers in appointments to the Civil Service. Some argue that the enduring values of which the commissioners

have been custodians are being eroded. I should say that it is they who stand in the way of reform. I believe that it is possible to reform the Civil Service while maintaining its values, its sense of worth and its identity. In that context, I was quite pleased to read the speech which the Cabinet Secretary, Sir Gus O'Donnell, made a couple of weeks ago called *The Fusion of Historic Values with 21st Century Dynamism*. While it is evident that there is a need to professionalise the Civil Service, to enhance the capabilities such as policy advice, financial information, technology management and to develop other capabilities such as service delivery and project management, there is also a need to change the culture of the organisation to one which is more outward looking, engages with others, delivers through others and sees itself as a dynamic learning organisation. That reform is in my view entirely compatible with the current constitutional position of our Civil Service. What do we need to do? It seems to me that, as this Committee has recommended, if we were to get the Civil Service Act and promote the code, we would then disentangle the constitutional position of the Civil Service from the issues to do with its management and its organisational development. That would actually take away some of the arguments that are there about the erosion of values. If you dealt with that, that would free you to deal with the organisational development of the Civil Service. The current reform is on the right track. Developments like the Professional Skills for Government, the capability reviews and all that seem to be on the right lines now, but it should be accompanied by much more of a cultural change where a lot more investment is made in learning and staff development. Then comes the question of who should be responsible for this, because not much investment has been made historically into the Civil Service. I take the view that the responsibility for the health and the fitness of the organisation should be left to the cabinet secretary and the permanent secretaries and they should be held accountable for making sure that the Civil Service is actually fit for purpose to deliver and serve successive governments. That will not be achieved by a politically committed Civil Service: the reverse is to be the case. If you introduce as a quick fix a political layer and think somehow you will deal with some of the problems, that is a rather superficial way of looking at it. What you really need is someone who can take a continuous look at the Civil Service and make sure that it actually remains effective. If you introduce a political layer and people move

along with ministers or there is a cadre, then it would cease to offer the best advice. If the test is loyalty and not merit, over time there will be no incentive to develop the organisation. I do think that the values set a standard by which it needs to be done. That is really what I want to set out as my stall. On your second inquiry on ethics, maybe we can get into questions on that, but I should be very happy to answer any questions and elaborate some of the points I have raised with you.

**Q99 Chairman:** Thank you very much, that was very helpful to kick off in that way. Let me start by asking you this. Someone might say that here we are, we have had the Civil Service Commissioners since the middle of the 19th century because of this attention to propriety and appointments and so on, yet here you come, a century and a half later, having been doing this system, to tell us that the Civil Service essentially is not fit for purpose as it is now. It does rather raise the question of whether we have been worrying about the right thing all this time, does it not?

**Baroness Prashar:** As you will appreciate, I am not 150 years' old myself. I have not been worrying about it for 150 years but for the last five years. There has been a lot of mythology around about the role of commissioners. By being custodians of the values, what we have been trying to do is to ensure that the right people are appointed; those with the right competences. We have been very concerned about outcomes and that we appoint the right people. When you say that we have not been concerned about the right issues, in a way it is not our responsibility because the fitness of the organisation, what it needs, should have been the responsibility of somebody within the Civil Service. I have said before that since the demise of the Royal Institute of Public Administration, there has been no forum other than your Committee for looking at the Civil Service. The changes which have occurred in the last 20 to 30 years and the context of the fast-changing nature of the world have meant that the organisation has lagged behind the demands placed on it. It has always worked in terms of policy advice, giving advice to ministers, and nobody has paid attention to whether it has all the capacity and the capabilities to do all that it should be doing. Unless somebody does that, we cannot properly engage in appointing the right people. We have attempted over the last five years in my time to engage with the Civil Service, to work with departments, to get to understand them, to see what the nature of the reform agenda is and what their needs are. We have encouraged them to professionalise recruitment, to ask solid questions about what kind of people they are looking for, what kind of teams they are trying to build. If you put in that kind of investment and you professionalise recruitment, you will get the right kind of people; in fact it becomes easier to work with them when the direction of travel is clear. I can say that over the last two and a half years, it really became clear they were looking for professional skills, they were trying to fit in people with human resource capabilities, they were trying to have people

with financial capacity, and it then became easier to fill those posts. We have helped to professionalise recruitment, but, at the same time, it is the responsibility of the Civil Service itself to see what it needs. To some extent we have never had a debate about what the Civil Service is for. Once, it was there to give advice; then under the Thatcher era, it was a question of Next Step agencies' delivery and they had to become more business-like. From then the mantra has been delivery, delivery, delivery. The question really to ask, as Sir Andrew Turnbull did, is: what professional skills do you need? You need a high quality policy advice capability, high quality project management, a range of skills. What is the whole menu of skills that you need? Someone needs to define that and you then build a generic capacity in the organisation so that it is fit for purpose.

**Q100 Chairman:** Back to one of our issues, you can see how ministers coming in—as was clearly the case in 1997, but it was not the first time—have really accepted your analysis. They have said “Here is an organisation which does not have the skill mix, does not have the capacity for what we want it to do. We want to be able to change it quickly and one of the ways we want to change it is by bringing new kinds of people in and by us having more involvement in how that is done”. That is a perfectly proper objective is it not?

**Baroness Prashar:** It is on the face of it a proper objective. However, I do want to take you back. Of course prior to when this Government came to power, the number of civil servants had been reduced and it probably did not have all the capacity to deal with the agenda of the incoming Government. I can tell you now that when I was having a debate, both with the Civil Service and the ministers, when they wanted greater involvement and ministerial choice, I went to talk to some secretaries of state and it was clear to me that they were exercised by the organisation not having the capacities. It was not an issue of politicisation: it was about having the necessary skills. That is why I have come to the conclusion that to get the necessary skills you need to have standards by which you recruit people. So you would not have a quick fix by saying you will bring your own people in. How do you assess that they will be the right people? My argument is that if you want the right people let us professionalise recruitment, let us see what kind of competences you need. In the longer term you give responsibility to permanent secretaries, to make sure that they are actually looking at the development of the organisation, so that it is able to serve successive governments. It is a short-term and a long-term issue and I can see that the horizon of politicians is short and they want things done quickly, but in my view with a quick fix there is a danger of losing something which we all see as a national asset. What I am concerned about and have been concerned about and continue to be concerned about is that it would be a pity to go in for the quick fix and erode the values which have set the standard and which are there to get you the best person to do the job.

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**Q101 Chairman:** Just to give the particular, which you have just mentioned, you had this rumbling argument with ministers and with the Cabinet Secretary too, did you not, about any modifications—

**Baroness Prashar:** It was not just one. It started as soon as I became the First Commissioner. It was one of the things on the agenda: let us give ministers a choice. My argument was that we should look at it. Why do you want choice? Yes, we deliberated and that process of deliberation, discussion and to-ing and fro-ing of letters and argument, led to a very good conclusion. In our memorandum, we have given you the arrangements for ministerial involvement, which works well and meets the concerns. In that sense, the outcome was fine.

**Q102 Chairman:** Let me just ask you this final question. Do you think we still need the Civil Service Commissioners?

**Baroness Prashar:** I think we do. If you want to maintain the standards, if as a country we say we want an impartial Civil Service, you need someone who can actually be a custodian of those values and in my experience, if you manage to recruit high calibre commissioners, they do add value. Now the permanent secretaries have started to say to me that it is very useful to have an outside person asking critical questions. Therefore we sit on panels at a senior level, not just to see that the proper process is followed, but we also add value and engage with them in discussions. I can talk a bit more freely now and I can tell you that when I first became involved in the recruitment process I found that on the whole it was not very well thought through. It was seen as a process. They would ring up the Civil Service Commissioners and say “We want to fill this post. Here is a job description”, literally on the back of an envelope “Who should we have on the panel?”. It was not very well thought through. We helped them by encouraging what I call front-loading. When a job comes up, discuss it with a whole range of people. Does it need to change? Involve the ministers and ask what kind of person they are looking for to fill this job. Look at it as a project. They have gone a long way towards ensuring that this added value. Maybe we had to do that because there was no capability within the department and if they adopt that good practice, that is fine. However, I think the role of the Civil Service Commissioners has been valuable and, in my view, probably needs to be enhanced.

**Q103 Chairman:** The reason I ask the question is that some decent recruitment consultancy could have done what you have just described for government. If it is a question of having independent people on appointment panels, we do that for public body appointments, so that can be brought into the system.

**Baroness Prashar:** Recruitment agencies do get involved in the process in the sense that they are appointed, they do the search for you. I have to tell you that as commissioners we have to watch that they do not get into unethical practices either,

because, in a way, if you are appointing people on merit you are safeguarding the constitutional position of our civil service. As long as you want an impartial civil service, where appointments are made on merit and competition, you will need a body which can act as a custodian of those values.

**Q104 Chairman:** What I am asking you is that if we are clear about the nature of the recruitment process and that is visible, transparent, written up and we give permanent secretaries and, in turn, the cabinet secretary the duty of making sure that that system works, why then do we need someone else beyond that?

**Baroness Prashar:** In an ideal world, that would be fine. Things sometimes do go wrong and I am a believer that the Civil Service Commissioners as a regulator should be light touch. My objective has been to inculcate that good practice into the Civil Service. If that happens, that is very desirable because in a way that is professionalising the Civil Service. Sometimes things do go wrong and therefore you need someone who is there to keep an eye on things.

**Q105 Julia Goldsworthy:** I should like to stay on recruitment for just a while, if that is okay. You have placed a lot of stress on ministers taking the first name they are offered when it comes to Civil Service posts, but in public appointments, ministers have a choice of appropriate suitable candidates. What is the difference? Why should they not be given a choice of appropriate candidates at a Civil Service level?

**Baroness Prashar:** In my book there should be no difference. I take the view that there should be no choice in public appointments either and let me tell you why I say that. It comes back to professionalising recruitment. If you are delegating recruitment to a panel and you have actually been properly involved in establishing what they should be looking for, the panel should do a proper job for you to give you the candidate that you really want. The difference really here is that the Civil Service is a permanent civil service and civil servants stay even when ministers move, there is a different Government or even when there is a reshuffle. For public appointments the logic is that they are short-term appointments, they are Non-Departmental Public Bodies, they are at arm's length and therefore ministers are given a choice. My starting point, as I said to you, is this: if you are going to professionalise recruitment, why should you be given a choice? People are appointed on merit and you say this is the best person for the job against the criteria which have been agreed with the minister from the outset.

**Q106 Julia Goldsworthy:** The other area I wanted to look at quickly was the new Civil Service code and you chaired the group working on that. You talked earlier about the commissioners' role in upholding values and I just wondered what values you think are being set out in the Civil Service code. Do you think they are reflected in that?

**Baroness Prashar:** The history of the working party on the Civil Service code, which I chaired, is this. A Civil Service code was produced in 1995 by the Select Committee, which preceded this one. I found that this code was just not being promoted. People were given it but when I did talks at the Civil Service College or to new entrants they were not really aware of the existence of this code. In our evidence to the Committee on Standards in Public Life when they were looking at boundaries within the executive I recommended that this code should become a living document, something which was an important part of the induction. That was accepted and a working party was set up, which I was asked to chair because the Civil Service Commissioners had been given the responsibility to monitor how the code was being promoted. When I wrote to the departments, I found that there was nothing in place to monitor the code. So a working party was set up to see how this code might be promoted. But when we looked at it, we thought it needed to be revised not in terms of what it says, but to make it more accessible and more readable. This one, if you read it, is very Whitehall-centric and it is written in a language to make you switch off. The one which has been drafted and is out for consultation deals with the same values but is written to make it much more accessible.

**Q107 Julia Goldsworthy:** It allows civil servants to complain directly up to the commissioners, so I just wondered what kinds of complaints you would expect to be looking into and taking up.

**Baroness Prashar:** It is difficult to anticipate that, because the normal process currently is that if you have an issue, you have to go through your procedures within your own department and if you are dissatisfied, you come to us. There may be situations where you feel that you cannot go to your department. You may want to come direct, let us say if your complaint were against the permanent secretary himself, or the nominated officer within your department. Then you could come to us. Obviously the commissioners will use their judgment in terms of whether it is right for them to pursue the complaint themselves or send it back and get the department to look at it.

**Q108 Julia Goldsworthy:** Nick Monck has said that there should be a government code with things like minimum standards for circulation of papers, a fixed amount of time before decisions are taken. I just wondered whether you support that and whether you see commissioners as playing a role in ensuring that those kinds of values are adhered to.

**Baroness Prashar:** I was very interested in that article. I read it last summer and thought it was very fascinating. It is true that, in my previous life when I was director of the National Council for Voluntary Organisations we had looked at governance in the voluntary sector and there had been a lot of debate about governance in the private sector, but what about governance within government? The idea that he promotes is a good one in that this is a process of good decision-making. In a way yes, you want to embed that, but that is good practice. Particularly in

the modern time, given that advice now comes in such a myriad of ways, there are think tanks out there, there is a whole range of people outside, it is in the interests of the Government that the Civil Service is used to collect that information, synthesise it, filter it to be able to provide good advice. That process of decision-making means that you deliberate, that you do not actually rush into initiatives based on partial information and that, to me, is good practice and that should be embedded in any organisation, not least government.

**Q109 Mr Prentice:** Have the Civil Service Commissioners been sleeping on the job?

**Baroness Prashar:** I should not have said so, looking back on the last five years.

**Q110 Mr Prentice:** We have had the Butler Report and the Hutton Report absolutely scathing about the way in which decisions are made at the very centre of government but no peep at all from the Civil Service Commissioners. My question is this. Did you know what was going on, sofa-style government? If you did, what did you do about it?

**Baroness Prashar:** The first thing is that we did not know and this is the frustration of my job. People think Civil Service Commissioners oversee the Civil Service as a whole and its governance. Our involvement as commissioners is purely through recruitment and terms of entry and waiting to get complaints. Unless someone complained to us, we would not know.

**Q111 Mr Prentice:** You people network, do you not? You must have a sense of what is happening in Whitehall, what the permanent secretaries are talking about amongst themselves. You must do.

**Baroness Prashar:** You network, but would you want to start making comments on hearsay and gossip? No. What I am saying to you is that we can only act if somebody complains to us. This is one of the reasons I made a recommendation to the Committee on Standards in Public Life that we should be given the power to look into areas of investigation without getting a complaint but that has not been accepted. Why I asked for that power was precisely because of your point and therefore for you to say that we have been sleeping on the job is incorrect. I would not get the full facts until someone complained and, of course, what you read in the papers is what anybody else reads and I should not want to start making comments in public based on innuendo, gossip or what you pick up in the corridors. When I said you want to enhance the powers of Civil Service Commissioners, I should dearly like the commissioners to have a power to initiate inquiries without getting a complaint if there were a whiff that something was not right, and that is the power we do not have.

**Q112 Mr Prentice:** There must have been a whiff in the corridors of power that the way in which decisions were being made on major decisions like going to war was not being done as it should have been done with the circulation of papers prepared by

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officials in Whitehall departments. I am just astonished that it did not come to your ears and you waited for formal complaints.

**Baroness Prashar:** It did come to my ears, but my frustration was that I had no power to start making an inquiry into it. If I may tell you, the one thing which contributed to that process and which is something that we are on record as saying, is that we are not in favour of special advisers being given executive power. We have said that and it is actually an indication that—

**Mr Prentice:** That is a slightly different point from the one I was making.

**Baroness Prashar:** It is not a different point; it is related to some extent. The way business was conducted was to some extent affected by special advisers having executive powers.

**Q113 Mr Prentice:** Just finally, you told us that you read the paper by Nick Monck last summer and Nick Monck made the point that if the conduct of cabinet meetings were done on the same basis as the boards of private sector companies, who have to operate in accordance with the code of corporate governance and the Companies Act 1985, it would be a very different kettle of fish. Do you think that the cabinet and its committees should conduct their business on the same basis as private sector company boards, which is the point he is making?

**Baroness Prashar:** The point he is making is a process of good decision-making which is open and deliberative. Yes, it would help. I hesitate to say that you should emulate completely the private sector because, in a way, in government there are different sets of accountabilities. You would have to adapt to that but the fundamental point about the good process of decision-making is very important to the quality of decisions that you would get and the quality of government you would get.

**Q114 Mr Prentice:** Government departments can be reconfigured on the whim of the government of the day and the Conservative opposition have set up this group to look at such things. Do you think the Civil Service Commissioners should have a formal role in some way when the Government decides to abolish a government department or reconfigure Whitehall?

**Baroness Prashar:** That really should be done very much in consultation with the cabinet secretary and the permanent secretaries. To go back to the point I made in my introduction, if you are going to make the cabinet secretary and the permanent secretaries responsible for the development of the Civil Service, there should be proper consultation and discussion by government and not announcements made without any consultation with the people who are running the service. It is not a matter for the Civil Service Commissioners.

**Q115 David Heyes:** You mentioned the use of recruitment consultants earlier. I just wonder whether you could give the Committee a feel for how extensive that is and what role they take. How do they fit in with the work of the commissioners?

**Baroness Prashar:** These days recruitment consultants are used in a majority of the senior appointments to the Civil Service. To make sure that we meet the criteria of being open and fair, adverts are put in newspapers but also consultants are recruited. They would do the search and then be involved with help in short-listing and so on. We make sure that they are fully aware of the values that we are custodians of so that they do not in any way do things which deviate from fair and open competition and appointing on merit. They do not get involved in interviewing as such. They do preliminary work in terms of seeking out references and talking to candidates and providing background material, but the interviewing is done by a different panel.

**Q116 David Heyes:** What you are describing is head-hunting to some extent, is that right?

**Baroness Prashar:** That is right.

**Q117 David Heyes:** How is that consistent with what is generally called an equal opportunities approach?

**Baroness Prashar:** It is consistent in the sense that they are not used solely. An advert is put in the newspapers as well and people are searched out. It is open to anybody to apply, but they will search out people as well. If I may say so, that is essential because if you are trying to meet some of the skills gap and deficit in the Civil Service and you are trying to attract people from other sectors, you have to search them out because the salaries in the Civil Service are not keeping pace even with local government and the private sector so you have to seek people out as much as to advertise. It is essential to use them. It does not contradict in any way the principle of equality of opportunities.

**Q118 David Heyes:** That has not always been the case. This has been a growing practice over recent years.

**Baroness Prashar:** Yes, it has. In a way it is a growing practice because open competition and going out for recruitment is also a fairly recent phenomenon, which has increased in the last five to seven years.

**Q119 David Heyes:** You make them aware of the ethical framework which they are to work within.

**Baroness Prashar:** Indeed.

**Q120 David Heyes:** What do you do to test out their ethics? The world view that a firm of recruitment consultants brings to the process will influence the field that they look at to head hunt and produce candidates for you. You make them aware of your requirements in terms of the ethical approach, but from a business point of view they will have their own objectives which have some sort of ethical dimension to them. How do you make sure that they are consistent?

**Baroness Prashar:** The fact that a commissioner will always chair a competition. We keep an eye precisely on those sorts of things and we check out with them

how wide their search was, where they searched and what sort of comments they got. In a way, that is what you do.

**Q121 David Heyes:** How do you do that really? You said earlier that you need to watch that they do not get into unethical practices and obviously that is right. How do you do that? What is the process? Who does it and how rigorous is it? That is what I want to understand.

**Baroness Prashar:** They are appointed by the departments. The departments are the paymasters of the consultants. A Civil Service Commissioner would chair the whole competition and oversee the whole process. That in itself is a check that nothing untoward happens in the process.

**Q122 David Heyes:** Let me be more specific and exemplify it. For some of these recruitment firms the recruitment element is just a small part of their overall activity. They have other business interests as well. For instance, some of them are in the field of acquiring contracts for delivering government services as a separate operation from recruitment. How can you be sure that there is nothing unethical going on in terms of influencing the panel, with recruits put forward who come with an inbuilt bias towards their world view, which is to acquire privatised contracts for delivery of government services?

**Baroness Prashar:** The Cabinet Office has a list of consultants, there is a contract. Obviously it is the job of the panel and assessors to assess the candidate, to deal with the process of interviewing to make sure that they actually meet—

**Q123 David Heyes:** But they are only seeing candidates who are placed in front of them.

**Baroness Prashar:** They are not necessarily placing them; they bring the candidates to us, but the short-listing, the long-listing and the discussion to make sure they meet the criteria are done by the panel. They are not forcing candidates onto us, they are just searching out candidates; the assessment of the suitability of the candidates is actually made by the panel.

**Q124 Kelvin Hopkins:** I have much sympathy with your basic premise which is that there ought to be a clearer boundary between the Civil Service and the political realm and that special advisers ought to be in the political realm and not in the Civil Service realm. I agree with that very strongly. Do you not think you understated that and have said it rather too late? For too long that process has been developing to a point where special advisers were effectively telling civil servants what to do and we have lost that independence of the Civil Service which you prize so much.

**Baroness Prashar:** I have not understated it. In terms of the relationship between the special advisers, the civil servants and the ministers, as you know, this was the subject of a very thorough inquiry by the Committee on Standards in Public Life and some things have been put in place. What I do think is that

one needs a much clearer demarcation in terms of the roles and a respect for the roles. It is not just for the Civil Service Commissioners and the Civil Service, but the ministers and special advisers have to respect the actual rules of engagement and that relationship. When you say that special advisers have been telling civil servants what to do, there can be a slight exaggeration sometimes because only two were appointed who were given executive powers and there is currently only one. In other instances it seems to me that it is the responsibility of the permanent secretary and the minister concerned to make sure that the behaviour of the special adviser is such that he does not in any way compromise the position of the civil servants. I do not understate that, but what is quite key is that there is clarity about their relationship and the role. In some instances, special advisers can play quite a valuable role in terms of their particular perspective. I am not against having special advisers. I have worked with them in my career over the years. In the years gone by, under Harold Wilson's government, there was a whole range of special advisers, when I was doing work on anti-discrimination legislation for example. One sees the value of it. What I should like to see maybe is the quality as well. The difference was that those people had real expertise and they brought something to the table which was valuable. One has to look at the calibre, the quality and how they are appointed and so on and get a good relationship. We cannot make generalised comments about what we think has been happening and so on.

**Q125 Kelvin Hopkins:** There is a difference between having advisers advising ministers and ministers then instructing civil servants, and having special advisers interposed as a layer between ministers and civil servants. That is the point I am making.

**Baroness Prashar:** That is not what I should like to see.

**Q126 Chairman:** Before we lose the point, I was not sure whether you were suggesting, in answering Kelvin then, that you thought the Civil Service Commissioners should have a role in the appointment of special advisers.

**Baroness Prashar:** No, that is not what I was suggesting.

**Q127 Chairman:** If you say that there have to be quality improvements to the way that they are appointed, how might that work then?

**Baroness Prashar:** That would be for ministers; it would be in the ministers' interests to have high-quality special advisers and they should take some time and some trouble to make sure they appoint the right people.

**Q128 Chairman:** We know that; we know that in a sense as a matter of principle. But if there is a problem in converting the principle into practice, what I am asking you is what we do to make the practice meet the principle.

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**Baroness Prashar:** It is a responsibility for the ministers themselves, because if they want special advisers, they should make sure they appoint the right person. The Civil Service Commissioners should not have a role in the appointment of special advisers.

**Q129 Chairman:** Should there be any kind of quality test? Should they have to jump some kind of quality hurdle before they are able to become what are effectively temporary civil servants?

**Baroness Prashar:** If you are looking at a quality hurdle, one would like to see proper criteria for their role, what kind of person you are looking for and the minister concerned should actually go through a process to make sure they get the right person.

**Q130 Chairman:** And who should say to them “You can’t just appoint your friend. This person brings no great qualities to government”. Who is the person who is going to say this?

**Baroness Prashar:** I honestly do not know. To some extent, the political advisers and special advisers who come, come to assist the minister and therefore it is the responsibility of the ministers to make sure that happens and the government ministers themselves should think of a mechanism to do that.

**Q131 Chairman:** The minister may just want a friend. Government is a pretty friendless place.

**Baroness Prashar:** Well that is their prerogative.

**Q132 Kelvin Hopkins:** We have the example of Lord Lawson who wanted, as he put it, the best people to be in his office and he went to great lengths to appoint a lot of people. Would not the best people in his terms be people who agreed with him, particularly on the way he was running the economy, a very distinctive way in the 1980s? Indeed was that not a factor in the economy going wrong at the end of the 1980s? For example, Lord Lawson was known to be very strongly in favour of joining the ERM. Anyone who expressed scepticism about that would no doubt have been marginalised and pushed out of his office. That became an economic catastrophe for Britain and all the civil servants who might have said “Hang on, this is not wise, the pound is over-valued, we might be in for a seriously rocky ride if we do this” had been got rid of. So does it not actually lead to worse government if you have a minister appointing civil servants, surrounding himself with civil servants who reflect his view but will not ever say to him “Sorry Minister, I think you have actually got this wrong”?

**Baroness Prashar:** You have made my point much more eloquently than I did. I absolutely agree with you.

**Q133 Kelvin Hopkins:** The other point I should make is that I should take a Platonic view. Plato made a very clear distinction, a long time ago but it is still relevant today, that politicians were men of gold, civil servants were men of silver. I am afraid it was always men in those days and not women. The third

layer was the lower orders, the people who made money. We have blurred the distinction at one end between the politicians and civil servants, which is not a good idea, but on the other side, we have also blurred the distinction between the Civil Service and Mammon—money and commerce. Has that not been even more damaging to the Government?

**Baroness Prashar:** If you are asking whether we should bring more people with business acumen into the Civil Service, this is an area where there is muddled thinking. There is a view that you want the Civil Service to be more businesslike which is a short form for saying that you are looking for a certain set of qualities in the way the Civil Service should operate. That is why we need to look at how to professionalise it by defining better the qualities and competencies it needs to deliver, to manage projects and so on. To say we need to bring in people with commercial interest is not enough. The boundaries are shifting and you need different skill sets. The problem, if you bring people into the Civil Service with those skill sets, is that you have to make sure that they understand that it is different working in government from working in the commercial sector.

**Q134 Kelvin Hopkins:** There is a saying that you do not have to jump into the Thames to get a drink of water. You do not actually have to be part of commerce to understand how it works, and in fact the best intellects in the country in the past have gone into the Civil Service. They understand how business works. They do not need to be part of it. You talked right at the beginning about civil servants being objective and impartial; I should say they should be driven by the public service ethos and have no conflict of interest. Is that not being broken now, that tradition that the public interest is what drives them and that they are separate from and do not have commercial interests? Is that not being broken down and is that not one of the causes of the problem?

**Baroness Prashar:** I agree with you that you need a public sector ethos; there certainly should be no conflicts of interest. That is absolutely true and that is what the Civil Service code is about and it is one of the reasons why I have been very keen to see that the Civil Service code should become a living document. Some people have argued that, if you bring more people from the outside into the Civil Service, you are going to erode the values. We took certain steps to counter that: when we send the job description out to candidates, the Civil Service code is appended. At the end of each interview I would ask questions about what joining the Civil Service and becoming a civil servant would actually mean in practice. I have been very keen for people who want to come into the Civil Service to be given a proper induction about its values and by making the code a living document with values that are lived in the day-to-day deliberations; it is not something you read and put aside. That is why inculcating values is very important and this is no different from what any other organisation does. I agree with you that the

public service ethos and conflicts of interests are to be guarded against to make sure that you do not get a Civil Service which becomes frayed at the edges for some of the reasons that you outlined.

**Q135 Kelvin Hopkins:** My one last question. You mentioned Civil Service salaries and the kind of money which can be made in commerce outside. Is a civil servant not bound to be influenced by the thought that they can make a lot of money when they leave the Civil Service and join industry afterwards? Is that not a problem for us today?

**Baroness Prashar:** It is an issue and that is why it is important that the Civil Service salaries keep pace; I am not saying that they can fully compete. In terms of going outside after you leave the Civil Service into the business world, yes, there would be incentives. However, as you know, there is another committee on business appointments which has been regulating the exit and therefore those issues have to be handled with care to make sure that there are no conflicts of interest and that the way people operate is not contaminated while they are civil servants.

**Q136 Paul Flynn:** The civil servant traditionally, following the ethos of the Civil Service, could look forward to retiring at a relatively young age, living with a decent pension and having the consolation that he would possibly have the chance of a decoration, a gong, but no chance of a second job. Is it not the fact now that anyone—people are younger now at 60—can look forward possibly to another 20 years of working life? Is it not inevitable that they can be influenced by the possibility that they will have a retirement job which is worth more than they earned in their lifetime and that they should organise their career accordingly? They should go for jobs, not necessarily at the head of the Civil Service, but, say, in procurement where there is huge demand for people who are in procurement and the whole of the ethos has been undermined by the need for people to organise a lucrative retirement job. Is that not the reality of what is happening and has that not increased greatly recently, particularly with defence jobs?

**Baroness Prashar:** There is indeed a danger of that and it is for that reason that there is the Advisory Committee on Business Appointments which has been looking at this and in my experience, it has worked well. I know that after me you will be talking to Sir Patrick Brown who has been looking at business appointments and I am sure that he will give you his perspective on this.

**Q137 Paul Flynn:** Would you support part of the next witness's statement we have that what the Government seem to be doing is to suggest we weaken the arrangements and restrictions which are there at the moment, which seem to be impossible to carry out. When employees leave the armed services or the Civil Service, not because they are people of great talent but because of the influence they have with their old colleagues or the knowledge that they

have, should we not in fact extend the period to say at least five years before people take up employment in areas where they worked as civil servants?

**Baroness Prashar:** My personal view is that you need a period of purdah, but not a standard period of five years for everything. You do need some flexibility. It will depend on what kind of job they are in. There is another dilemma: if you want to develop some of the capacity within the Civil Service, there is the question of seconding people in and out of the Civil Service and second careers. This is an area which needs to be looked at, but whether you wait for six months or a year depends what kind of job you are in and where you are going to go and what the implications are. That is where you would need some guiding principles with maybe some flexibility on the time. If you want to get people from outside with certain skills to come in, you may not attract them if they feel that when they leave the Civil Service they will not be able to get back to a decent job. It is a question of reconciling some of these difficult issues, they are not easy, but we need some guiding principles with some flexibility on the time. To me five years seems rather excessive.

**Q138 Paul Flynn:** A distinguished commentator wrote 25 years ago about the Civil Service in a series of talks entitled *The Unimportance of Being Right*. The point that he made was that those courageous civil servants who took on the conventional wisdom of the time and their political masters, and challenged what were foolish decisions, and were proven to be foolish decisions, did not prosper as far as their careers were concerned, in fact they suffered. Those who went along with the wrong decisions at the time were the ones who prospered. Is it still the situation in the Civil Service, that it is still unimportant to be right?

**Baroness Prashar:** I should find it difficult to generalise, but I should say that the term "speaking truth unto power" and giving fearless advice is part of a good process of decision-making and it should be encouraged and not discouraged. I come back to the Civil Service code, but we also need to make the ministers aware that it is in their interest to listen to broad advice. The question of advice-giving has now become much more complex because it is not a monopoly of the Civil Service but a whole range of think tanks which are all competing with advice. What the Civil Service can do and should do is to simplify that sort of advice. It will be in the interest of government to preserve that approach. This goes back to the point that was being made by the article which was referred to earlier. This is good governance and we should encourage that. It would be a pity if we felt that civil servants were only giving the advice that ministers wanted to hear. They are then reducing the quality of our governance and it is neither in the interests of the Civil Service nor the interests of the country and the politicians themselves. That is why I should like to end by saying that the standards are there for a reason. These standards are there to underpin how we should operate and make sure that we have good government.



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**Q139 Chairman:** Could I just have the last couple of minutes with you back to the appointment area because it is one that does test some of these general statements. I wonder whether it is not possible for us to think of a way in which ministers can have a greater involvement in some of these systems without falling into the trap of patronage, which is what we wanted to avoid in the first place.

**Baroness Prashar:** I think we have that. If you read the annex to the evidence that we gave you, there is a whole section on what we call ministerial involvement. We make a distinction between ministerial choice and ministerial involvement. Ministerial involvement means that a minister should be consulted at the outset of any competition to say what kind of person, in terms of the competences that they are looking for, the skills they want. That should be taken account of and used to inform the entire process.

**Q140 Chairman:** I see from the recruitment code that ministers can also be involved in the composition of the selection board.

**Baroness Prashar:** No. They can actually say who they would like on the board, but not be involved.

**Q141 Chairman:** The recruitment code says “The composition of the selection board, and in particular the choice of external members, may also be agreed with the Minister against specified relevant criteria”.

**Baroness Prashar:** Absolutely; that is right.

**Q142 Chairman:** Well that is involvement, is it not?

**Baroness Prashar:** Yes. That is very clearly laid out and in a way it does encourage very vigorous thinking because, if the minister then rejects the candidate recommended, they have to give a reason why and that does bring us back again to what kind of person you are looking for. Was something done by the panel which did not meet the criteria?

**Q143 Chairman:** In your annual report, you say “. . . identifying the best candidate—essential at all levels—can be especially difficult at more senior levels”, that is you are saying that having the system that you have that guarantees the integrity of the system and so on has difficulty in producing the best candidate. So, my response to that is to say, that if that is the case, what would be outrageous about allowing ministers to choose from the two or three candidates who were clearly above the line, clearly able to be appointed, if you find it difficult anyway to secure the best candidate?

**Baroness Prashar:** You misunderstand what we are saying. We are saying that when assessing candidates at a senior level you have to have proper assessment techniques. If you are clear about what you want, who the best person is to do the job in a given situation, then in my experience we have never had difficulty in identifying the best person for the job. Very rarely do you have more than two people above the line, if that, at senior level.

**Q144 Chairman:** But in reality, people bring different bundles of qualities to a job.

**Baroness Prashar:** Yes, of course they bring a different bundle of qualities and that is precisely what you want to find out: what are the qualities required for that particular post?

**Q145 Chairman:** All I am saying to you is that I am not persuaded that there is a huge issue of constitutional principle at stake, if we have agreed that the process has produced candidates, a number of whom are appointable in terms of the great canons of probity in public appointments, for ministers to have some involvement in deciding who the final person should be, as we do with other public body appointments. I cannot see that there is some huge constitutional principle at stake here.

**Baroness Prashar:** The constitutional point at stake is this. If a minister chooses the person he or she likes at a given time and then there is a change, the minister moves, take the Department for Education with three secretaries of states in the last few years, Estelle Morris, Charles Clarke, Ruth Kelly, what happens to continuity if there are also regular changes of civil servant. The point really is that it is for the permanent secretary sitting on that panel, having taken the minister’s mind on the type of person, to contribute to the panel deliberations in considering who is the best person. The permanent secretary has responsibility for making sure the organisation is what it needs to be. What is the reason for inviting the minister at the end to say they like A and not B? If you delegate recruitment to a panel and the panel has rigorously done the work for you, you are getting the best person for the job and I should like to move to that position for public appointments. I should like to see that position.

**Q146 Chairman:** We are looking at these ethical regulators of which the Civil Service Commissioners are one. Is there a case for putting a number of these together: the Civil Service recruitment function involving the commissioners, the Commission for Public Appointment’s role in relation to public bodies, the Business Appointments Advisory Committee in relation to post-employment work? Could we not rationalise some of these?

**Baroness Prashar:** I am of that view: it could be rationalised. It seems to me that if Civil Service Commissioners are concerned with entry into the Civil Service, we could also be made responsible for exit, so the business appointments could come under one. Public appointments, yes, but with one proviso: provided the same process in terms of no choice is adopted. If you have two systems, it will confuse the issues. If you want to say you want professionalised recruitment against certain standards, one body can do that both for the Civil Service and public appointments. There is some merit in combining those three. It seems to me that

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the trend is in that direction. If you look at my current job as chairman of the Judicial Appointments Commission, there is no choice over judges and that is now prescribed in legislation. The trend is towards that and I state the point: it is not so much about politicisation and cronyism; it is about professional recruitment, getting the best person for the job. If you make people responsible for that and you then hold them accountable, you can rationalise, but provided that the question of choice is taken out of public appointments as well.

**Q147 Chairman:** The Government like choice, do they not? Thank you very much indeed for a most interesting session. We valued it greatly, got a lot from it and thank you too for all the work that you did with the Civil Service Commission. Best wishes for your current and future work with the Judicial Appointments Commission.

**Baroness Prashar:** Thank you very much indeed and I look forward to your report in due course. Many thanks.

**Chairman:** Thank you very much.

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**Thursday 2 March 2006**

Members present:

Dr Tony Wright, in the Chair

Paul Flynn  
Julia Goldsworthy  
David Heyes

Kelvin Hopkins  
Mr Gordon Prentice  
Jenny Willott

*Witnesses:* **Rt Hon Lord Butler of Brockwell KG GCB CVO**, a Member of the House of Lords, **Sir Nicholas Monck KCB**, and **Sir Christopher Foster**, gave evidence.

**Q148 Chairman:** Good morning, everyone. I particularly welcome our witnesses, Lord Butler, former Cabinet Secretary, Sir Nicholas Monck, former Permanent Secretary, Sir Christopher Foster, adviser to government for 40 years or so. We have a huge amount of experience we are drawing on this morning and we are wanting to use you for a number of the inquiries that we are doing at the moment, in particular some of the issues concerning Ministers and Civil Servants, but we may go into other areas too. I think I would probably prefer just to kick off, unless any of you want to say something by way of introduction, in which case by all means, do any of you?

**Sir Christopher Foster:** I will try and be rapid, if I may, about it.

**Q149 Chairman:** You have given us a very helpful memorandum which we are grateful for.

**Sir Christopher Foster:** I have been reading various evidence given to you thus far, and suggest I say one or two words more, if I may. You have had my book and my pamphlet—

**Chairman:** We have read all of your collective works!

**Sir Christopher Foster:** In them I give many examples of bad policy making and law making. I argue that they lead to problems for Parliament, parliamentary discussion and scrutiny and afterwards very often to difficulty in implementation. This has happened not only under this administration but also under Thatcher and Major. I am not arguing that policy was ever perfect—far from it—but in general Bills were complete on entering Parliament, and they were preceded by one or more explanatory White Papers. These were normally reasonably lucid and reasonably intelligible, intelligible enough for meaningful intelligent parliamentary debate on the policy proposal, and thereafter helpful for scrutiny of subsequent Bills. Those White Papers were often far from ideal, in my judgment. 30 or 40 years' ago I was certainly among the critics, not of their clarity and logic but because in general I believe they relied too much on consultation processes, usually pretty thoroughly done and reflected in the subsequent development of the policy but not enough on the relevant social sciences and other sciences. Neither am I arguing now that, in recent policy times, policy outcomes are always poor. However, I do believe there is a frequent correlation between successful policies and policies which are comparatively easy to implement, like, if I may give an outstanding

example, handing income rate determination to the Bank of England. I set out in my pamphlet the necessary stages I think ministers need to go through to develop a good White Paper, a good explanation to Parliament. Contrast the current Education and Health White Papers, both of which I confess to having read. The first is now famously unclear in its description of the problems it addresses, the solutions it advocates and poor in its use of evidence and in the outcome of consultation. The Education Paper is so confused and confusing as to be capable of countless misinterpretations, as it has been, and the Health White Paper is different; but as bad. One could give many other examples. I spoke to a number of MPs when researching my book, and I do not think that one said other than that they found White Papers, and even ministerial statements, virtually valueless in helping them understand the real detail of policy change. I have spoken to eminent journalists who have told me that they never bother to read White Papers; only press releases. In other instances there are no explanatory White Papers at all. To go back in time and in my own experience, neither the poll tax nor rail privatisation had explanatory White Papers. These omissions, as I argue in my book, had serious consequences. The answer to a situation which I think constantly brings Parliament and ministers into disrepute and helps lower public trust in politicians is, I suggest, better process—not only within government or between it and Parliament but as a continuum from one to the other. What is needed is a drill within government, or a number of drills depending on circumstances, which ensure that good intelligible policy papers and policy statements and then Bills where relevant reach Parliament. The prerequisites are, I think, better and more systematic use of cabinet and the cabinet system; a return to cabinet papers in which policies are first initiated in departments and then matured by discussion through the cabinet system, until emerging as considered well argued White Papers presented to you in Parliament; a return to meaningful collaboration between ministers and civil servants in which ministers, of course, take the decisions but in which civil servants are more effectively able to challenge on such matters as use of evidence, factual accuracy, benefits and cost, practicality and quality of expression: and those civil servants working with ministers and political advisers being seen as junior partners and not in a position to be intimidated. The main argument, I suggest, against undue political influence or indeed

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any substantial political influence on Civil Service appointments, promotion, pay and bonuses in my judgment is that, as in any private sector activity, it is impossible to get honest, independent but particularly challenging views from people when, rightly or wrongly, they believe those to whom they have given such views might use such power to influence their future and future careers. The argument is exactly the same in my opinion as that for keeping such matters concerning the appointment, pay and promotion of judges away from politicians, so helping preserve their independence of judgment and integrity. May I end by insisting I am in favour of external appointments in many circumstances. I also believe that ministers should have special advisers, I have myself been a special adviser to six Labour cabinet ministers but I believe ministers are best served if they also constantly engage at the highest level with politically impartial civil servants in their policy making and law making, and in a form which respects due process.

**Q150 Chairman:** Thank you for that. It is very helpful having that thesis set out at the beginning, though I am not sure whether I want to ask both of you to say whether you agree with that—well, why do I not ask you whether you agree with that? Is that the thesis that is our working proposition?

**Lord Butler of Brockwell:** I should say, first of all, we have not concerted anything, so we are not here as a team, we are here as individuals, but I do think there is great force in what Christopher Foster says.

**Q151 Chairman:** We are badly governed?

**Lord Butler of Brockwell:** Yes. There are elements of our government that need improvement and it has got worse, I would say.

**Q152 Chairman:** This is pretty serious stuff if we have a recently retired Cabinet Secretary saying we are badly governed.

**Lord Butler of Brockwell:** I think what I said was that there are things that need improvement and I said it has got worse, and when I say it has got worse I do want to emphasise that it has got worse continually; I am not just talking about the present government. Things have got worse over a long period, including during my period, so there is a *mea culpa*.

**Q153 Chairman:** You are well covered there, because you are quoted on the front of Christopher's book saying: "Politicians and civil servants will find it a penetrating perceptive account of what has been happening in government in recent years". You were part of this falling off, were you?

**Lord Butler of Brockwell:** I was.

**Q154 Chairman:** We shall return to that.

**Sir Nicholas Monck:** Many of the things that Sir Christopher says underlie my proposal for a resolution about better preparation of government proposals.

**Q155 Chairman:** We shall come to your proposal. Before we get into all this, because this is deep and fascinating, Lord Butler, because of current events, could I just come back to our old friend the Ministerial Code, because that is part of the ethical regulation framework we are looking at as part of our general work. You had trouble with all of this, famously. What do you think? Here we are again, poor old cabinet secretary, expected to pronounce on this kind of stuff. You discovered with Jonathan Aitken, this is a bed of nails, is it not?

**Lord Butler of Brockwell:** I am not going to comment on the current travails of my successor; I think he has quite enough on his hands without being burdened by public comments from me.

**Q156 Chairman:** But is it the kind of thing that a cabinet secretary should be expected to do?

**Lord Butler of Brockwell:** I have always said in the past that it depends on the circumstances. I was asked to look, as you will recall, into the Neil Hamilton and Tim Smith cases and the aftermath of Cash for Questions and there the evidence was, as it were, inside the government, it was in the department's files. Really I think one had to look internally and the Head of the Civil Service was a suitable person to supervise that inquiry but you can only carry it so far if you are in that position and, as I have also said, you have to have, I think, horses for courses on these things. There are some things which, and many examples of it, where you need a judicial inquiry, a judge sort of person, particularly when people's reputations are at stake and you need to have a very fair process. There may be things where it is the police who ought to look at them. My view is I have always argued against having a set panel of people who do this. I think the parliamentary committee on conflicts of interest, I do not mean the Committee on Standards in Public Life but the parliamentary select committee, also had trouble with this. I do not think that you can have a one-size-fits-all piece of machinery for dealing with these matters. Beyond that, I really do adamantly refuse to comment on the current situation.

**Q157 Chairman:** You still do not think, even with events as they have gone since your time in to current ones, that we need some new mechanism?

**Lord Butler of Brockwell:** It is always possible one can find a new mechanism but I do not think it should be a mechanism that you would expect to deal with every situation because each situation is different. In the end it must be, in terms of Ministerial Code, for the Prime Minister in the first instance and Parliament ultimately to judge whether the Code has been broken and whether ministers have lived up to their standards. I am quite sure that all my successors, including the present one, would agree that their role can be no more than advisory.

**Q158 Chairman:** But there is a distinction between finding out the facts, the investigatory role, and the political judgment side of it, is there not? At the moment this is all mixed up and the poor old cabinet

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secretary is the one who is called upon to do this investigation. If you look at the text of the Ministerial Code, and you famously over the years have said you must not regard this as a rule book but in fact it has now effectively become one, it says here: "The Code is not a rule book and it is not the role of the Secretary of the Cabinet or other officials to enforce it or to investigate ministers, although they may provide ministers with private advice on matters which it covers". Now that is demonstrably not what goes on now, is it? The Secretary of the Cabinet is now expected to do an inquiry when allegations are made and to produce a report of some kind which is a public document, so even in terms of the code itself we do not have what it describes.

**Lord Butler of Brockwell:** As I say, I do not want to comment on current cases but I think actually the media have got very excited about the current issue and it may be easy to be misled by the rather dramatised reports in the media about what the current function of the Cabinet Secretary is. That is all I would say. There have been words about "investigation": I think that is, as it were, a word that has been used outside rather than by the government itself.

**Q159 Chairman:** I do not want you to get at all into current cases; it is only the example of the general case which is the investigation point. When these allegations are made, and they are made, as you know well, periodically, who is charged with the job of doing the investigation to find out if there is anything in it upon which a political judgment can then be made? If a politician, a Prime Minister, does not want to put any kind of inquiry in place there will not be one. People then, as in this case the Opposition, write to the Cabinet Secretary thinking "That is the only way we can get in to get any kind of inquiry", so this is a mess, is it not?

**Lord Butler of Brockwell:** Again, I do not want to comment on the current situation. I would not endorse your word "mess" but I would say that these situations are always highly uncomfortable!

**Q160 Chairman:** Let me just ask one question to get us back into the territory we were in before we got into that one. I am really intrigued by the fact you are all coming here, including a former cabinet secretary and a former permanent secretary and a longstanding adviser to government saying that we are badly governed. I think this is an astounding proposition. One question I would ask is this: when I look back 30 years everybody was talking about the way in which we were a basket case in terms of government. In fact, it was fashionable to say we were ungovernable. Compared with that, government looks rather serene these days, so this thesis is not immediately plausible.

**Lord Butler of Brockwell:** Shall I try and answer that? I think, if I may say so, you are slightly putting words into our mouths when you say we say we are badly governed. I think what we are talking about is defects in government. We are not saying that everything about government is bad—of course we

are not; there are very many good aspects to the way that we are governed and there have been improvements over the years, but there have also been deteriorations and they are worrying. I think you as parliamentarians must feel, do you not, that you have too much legislation to cope with: that that legislation is too frequently revised, has to be revised because it is defective; that you have difficulty in holding the Executive to account and that you do not hold them to account as effectively as you could do. Certainly I am now a parliamentarian, and there are many aspects of that which need to be improved. You must feel that too much political debate is now carried on in the media and too little of it in Parliament, and that I would also say is a defect in our system of government and something that we all ought to be trying to do something about. So I think those are the nature of the criticisms. Of course we are not saying that the whole thing is completely disastrous: we are saying that there are some important things that need to be improved, and I am saying that there are some respects in which the system has got worse; no doubt there are also some in which it has got better.

**Q161 Chairman:** Let's try and be more practical. When Christopher gives the example of the quality of White Papers and talks about the quality of the recent Education White Paper that is causing all the trouble right now, never mind what it says in quality terms, just the sheer quality of it, do you assent to the proposition that the quality of material produced for Parliament by government has declined over the years?

**Lord Butler of Brockwell:** I do.

**Q162 Julia Goldsworthy:** Why do you think there has been this decline and what do you think the cause has been? Do you think it is politically motivated by the Government or by successive governments, or do you see it as being a slow, steady gentle decline which has not been addressed?

**Sir Christopher Foster:** It has been a slow, steady decline. There have been a lot of elements in it. Indeed I tried to argue both that things were not always frightfully good in the past but also to argue that in the past, when they attempted most policies, they mostly attempted them rather well. *In Place of Strife* was a very bad White Paper, but openly so. It just happened at that time it seemed to be a political necessity. People knew where they were with it. Whereas with the present Education White Paper nobody knows where the Government is on it and that is a huge difference. The decline I think is due in large part to the sheer growth of government business. This has been absolutely astronomical. It is due I think to the effect that that growth in business has had on the Cabinet. One of the most telling statistics is that under Attlee there were 340 cabinet papers a year, under Heath 140, under Major 20 and briefly under Blair I think one, and now one is told about eight or nine or 10. Now, if something is not serious enough to merit a cabinet

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paper then it is not really a serious development of government policy. There are important issues, other than changes of policy, where you need a White Paper and other important issues where you do not need one but as a generalisation that is true. Under Attlee they were virtually always produced two or three days before cabinet so there was plenty of time for prior consideration and briefing. You cannot have that with a slide show at the cabinet table. In every sort of way there was a seriousness and deliberation which meant that even if you did make mistakes, which of course you sometimes did, so to speak the mistakes were there for everyone to see when later on historians came to look at the cabinet papers. Other reasons for decline I think are the internationalisation of so many political decisions, the fact that ministers spend very much more time abroad than they once did and the role of the media. A fact that I think ministers very often have not really acknowledged, but have come to know is that press releases are a more important output for them: on what the media needs rather than what Parliament needs to digest. But, alas, press releases do not make for good policy or good implementation, and that is in the end what matters for people—what the actual policy is on the ground when it eventually hits the ground after the legislation has been passed. It is at that end where time and time again you get unsuccessful implementation, frustrated hopes, defeated policies.

**Q163 Julia Goldsworthy:** With some of the things you listed is it possible to reverse some of them, like the international nature of policy making or even the legislative burden we have at the moment? Is it possible to then start cutting down on the amount of legislation we have and then if you are talking about improving governance, which would in effect perhaps slow things down, are we not going to end up with this massive backlog?

**Sir Christopher Foster:** If not, then what? You go on having bad policies and bad laws. But if you are clever and you want it enough, quite a lot of these things can be put right. Yes, of course, there are going to be more international meetings with ministers present but with technology and various other ways you may overcome the physical absence of ministers on many occasions. There are things you can do if you have a process which demands their attention. Many laws people tell me are not really necessary. They are made because ministers feel they want the prestige of a law; or they promised a law or whatever it may be. I refuse to believe that as many regulations, as many laws, as we now produce are absolutely necessary. It is a matter worth looking into. I think devolution, real devolution of processes, so that in England for the most part here you do let local people take more decisions rather than always looking over their shoulders, in many cases might help. There is a whole range of things—I am not competent to give you a blue print—which could help relieve the situation.

**Q164 Julia Goldsworthy:** So what is the aim of good governance? Is it to ensure that cabinet ministers fully understand, or that the legislative process works better, or that the public understands better?

**Sir Christopher Foster:** This may be theoretical but my own view is that too much of the Ministerial Code is “Do not do this”; the Ten Commandments writ large and wide, and that what it ought to be saying in many parts is something very much more like the Constitution of Article 65 of the Federal Government of Germany where, in fact, it specifies processes. It says before something goes to Parliament as a draft Bill or as the equivalent of a White Paper it has to have gone through certain processes, it has to secure various approvals; it has to have been presented as a cabinet paper. A cabinet paper is mandatory, except in extreme emergency. If you give your attention to that kind of thing I think the Ministerial Code or its equivalent could be an extremely valuable way of in a sense listing, setting out the sorts of stages which you, Parliament, expect various measures to have gone through before they reach you.

**Lord Butler of Brockwell:** Could I endorse that? I think there is a great challenge in adapting the internal process of government to modern life. They have to move fast enough to cope with modern life and, indeed, with ministers’ absences, ministers being very much dispersed. But there are a whole number of issues, and I should think almost always the issues of White Papers, which do not have to be dealt with at a breakneck pace where really you can and should take time to develop the policy and put it through the necessary processes, and bring all the expertise that is available around the cabinet table to bear. Where the cabinet system is so good is that because the coverage of departments is pretty comprehensive and if an issue comes before the Cabinet and ministers have an opportunity to be briefed on it, it is very unlikely that there is some aspect of it which is going to cover even a remote part of government or national life which will not be identified, so it is a very good grid to go through, but the other reason it is good is that it exposes issues to the wide political experience of senior cabinet ministers, and I have often said that some of the decisions I saw that were worst-made in government, were those that were not exposed to that. The Ministers dealing with the issues got so close to them that they lost a perspective which their experienced colleagues could have brought to bear, so those are just particular aspects in which the use of the cabinet system as it used to be could improve the process of government.

**Q165 Julia Goldsworthy:** But how do you think they can be policed and how do you make a judgment on what level they need to be enforced at, at what level should there be smaller meetings which need to follow similar standards, and if it is a code which is for guidance purposes then what happens if those guidelines are not followed?

**Lord Butler of Brockwell:** This is where Nick should come in, I think.

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**Q166 Chairman:** Nick has a proposition for us, have you not?

**Sir Nicholas Monck:** Yes. Shall I describe it, even though you have read it?

**Chairman:** Yes.

**Sir Nicholas Monck:** The initial spur to my thinking along these lines was the Butler Report indeed, and his description of the Iraq decisions. I compared that with my own rather limited experience of commercial, private sector decisions, and it seemed to me that in the latter case there were stronger pressures, in effect, on the people concerned to take decisions seriously—which I think is what we are interested in, it seems to me, taking serious decisions seriously. This was I think partly to do with the existence of the Code of Corporate Governance backed up a bit by common law and a little bit of legislation, and it struck me as anomalous that there was nothing like that which effectively binds government. Just to remind you what I mean by taking serious decisions seriously, it is taking them with care, on the basis of high quality analysis, based on evidence, of options with their costs, benefits and risks—familiar stuff. This led me to suggest that with the help of this Committee there should be a specific proposal for standards which would apply to ministers and secure quality decisions. That would, of course, both need to allow for the differences between politics and business but also allow for the largely common requirements of taking serious decisions seriously. The note I have put forward suggests an approach to this which focuses on ensuring that, except in emergency, there should be very careful preparation of proposals for legislation and policies or decisions which are put to Parliament. It lists six components of thorough preparation, and I could list those but perhaps they are in the paper and I will not bore you. Then, on how to secure that, my paper draws on a precedent from 1997 when after the Scott Report the Commons Public Service Committee, which I think is a predecessor of yours, recommended that Parliament should pass Resolutions laying down how it expected ministers to carry out their duty of accountability to Parliament, and that was done largely on a cross-party basis in March 1997. So I suggested there should be a new Resolution on the duty of ministers to carry out thorough preparation including the substance of my six points. I think that former Resolution by Parliament would be better than legislation. At the same time I suggest that the select committees would normally consider new proposals before they reach a decisive stage on the floor of the House, and as part of this would regularly ask government witnesses what had been done to meet the six points that constitute, in my view, good preparation. The effect of this would be that ministers would know during their preparations that these questions would be asked and, in effect, that their reputations would be on the line if they could not give convincing answers. I think there are other complementary proposals. But I think a necessary component of reform of this aspect of government is that there should be some new obligation imposed by Parliament on ministers.

**Q167 Chairman:** I am grateful for that. I confess I was on the Public Service Committee which produced the resolution on accountability following Scott. It was an important symbolic moment and what you are arguing for is a good governance code to be approved by Parliament very much on the model of that previous resolution to be incorporated into the Ministerial Code, providing at least a statement about the requirements for good process within government. Is that a proposition, Lord Butler, that you are attracted to?

**Lord Butler of Brockwell:** I am.

**Q168 Mr Prentice:** What have the mandarins been doing over the years as government is decaying in this way? What about the present office holders? The permanent secretaries? Are they speaking candidly to the Prime Minister saying: “This is not the way, Prime Minister, to decide and do things”?

**Lord Butler of Brockwell:** I do not know; I cannot speak for what is going on now. I believe so because I believe that the tradition of speaking objectively to ministers and giving them frank advice is a very deeply embedded one and I am sure that it continues. In my own time, I would say that I do not think we coped as adequately as I would like, in retrospect, to think we should have done with the changing circumstances of political life, with these aspects of the world speeding up. When New Labour came in they, I think, made very good points about the government information service not being properly equipped to deal with 24-hour media, and the things they did caused the government information service to get much better. I do not think we have exploited, did exploit and perhaps still have not exploited, new technology as well as we could have done. So there are aspects of that for which I would accept that the mandarinates have got some responsibility.

**Q169 Mr Prentice:** Yes. You see, I put down a question to the Prime Minister after I read your very interesting piece about cabinet government and how it could be improved if we imported the principles of the Companies Act and the Code of Corporate Governance into the decision-making mechanisms and I was sent away with a flea in my ear, really. The Prime Minister was not interested at all in what you are saying, Sir Nick, and that must disappoint you.

**Sir Nicholas Monck:** I have read his mockery of such things in the House but I am not proposing, although my first article might have suggested this, bringing in legislation on the lines of either the company code or—

**Mr Prentice:** No, the principles behind it. I understand that.

**Sir Nicholas Monck:** I am concentrating now on the product of government and how you go about improving the quality of it, and I think the suggestion I have made is proportionate to that and worth more.

**Q170 Mr Prentice:** You all talk about the inadequacies of policy making. Can I take a specific example and ask you to comment? Last year

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the Department of Health told the world that 250,000 NHS employees, midwives, chiropractors, physiotherapists—people like that—were going to be transferred from NHS employment into the private sector, the not-for-profit sector or the voluntary sector, and a letter went out to that effect signed by Sir Nigel Crisp. In November, I think, the Health Secretary told a conference of NHS managers that it was all a big mistake and that was not really the policy. In the *Financial Times* yesterday we read that the NHS chief, Sir Nigel Crisp, his future is in doubt as Ministers appear to lose confidence in him. How is it that the policy could have been so screwed up? This was a huge policy decision, that it got through the system, through Cabinet or what-have-you—how did it happen, and who is responsible? Is it Sir Nigel Crisp, or is it the politicians? You are all retired so you can be completely honest about this.

**Lord Butler of Brockwell:** But do we know? Do you know about this case, Chris?

**Sir Christopher Foster:** No, not in any detail, but perhaps I am in a better position to speculate than some. I think what we are observing here, as in so many other departments, is a product of unceasing change where one initiative quickly overtakes another, where not enough time is spent on working out exactly what is implied by a decision so that something is done, and then somebody at a higher level, like a minister, realises it was not quite what they intended. I think it is just a product of instant government contrasted with the length of time it takes to effect successful change. It is an absolute antithesis of what I believe is desirable.

**Q171 Mr Prentice:** But government is not or should not be organised in silos. It is not just a matter for the Department of Health. What were the mandarins doing in the other departments?

**Sir Christopher Foster:** I doubt if mandarins should get any more blame than anybody else. These things happen. It is not a question of silos as such. The more people have to be brought into a decision-making tree the more complicated and difficult it becomes, the longer it inevitably takes, and the more patience is needed to try and resolve these things. It is terribly tempting when you get into such a situation to try and cut straight across it and take an easy decision which, in my experience, almost always in the end turns out to be the wrong one and one which, at least in part, has to be reversed. I think to try and find a single source of failure is much more exciting for the press.

**Q172 Mr Prentice:** I am interested in the process here. If we are talking about a huge policy decision to transfer a quarter of a million people out of employment in the NHS, what are the processes at the top of the Civil Service to check this? Would it have been discussed by a committee of permanent secretaries? Would it be checked by them? Would their seal of approval have been required? Is it something that would have been left just to the Department of Health? That is my simple question.

**Lord Butler of Brockwell:** We do not know the answer to that in this particular case but our whole argument, and I think we are agreeing with what you are saying, is that it should have been, and it would have been less likely that a mistake would have been made if it had been. Just so that we do not blame the mandarin entirely, there are well-documented cases of announcements made by ministers which have come as a surprise to their departments; indeed, announcements made from 10 Downing Street where the secretary of state did not know, let alone the department, before the announcement was made. It is always difficult to speak with absolute authority about this because one is very often relying on press stories but I think there is a good deal of evidence that that has happened. People are just not given the chance to put these through the sort of rigorous process that you are implying should happen and we believe should happen.

**Q173 Mr Prentice:** It is common sense I think, leaving aside the question of rigour, to check things out before rushing in. Can I just very briefly turn to Sir Christopher. You are not a happy person, are you? I read your booklet and you take a swipe at everyone. No part of our constitution is performing effectively, not Parliament—that is us; not Cabinet, not Ministers, not the Civil Service, not local authorities, not other parts of the public sector. Is the monarchy doing well?

**Sir Christopher Foster:** What I wrote does not come from black bile—I assure you, I am quite a happy enough chap in most walks of life—but from conviction. If I think about Parliament, of which I know much less than all of you, I tend to believe what I am told: that in terms of your institution and your select committees and what you can do, you are capable of being as effective a body as ever—probably more so. The problem is what you are given to feed on from government. That is your problem—that you are not given the right kind of material to scrutinise and to debate. Similar limitations are experienced in many parts of government. It is very hard running a public body these days. You do not know what is the framework which has been laid down for ministers within which you are supposed to operate, what discretion you have to operate within that framework: when somebody is going to intervene in your daily arrangements. There are many such uncertainties which mean that the whole is not working well, even though many parts of it are capable of working quite satisfactorily.

**Q174 Mr Prentice:** Why is it that you do not mention in your booklet here manifestos? I may have missed it but I do not think you mention manifestos at all.

**Sir Christopher Foster:** I do not.



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**Q175 Mr Prentice:** And manifestos are held up as a source of legitimacy and we are all expected to vote for ID cards and for all sorts of things because it is in the manifesto.

**Sir Christopher Foster:** I have always been sceptical of manifestos. My first job as an adviser in 1966 was to try and reverse the manifesto commitment on behalf of Barbara Castle, who was my Minister, because it had not worked out very well. There is tremendous danger here. Of course you have to have manifestos, you have to have solemn commitments, but frequently when you later come to look at what needs to be done either the manifesto commitment is impossible or brings with it other difficulties. One of the things which began to go in the Thatcher years—you can read more about this in my book—I am delighted that you have read it, was the expectation that after the election the civil servants within a department would challenge commitments made in the manifesto.

**Q176 Mr Prentice:** That is what I am trying to get at; when the Civil Service does a forensic job on the manifesto.

**Sir Christopher Foster:** That went in the 80s. It was certainly around when I was first—

**Mr Prentice:** Because if you suggest that Parliament is supine maybe it is because of this doctrine of the manifesto—that the manifesto cannot be challenged because this is a source of legitimacy. I will let my colleagues come in.

**Q177 Paul Flynn:** Meeting as we are today on the first day of Lent do you think it would be a good idea if politicians gave up the practice of legislating at certain periods? I am thinking particularly of pre election. There is a pre election tension which builds up amongst all parties which inspires the government to appeal to the politically erogenous zones of the electorate to persuade them to vote for them and bandages the mouths of all opposition parties in case they are heard in possession of an intelligent idea. This is very much the build-up, and I take you to in the last election when a particularly moronic piece of legislation went through. Do you think one of the general problems with politicians is that we see that the answer to every problem in earth or Heaven is in legislation? Dogs bark, children cry, politicians legislate. Do you think periods like this could be beneficial, non legislation periods, where all politicians do is consider draft Bills? Would that be beneficial to good governance of the country?

**Sir Christopher Foster:** A Lent for legislation?

**Q178 Paul Flynn:** Indeed. A pre-election Lent.

**Sir Christopher Foster:** A splendid idea and, if I may say so, I think there are some extremely important issues that you raise by saying that. First, Parliament according to theory is not a legislature, unlike Congress which is. Its job is supposed to be, or used to be, receiving first rate or good White Papers and good Bills and then saying what it thought about them and then ratifying the Bills. It did not actually make the laws. It stopped doing that in the 1880s because experience showed that creating laws

through committees was diabolical and frequently led to laws that were not very good. So in some rather academic sense you should not be a legislature. Rather more what comes to you should be in pretty good shape, your task should not be knocking it about but either firming it up or rejecting it because you do not like it when you see it. You have all sorts of rights of that kind. But the idea that you should actually make laws here is one against which there is a lot to be said. But that is perhaps not the most important point. I think the most important point here, and I am sure you are right in saying this, is that a great many ministers think that they have to pass laws. It is how they get a tribute from posterity. Certainly when I started off, new Bills were much less frequent. To get agreement to a new Bill on a subject quite a case had to be made. Ministers spent an enormous amount of time on two other things, taking decisions within the law, which could be very important—maybe involving the Royal Prerogative, as did decisions on war, but also other sorts of decisions: or they could be changing policies without necessarily changing the law, reflecting on how policies were doing. The idea that somehow you have to be changing laws all the time I think, though one understands why it has happened, is one of the reasons, just one, why you are in the state you are now in. Whether Lent would cure that, a legislative Lent, is perhaps another matter.

**Q179 Paul Flynn:** Lord Butler, do you think some of your powers might have been more productive if spent in reflection rather than in activity in legislation?

**Lord Butler of Brockwell:** I certainly think that there is too much legislation but in the end I am afraid I think it is because Parliament has allowed itself to be too dominated by the Executive and too supine in resisting excessive legislation. When I saw the way in which the legislative programme used to be put together, departments felt that each of them had a right to have a Bill, maybe two, and, as it were, if there were not fair shares then they had reason to feel aggrieved. The Leader of the House and the parliamentary ministers did their best to restrain this, but because the Executive as a whole knew they could get the stuff through Parliament their efforts to restrain it were on the whole to a considerable extent brushed aside. So I think it is that Parliament has allowed itself to be so dominated by the Executive that it lets legislation go through without something that could even be close to being described as proper scrutiny and the Executive then jumps on that wagon.

**Q180 Paul Flynn:** To take one example that you will both be very familiar with, rail privatisation, I think you made the point that there was no rational basis for that; the only argument was that all privatisations had worked so this must as well. But that was challenged in Parliament by a very unusual set of circumstances in that there was a select committee with a Chairman who was appointed in defiance of the Whips. The Whips chose somebody

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else and the committee chose a Chairman who had an encyclopaedic knowledge of the railways and great authority, Robert Adley. They produced a unanimous report on rail privatisation from all parties condemning it, which was very prophetic. What is your feeling about this? Do you recall this report? Was this not an example of Parliament doing the job that those who—

**Sir Christopher Foster:** I do have a chapter on this, or half a chapter, in my book. Because the Government did not produce a good, or indeed any, White Paper, it did not set down all the things it needed to make this measure a success. Behind the scenes it went through all sorts of hoops to try and think of most of the things that needed doing—perhaps all, I do not know about all—but if it had had to write them down with sufficient rigour to convince you some of the problems would have been exposed and better challenged by Robert Adley and many others who were knowledgeable on this matter. In my judgment, as I say, most of the elements of the Bill were, like many other privatisations, not bad, but needed a certain amount of improvement. One or two things were wrong. They would have been exposed in a good White Paper, and one likes to think they would have been corrected. Adley and his colleagues started from a very definite political position where they tried in a sense, and all credit to them, to do the job of the government in writing a White Paper. Inevitably, because they neither had the same political commitment as the government or the same access to resources, they did not do as good a job as a government should have been able to do.

**Q181 Paul Flynn:** Reports of this kind of that quality, and there have been three I can remember in the last 18 years where a committee has put out a substantial piece of work, are fairly rare, but do you see hope of improving—it is our problem I realise—the scope of select committees or strengthening select committees to do this job or should we go back to the original way of getting the Government to write its White Papers?

**Sir Christopher Foster:** I believe that it really is the job of government, or of a departmental minister in the first instance, to give you the case in considerable detail, that it is they ought to want to do. They can feed upon select committee reports, feed on all sorts of reports and information—and so they should; the more relevant external information they feed on the better in general, but in the end, if they want the legislation, it is up to them to defend it, not I think for a select committee. It can probably make an input but the logical follow-on from a select committee producing a very valuable report of a pre-legislative kind—and I know this committee has done what I am just about to say—is for the committee to produce the legislation, and that is not I think what we are talking about in general.

**Q182 Paul Flynn:** Has pre legislative scrutiny been successful in your view?

**Sir Christopher Foster:** Again, of course, it helps but I think it is a poor substitute for what government should be doing.

**Q183 Paul Flynn:** Touching briefly on one of the concerns we have had as a committee, it is about the movement of civil servants into business and business people into the Civil Service, which continues throughout the careers of various people who move from the business world and then back again, and we are concerned about the possible effect on the Civil Service ethos of people having half an eye on business values rather than Civil Service values and civil servants having an eye on their future job prospects, because many retire early and go into lucrative areas of work, particularly in the defence industry. Do you think there is a danger here that it is not so much a question of the Civil Service ethos having a chance of making much impression or change on business ethics, but is there not a danger of business ethics substantially damaging Civil Service ethics?

**Lord Butler of Brockwell:** I think you have to balance the advantages of drawing on a wider pool of talents, which we would all be in favour of, with risks of this sort. My view is that it is right to draw the talent from wherever you need it and these posts ought to be put up for open competition and, indeed, some interchange between the private and the government sector is good, but it needs to be accompanied by safeguards against the sort of risks that you describe.

**Q184 Paul Flynn:** You said to one question “*mea culpa*”. When you are putting on your slippers at night and reflecting on your career, what was your maximum culpa?

**Lord Butler of Brockwell:** That would take longer than the evidence to this committee to go through!

**Paul Flynn:** We have time!

**Q185 Chairman:** I think I have just discovered a split between you two, by the way, because, Christopher, you are not terribly keen on Parliament—

**Sir Christopher Foster:** Oh, I am.

**Q186 Chairman:** No, despite what you say. Because in your book and you have sort of said it here, you say Parliament cannot really do very much and just does stuff at the edges, and you are interested in getting the process of government right, and you are very keen on party discipline, and you tell us how wonderful the Whips are because they stop people being bought and so on whereas Robin, now he has become a legislator, has decided that Parliament is supine and wants it to be more robust. These are very different views, are they not?

**Sir Christopher Foster:** You are undermining the value of all I have said this morning by accusing me of not believing in Parliament. I certainly do believe in Parliament. As a special adviser, I spent a lot of time over here in those days in the bar, or in several bars, with someone called Stephen Swindler, who was the Parliamentary Secretary for a long time, just talking to MPs about what we were doing, and

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getting from railwaymen, bus drivers and all sorts of people the most splendid spirited comments. I would then take them back to Barbara, or most of them, and that was good. Parliamentary debate, too, in my experience, was an awesome vigorous matter. Because MPs could understand the White Papers you got very forthright opinions. There was a beginning and an end to a debate. There really was a summing-up of what was said. Ministers stayed in the chamber, for goodness' sake!

**Q187 Chairman:** But the argument surely is this: that if Parliament is supine, and that is the proposition we have heard, because of whipping and routine majorities, ministers know that they will get a majority for this proposition, however absurd it is, because that is how our system works, if we have a system like that that tells against quality because you do not see Parliament as a quality test that you have to pass: it is simply the automatic hurdle that you jump over. Do the two not come together?

**Sir Christopher Foster:** No longer. One is observing you being very much less easy to jump over. There you are, rebelling on every front it would seem at the present moment. The problem is how do you turn that rebellion, which is far from supine, into government taking effective action to make the whole business much more constructive? That is what I have been on about.

**Q188 Paul Flynn:** You mention the Birt papers, and the Birt papers had to be prized out of government under Freedom of Information. One of them was about drugs and one clear conclusion that Birt made was that you could not tackle the problems of drugs by attacking the supply side; you failed in Colombia and everywhere else. We have just decided to send troops into the Helmand province in Afghanistan to do precisely that, possibly sending them to their deaths. There is no attempt to deal with the rational argument of Birt and many others on this. Does this not depress you? You do draw comparisons between the Birt papers and White Papers in the past, but the fact that the government cannot only try to suppress what is in the Birt papers but actually ignore their conclusions when they are established?

**Sir Christopher Foster:** In principle, yes. I have to say I have not read that particular Birt paper and I have no knowledge really of the issues.

**Q189 Jenny Willott:** Just quickly, on the Legislative Reform Bill that is currently going through the various different parliamentary processes, one of my colleagues referred to it as the "Abolition of Parliament Bill" which I thought was reasonably accurate in some ways. One of the proposals that has been mentioned by the Minister is that they would contemplate giving select committees the right of veto over ministerial decisions. Do you think, given what you were just saying about lack of scrutiny and so on, that would be a good idea?

**Lord Butler of Brockwell:** I have not, I regret to say, studied the Bill in detail. I would like to take part in debates on it in the House of Lords, and if I can I will, but I think there is a dilemma here because the

purpose of the Bill, as I understand it, is to deal with the problem of over-regulation and to get rid of unnecessary regulation more easily than in the past, and that I sympathise with. It seems to go much wider than that, and I think that the defect that probably lies at the root of it is that there is not an effective process for dealing with statutory instruments. Parliament does not get into statutory instruments as much as it should. Now if there was a more effective process in dealing with statutory instruments then I think one could use them with greater confidence. I have not heard of the suggestion you mention that select committees should be able to veto them but that might well be such an instrument. I would be in favour of Parliament being given more powers of that sort if that, as it were, goes along with making it easier to get rid of unnecessary regulation, unnecessary past law. I have always been in favour of sunset clauses myself.

**Sir Nicholas Monck:** I would hope, without having necessarily a veto, if a select committee reported on a proposal that had been really badly prepared, there should either be a convention or expectation that government would look again at the proposal before putting it to a decisive stage on the floor of the House. That is one thing which reconciles some of the things which have been said in the sense that we are saying that Parliament's select committees should make proposals to try and make the processes within government work better, and I think that could happen. It would obviously be for Parliament to decide what the force of a critical select committee report on a state of preparation would be.

**Q190 Jenny Willott:** Turning to another issue and going through the different papers and different documents we have had for this meeting, in one of your notes, Sir Christopher, you refer to the undermining of the status and the responsibility of secretaries of state, and the various other papers also talk about the fact that permanent secretaries have a lot less influence and responsibility in decision-making now than they used to. If both secretaries of state and permanent secretaries have less responsibility and authority, where has it gone?

**Sir Christopher Foster:** It is very hard to say; it varies enormously. That is part of the rather chaotic state of the processes at the centre of government. Some would say it has gone to some extent to No 10, and/or to the Treasury. Some secretaries of state are more powerful than others. A recent ex cabinet minister whom I will not name, told me not very long ago that he thought what most needed examining were the relationships between the centre, however you describe it, and departments. Communications, which might or might not be instructions, were travelling all over the place in a way which was very hard to grasp. The traffic in e-mails, one of the serious problems in all of this, was so great it was quite hard at times to know what was being said by whom and with what authority, "With what authority" is perhaps the really important point there. It is perfectly possible to believe that we have

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a situation in which the Prime Minister has theoretically got more power, influence and control not only over ministers but Parliament than any past PM but to believe it is so fluid, and in some senses so chaotic, that an awful lot of that power is not particularly effective. So it is not puzzling that you hear people around the throne on the one hand saying “We have a throne”—a No 10 throne—but at the same time we need more power still in order to try and get done what we want to get done”. That is all part of the problem. The clear lines of authority, authorisation, development, are not there to the extent they used to be.

**Lord Butler of Brockwell:** My short answer to your question is that the power has shifted, not entirely but where secretaries of state are bypassed, to No 10 and the Treasury.

**Q191 Jenny Willott:** Do you think that has an impact on the levels of accountability and openness about decision-making?

**Lord Butler of Brockwell:** Yes, it is bound to have. I think this is a thing which some secretaries of state resent; some of that resentment has become public; and it is difficult for secretaries of state to defend with conviction decisions to which they are not wholeheartedly committed and which they have not initiated.

**Sir Nicholas Monck:** I agree with that, particularly that last remark. I remember a Conservative Minister saying there was always the problem of the unwilling agent. That if you try and force things on secretaries of state who really do not want to do those things, it will not work.

**Q192 Jenny Willott:** Can I ask finally about the relationship between ministers and their permanent secretaries, and the civil servants? It has been suggested in various papers we have had that permanent secretaries and civil servants are having less influence on decision-making and instead influence is passing to special advisers and spin doctors and so on, and there is a bit more dislocation than there used to be. Do you think it would help if there was more political involvement in the appointment of senior civil servants? Do you think ministers would be more likely to listen to permanent secretaries and deputy secretaries and so on if they had been more heavily involved in their recruitment, or of some of the political appointees.

**Lord Butler of Brockwell:** They might be more disposed to listen to them because they would not be the right sort of permanent secretaries, would be my answer to that. I think the argument against too much political involvement with this is that it is valuable that civil servants should remain objective, professional and not dependent on, and people below them not seeing themselves dependent on, the favour of their ministers for their advancement. If you do get people who are recruited on that basis they are less likely to give the sort of objective advice which I think is an important part of our system.

**Q193 Jenny Willott:** In which case how can we reverse the swing away from ministers taking advice from civil servants to political appointees? Is there anything that can be done about that?

**Lord Butler of Brockwell:** I think that is what we are on about. What would reverse it is having an acceptance of good process which would give those people their place in the process. That is precisely what Sir Nick Monck is suggesting—that that should be the standard and the convention which is accepted and to which departments conform.

**Q194 Jenny Willott:** Do you think it would work?

**Sir Nicholas Monck:** I think it would certainly help, otherwise I would not have proposed it. I think another factor is that, as has been said, some things are much better and more successful now than in the past, notably the economy, and also I think the professionalism and access to experience elsewhere and to social science and so on of the permanent civil servants has greatly improved. So I think ministers may realise, and I think if you look back over the current government, that they have actually lost, they have wasted, the experience and skills that were available and I think that would also be a slower acting but nonetheless perhaps eventually potent influence.

**Lord Butler of Brockwell:** It is important to make clear that you cannot legislate for this. Ministers can always listen to the people they want to listen to, that is their right, that is why they are elected people, so they can go their own way to perdition if that is what they choose to do. You cannot stop that. But I think what Parliament could do is to put in place processes that make it less easy for that to happen, and give a greater assurance of good process.

**Q195 Jenny Willott:** Finally, if we are bringing in increasing numbers of senior civil servants from outside the Civil Service, from business and so on, do you think in the long run that is likely to have an impact on the quality of people entering the Civil Service? If they feel they are unlikely ever to reach the top do you think it will have an impact on the type of people willing to join in the first place?

**Sir Nicholas Monck:** I think it could do in the long run. But I think the main way of tackling that, at the same time as bringing in talent and experience from outside, is to absolutely ensure that the permanent civil servants are actually given the proper opportunity to contribute to policy. Provided that is done I think the appeal of being a civil servant will still be strong but if not, if they are frozen out, and the existing code says that ministers must listen to civil servants but it does not say anything about you must give them an opportunity to give their advice—in fact probably that would not make any difference—but I think that is the key thing for keeping morale and for recruitment of good quality people, to give them the opportunity to be able to give the advice.

**Q196 Kelvin Hopkins:** I start from a position of being very sympathetic to what you have been saying. I agree entirely that governance is bad and getting

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worse in Britain. That being said, we have to do something about it. One alternative would be to change the system entirely and be like France and America or whatever, another approach. But would you not agree that the essence of democratic good governance is where there are countervailing forces, with different centres of influence and power in the broad sense in the way society is governed, and that that is the way good ideas come through.

**Lord Butler of Brockwell:** I would agree very strongly with that.

**Sir Christopher Foster:** You cannot control everything from on top; that is one of the points I make in my pamphlet. An attempt to control absolutely everything from Whitehall or one part of Whitehall is doomed to failure and, therefore, it is absolutely vital that one has alternate sources of power and influence, not only in Parliament, Executive, but within the Executive—these are all tremendous safeguards of liberty and rights—but also in the end, if they are properly handled, well-handled, with a good dialogue and debate flowing backwards and forwards, of efficiency and effectiveness too. That is my belief.

**Q197 Kelvin Hopkins:** Your criticisms I sympathise with but have you not rather pulled your punches? Let's take the example of Sir Nigel Crisp. He was appointed presumably I would guess because he is sympathetic to the Prime Minister's view. He was then, I suspect, or I surmise, given a policy to announce—not his own idea but coming from Downing Street—which then proved to be very unpopular and was then withdrawn. Now Sir Nigel is in difficulty, possibly about to be marginalised. In a different kind of regime he might have been moved to manager of a remote power station, for example. So the bureaucrat is being blamed for a policy which was not necessarily his own idea, although he may have sympathised with it in the first place. Now, is that process not influencing civil servants in general, that they know that if they argue too strongly they might find themselves moved, and that increasingly the Civil Service is being politicised not by having politicians thrust into it, but by a process of selection, survival of the fittest? It is gradually being politicised because it is falling in line with the ideology of our leaders?

**Lord Butler of Brockwell:** I do not think any of us know enough about the Sir Nigel Crisp case to be able to comment one way or the other on that, but I would say that is the reason why you have to have the countervailing force between the tradition in appointments, and first of all the insistence that appointment or promotion should be on merit—that is a principle of our Civil Service and one we ought to stick to very closely—but then you have to have safeguards to ensure that that happens. Nick and I certainly have experience of ministerial appointments, and in general I certainly felt during my time that the sort of thing you are describing did not happen. The Civil Service would initiate proposals for appointments, there would be a civilised discussion with ministers, and sometimes ministers would have a preference and that was a

preference that you could go along with, but there was a good role of the Civil Service in it and I certainly did not find myself feeling during my time that appointments were being made on the basis of ministerial favouritism. If I did get any sense of that I tried strongly to oppose it. There were sometimes appointments made that I did not agree with but not generally simply because of ministerial favour. I had a reason when I was Head of the Civil Service because of long laid plans of wanting somebody to be in a particular appointment because it would fit them for something else later on. Understandably secretaries of state were not often very sympathetic with that, they wanted the best person at the time, so I had to make compromises in those situations, but I would say that I felt that the system was pretty good proof against that and I hope it still is.

**Q198 Chairman:** What kind of appointments were ministers making, then?

**Lord Butler of Brockwell:** They approved the appointment of permanent secretaries: they approved some other important appointments within a department and, of course, they approved appointments to NDPBs that were within their responsibility. So there is a whole series of appointments that go to ministers for approval.

**Chairman:** This is interesting—

**Q199 Kelvin Hopkins:** Going back to examples—

**Lord Butler of Brockwell:** Surely that cannot be any surprise to you?

**Q200 Chairman:** Well, it is surprising because we make a great fuss about ministers not being involved in appointments, and then you talk in a rather routine way about ministers making Civil Service appointments.

**Lord Butler of Brockwell:** What I said was they approve Civil Service appointments. Surely it cannot be any surprise to you that ministers approve the appointment of a permanent secretary in the department?

**Q201 Chairman:** No, we know about that, but you were talking rather more widely. There is a mismatch, of course, between the ministerial role in public body appointments and Senior Civil Service appointments and there has been an argument from Ministers, and I think from the previous Cabinet Secretary, that there is a case for moving towards the public body model in relation to ministerial involvement in Civil Service appointments. That is to say that they could get a choice of who to appoint as opposed to having to take someone that the panel produces for them.

**Lord Butler of Brockwell:** Within departments my experience was that on the whole, you are saying “choice” gave a rather misleading impression of it. It was not that you gave three names and the Minister said, “I will have B”; it was a discussion, a dialogue between them, where you would hope to come to an agreement. The Minister would put his point of view and the civil servant would put their point of view

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and between you you would hope to come to the right decision, and I felt it for the most part did come to the right decision.

**Q202 Kelvin Hopkins:** One of the last things Robin Cook did before he sadly died was to speak at a Hansard presentation where he said that a major change had taken place because of the way party leaders are elected, and particularly in my own party, the Labour Party. Back in the Wilson/Callaghan days the leader of the party was elected and therefore beholden to the parliamentary party and had to please all sections of the parliamentary party. So the leader appointed a balanced cabinet and a balanced government representing the broad range of views within the party, from Benn and Castle across to, let's say, Healey and Jenkins. That is no longer the case and the Prime Minister can choose ministers in his own image, supporting his own view entirely, and can safely ignore sections of the party who do not happen to share his view. Robin thought that was a crucial change in the way we are governed. Do you have any view on that?

**Lord Butler of Brockwell:** No. I remember the joke about it was better to have the guy sometimes inside the tent rather than outside the tent—

**Q203 Chairman:** Those were not quite the words!

**Lord Butler of Brockwell:** Not quite the words but perhaps best expressed that way! If that has changed I am not aware of it.

**Q204 Kelvin Hopkins:** Well, it is the case that the Cabinet now is, not to put too fine a point on it, a cypher. It meets very briefly; it does not have the papers; and one does not hear of Cabinet revolts. Occasionally there is a bit of a leak from one minister or another, perhaps from some of those who do not see themselves as having a long future in government, maybe, I do not know, but we do not have cabinet government any more, and that is a key part of our constitution, is it not?

**Sir Christopher Foster:** It is a point I make in my book, this change in the power of the party leader, but I think it is only half the story. It may be the case that all parts of the party are not represented in Cabinet and insofar as they once were they caused lots of problems. I can remember Ministers getting very angry and unhappy about difficulties they had with colleagues who thought they were just being mischievous or party political within the party, so it was not all plus. On the other hand, I agree it had considerable strengths. You had to get your ideas past some of your colleagues who were not always disposed to wish you well. But I think even now, though I make quite a lot of observations on the problems that ministers have in holding onto positions and the Prime Minister deciding he wants them to go, there is I think sufficient division of opinion within the Cabinet, and from my own rather limited experience in talking to people quite a lot of talent too. I think the idea that MPs or ministers are less talented than they once were is a mistake. I think they have far fewer opportunities to show their

talents and to learn from experience, but my own view is that you do learn from the sort of people who if they worked within a collegiate cabinet system would help achieve very much better governance. It is certainly not a reason for sticking to what we have.

**Q205 Mr Prentice:** But how does that square with what you say in your pamphlet, that the status of cabinet ministers has declined to that of agents of the Prime Minister and Gordon Brown?

**Sir Christopher Foster:** Precisely that, and this is what is so depressing, I think. Not all but I also I think mention that one or two personalities have slightly more freedom than that suggests, but be that as it may it is because they are regarded as agents—and we can all name people who have been ministers who have had to carry out policies with which they did not agree at all, and that is not good for government. These people, these agents, deserve in my judgment a better status and more influence on the policies which they are formally responsible for, and in many cases, and this is perhaps just optimism but I think it is true, you would get a better outcome if they were more responsible.

**Q206 Kelvin Hopkins:** Some people suggest that we have had a triumph of a particular political ideology and that we now all subscribe to that and therefore there is no point in having serious debates and alternative governments with alternative philosophies, because the ideology of economic liberalism has now triumphed. The end of politics has arrived. I do not agree with that, but what are your views?

**Lord Butler of Brockwell:** Even if it were true at the level of the general ideology the practical application of it needs a great deal of debate. I agree with what Sir Christopher has said, that in a good working system you get a range of views within the Cabinet, disagreement—fine, but in the end everybody feeling that they have had an opportunity to put their point of view and the proposals which the Cabinet emerges with are the best that they could cobble together with the interplay of those views. Then they will all feel united behind them and willing to support them and you will not get a situation, which we have seen a great deal of recently, where you have cabinet ministers in open dissent against policies put forward by the government.

**Q207 Chairman:** I do not want to leave this until we have cleared up this appointments business, if I may, because I am not entirely clear what you have told us now. I thought we had a system where all senior Civil Service appointments were on the basis of open competition monitored by the Civil Service Commission with the best person anointed but the minister has to take, and if they are not happy with that they can re-run the whole competition until there is another best person. Now I am trying to reconcile this with what you are telling us, Robin, about the routine way in which ministers are making Civil Service appointments.

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**Lord Butler of Brockwell:** I am not up-to-date with the way in which it works and I think there has been a greater formality introduced since my time. Certainly, when competitions are open for permanent secretaries I believe it works in the way in which you describe, but of course there is a wide range of other internal appointments or appointments which are not put to open competition which happen in a more informal way. Let's take the head of an information division, very important to the minister. Let's take a principal private secretary, very important. Let's take a civil servant in charge of an important area of policy. This would all happen by a more informal dialogue between the permanent secretary and the secretary of state.

**Q208 Chairman:** This is a very interesting issue because I think you are giving us an insight into how this works on the ground which is a million miles away from some of the formal stuff that is given to us, and it does cast the whole argument about politicisation into a new light. If there is routine political involvement in appointments across the Civil Service, and has been for a long time, why are we getting so exercised about this politicisation stuff that has appeared in the last few years?

**Lord Butler of Brockwell:** My belief about that is that as appointments have been opened up to a wider range of people so that they are not just done within the Civil Service that obviously does increase the risk of a spoils system or of political favouritism and because of that it has been necessary to put more safeguards in place to insure against it and that is a perfectly correct thing to do. We were saying before that if you have appointments from outside the balance of advantage is in favour of that but you need some safeguards, and these are the sort of safeguards to which you are referring and they are quite right.

**Q209 Chairman:** If ministers are appointing civil servants, surely that is liable to produce more compliant civil servants?

**Lord Butler of Brockwell:** No—let me make it clear. What I said was they “approve” the appointments of civil servants and it is a dialogue, always was when I was involved in it, between the permanent secretary and the minister, and if a permanent secretary felt a minister was making an appointment for the wrong reason because it was his son-in-law or something then the permanent secretary would resist that very strongly and maybe take it to the Prime Minister.

**Q210 Chairman:** To use shorthand now because we are running short of time, do you think there has been more politicisation in recent times and, if there has, is that necessarily a bad thing?

**Lord Butler of Brockwell:** I am not sure I do think there has been more politicisation in appointments but I do think it is a bad thing if you lost the system where people had confidence that the Civil Service, as it were, had a separate professional status which was not dependent on politicians so that you can rely on their advice being impartial and objective, and I think my judgment is that the more government has

been conducted through the media with political debate through the media, the more spin there is, the more general public opinion is in favour of having an impartial objective civil service.

**Q211 Chairman:** But having more special advisers, for example, by itself does not cause a difficulty?

**Lord Butler of Brockwell:** No.

**Q212 Chairman:** There used to be a standard argument amongst reformers like Christopher 30 years ago that we should have ministerial cabinets, politically appointed people around ministers. The argument about increasing special advisers in recent years makes it almost impossible to make a sensible case for something like that. Have not we got the whole thing out of perspective?

**Lord Butler of Brockwell:** I have always been in favour of special advisers; they add a great deal. I have not been in favour of the cabinet system because I think there is a danger that if a minister cocoons himself within a group of politically-appointed people, they by that cut themselves off from the other streams of advice they ought to be getting, both from civil servants and maybe from outside. I think a good minister keeps all those streams open but there is a definite place for the special adviser, just as for the civil servant.

**Q213 Chairman:** And you have come to believe that a Civil Service Act would help to put some lines in the sand here?

**Lord Butler of Brockwell:** Yes. I have been in favour of making a greater separation of the political special adviser from the Civil Service. I would not have them as temporary civil servants any more because I think it is an impossible situation for a permanent secretary, as it were, to be responsible for the disciplining of a special adviser. That has to be as a result of the relationship between the minister and the special adviser. I would bring short money into government and have ministers with a certain amount of short money that they can use to make temporary appointments of political supporters who help them in government, and who are kept separate from the civil servant.

**Q214 Chairman:** But if they run riot in the system then you have lost any ability to keep them within the net, and ministers who protect them surely we would be in deep trouble?

**Lord Butler of Brockwell:** Well, the minister has to be answerable for that but he is the only person who can be. I think it is very difficult for a permanent secretary to deal with a special adviser who runs riot.

**Q215 Chairman:** But if a minister is protecting a special adviser who is running riot who is his appointee, and you have dispensed with any other mechanism of dealing with it, do you not make matters worse rather than better?

**Lord Butler of Brockwell:** I think that when a special adviser runs riot, and we can think of some examples in the early part of the present government, that

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becomes a matter for public criticism which the minister has to answer for and in the end that is the way it is dealt with.

**Q216 Mr Prentice:** Since I have the three of you here, there are huge structural changes happening across government—police, health and so on. My question is about the configuration of central government. The Conservatives have set up this policy commission, and we know it is the view of William Hague, the former leader, that before Whitehall departments are reconfigured there should be parliamentary approval. That is the case in our sister Parliament in Ottawa. Do you think it should be left to the Executive, or should Parliament have a role in deciding whether Whitehall departments are reconfigured?

**Sir Christopher Foster:** I think the important point here with which I have a lot of sympathy is that there should be some parliamentary discussion of these matters; the extent to which agencies have been created, governments reconfigured by fiat. It is not the fiat I mind so much but very often more explanation was required, more discussion of the problems. Going right the way back so as to be non-controversial, I think the creation of huge ministries in the 1970s made it far harder for ministers to do their job, though there are lots of arguments on the other side. It is that kind of issue. If there is major reconfiguration of departments, again I would like to think there was more public discussion or creation of agencies. One of the things we have not talked about which I take very seriously is the whole issue of what powers and freedoms agencies have, and what discretion. To be short, I can see the case for government deciding how it wants to reconfigure itself, but I do think it should be prepared to defend it in more detail.

**Sir Nicholas Monck:** May I just say that the continuation of civil servants who do feel free to, as it were, tell the truth as they see it and to be constructive critics of proposals is an essential part of my proposal working. If everybody inside the machine was compliant because they were frightened about being moved to power stations or the equivalent, then part of the major teeth of the machine would have gone and you would not have this working-out and internal testing of proposals before they came to Parliament.

**Lord Butler of Brockwell:** Could I just draw your attention to Robin Mountfield's memorandum that he put to you which I thought put this case as well as certainly I felt I could have put it.

**Sir Nicholas Monck:** I agree.

**Q217 Chairman:** Absolutely. Just before we end, we started with this decline thesis, this deterioration in the quality of government. Just in a nutshell, if I said to you "Who is responsible? Is it ministers? Civil servants, or external forces over which we have no control?". Without giving us a long thesis, which would you opt for?

**Sir Christopher Foster:** My answer is it is a great many things.

**Lord Butler of Brockwell:** My answer is all three.

**Sir Nicholas Monck:** The same.

**Q218 David Heyes:** The Chairman is determined I am going to ask you about memoirs and I will, but I want to pick up on this better-the-governments issue first, if I may. Very briefly, is it the case that we should give up all hope of addressing the problems, as Sir Christopher describes, or start to produce some of the solutions that Sir Nick steers us towards under the present government? Is this a lost cause under New Labour and should we be looking for a change of government for the necessary changes to be brought about? I am guessing in Lord Butler's case that is the conclusion you have reached because you have thrown your lot in with the Tories on this, have you not?

**Lord Butler of Brockwell:** I am glad you have given me the chance to speak about that! I have not thrown my lot in with the Tories at all. I am willing to help any party who wants to address these problems. If the Labour Party set up a group that was addressing it I would be just as willing to help with that, or the Lib Dems. I just regard this, and I think we all do as retired civil servants, as part of our duty to help any party preparing for power. Nick did some training for the Labour Party before they came in; when I was Cabinet Secretary I briefed the Shadow Cabinet on these things, so I really do want to disclaim any political motive for doing this. If, however, the Conservatives committed themselves to some of these reforms we have been discussing today and I could have some influence on that, I would be delighted.

**Q219 David Heyes:** Should we abandon New Labour?

**Sir Nicholas Monck:** I would say no because I think there is a current of thinking where I think a lot of people are realising that mistakes have been made because preparation has been inadequate. There may be eventually a competition for clothes between the parties and I would not be surprised if that happened.

**Sir Christopher Foster:** We must not abandon it; the consequences would be too dreadful. You would continue to be discredited frequently; public trust would continue to decline: we need an effective government parliamentary process. I am sure there are many ways of achieving it, I am not talking about a return to the past. There are certain aspects of the past which are trying to be revived but I am absolutely sure that there is an awful lot of modernisation, technology even, needed to get this working properly again.

**Q220 David Heyes:** It would be wrong for us not take the opportunity of having you here to ask for some brief views on our other line of inquiry which is about political memoirs. We had amongst others Lord Lawson in front of us some months ago and he told us that he caused a certain amount of consternation in the publication of his memoirs and



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that you, Lord Butler, at the time had a serious look at the Radcliffe rules behind the scenes, and his view is that you did not believe at that time that any changes were necessary and did not make any. Are you sorry about that now?

**Lord Butler of Brockwell:** I saw that bit of evidence. I had not remembered and I still cannot that we had any particular look at it. It is true that his memoirs caused some consternation and they caused consternation because he was very frank about exchanges that had gone on not only with his political colleagues but with civil servants within the 15 years that Radcliffe said that ministers should not do that after the event. This was within the 15 years. But Radcliffe also said that in this respect the Cabinet Secretary's advice can only be advisory to ministers and they are free not to accept it if they wish, whereas official secrets or international relations they must accept, and Lord Lawson did not accept it. He made some modifications but he did not accept all of it. So what he did was strictly consistent with the Radcliffe rules. As I say, I cannot remember any exercise but it may well have been that we thought about tightening those up and decided that we could not. I think there has to be a self-denying ordinance about this. I have said over Chris Meyer's memoirs that I think the relationship between civil servants and ministers and ministers and civil servants should be a professional one, like that between a barrister and a client and a patient and doctor, and both sides should feel an obligation to be discreet about that so they can then have confidence in each other and people can have confidence in each other in the future.

**Q221 David Heyes:** But that "good chap" idea has broken down completely, has it not? Lawson looks very tame now compared with events in more recent times. Just how damaging is it, this breakdown of

trust, the rush from civil servants as well as ex-ministers to publish memoirs that are designed to attract the biggest price really for publication? How damaging is that?

**Lord Butler of Brockwell:** I think it is damaging to the sort of principles that we have been arguing for today, and I think the Chris Meyer book was damaging in that respect. He did not give away any great secrets but it was damaging to that confidence, so I am very sorry about it. You say it has broken down completely—well, none of us three have written our memoirs.

**Sir Nicholas Monck:** Not yet!

**Sir Christopher Foster:** I would agree absolutely with that but good may come of these things. The Lance Price book, for example, gave a horrifying picture of an operation at the heart of government which seemed to consider telling a truth of minimal importance and went on from one issue to another, the same sort of people, moving, leaping around. It may be misleading, it may be just a very bad book, but reading some of these books reinforces the case for change.

**Q222 Chairman:** The problem with that argument is this is justification for producing such books because they tell us things that we need to know, so it is all very confusing, is it not?

**Sir Christopher Foster:** I think we now know enough.

**Q223 Mr Prentice:** Did you think Christopher Meyer should lose his Knighthood because he did a dishonourable thing?

**Lord Butler of Brockwell:** No. There are rules about losing Knighthoods which depend upon being convicted for more than three months and I do not think what he did was bad enough to go to prison for three months.

**Chairman:** We have had a splendid session. Thank you very much indeed. It has been both enjoyable and extremely important. Thank you very much.

**Thursday 9 March 2006**

Members present:

Dr Tony Wright, in the Chair

Paul Flynn  
Julia Goldsworthy  
David Heyes  
Kelvin Hopkins

Mr Ian Liddell-Grainger  
Julie Morgan  
Mr Gordon Prentice  
Jenny Willott

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*Witnesses:* **Sir Michael Quinlan GCB, Sir David Omand GCB, Sir Nicholas Montagu KCB and Sir Robin Young KCB**, gave evidence.

**Q224 Chairman:** Can I call the Committee to order and welcome our witnesses this morning. We are very pleased to have you; it is very kind of you to come along. You are a very distinguished quartet; let me say, one of the most distinguished quartets we have had in front of us, of former senior civil servants. If I could think of the collective noun for distinguished former mandarins, this is the moment I would use it, but, as I cannot, I will simply welcome you. We hope that now that you are rather freer you may be able to talk rather more freely about all these issues that we are concerned with, particularly the relationship between ministers and civil servants. I do not know if any or all of you would like to say something, just quickly, by way of introduction?

**Sir Michael Quinlan:** No.

**Sir Robin Young:** No.

**Sir David Omand:** I have no opening statement, Chairman.

**Sir Nicholas Montagu:** Let us get on with the questioning.

**Q225 Chairman:** I can see who is taking over here. We will do our very best. Then let me retaliate. Sir Nicholas Montagu, who told me to get on with it just now, you have got a quotation here, one of the things that you have written, which says, and this could be our text to start with: "The dangers of a political Civil Service are too easily exaggerated by those who want to maintain the status quo." What do you mean by that?

**Sir Nicholas Montagu:** What I mean is that I think there has been a certain amount written and said about the changes that have taken place in the way that ministers take decisions and in the way they organise their advisers which suggest that there has been a real move towards politicising the Civil Service. I do not think, for example, that the greater use of special advisers is the politicisation of the Civil Service. I do not think that turning jobs which were done previously by civil servants into political appointments is, in itself, the politicisation of the Civil Service. I think that they are indicative of a government wanting to do business in a different way from what has been traditional. Where I see politicisation of the Civil Service coming in is where you get essentially a covert process, whereby, for example, an appointment

which is made ostensibly on the basis of fair and open competition is made on the basis of political considerations.

**Q226 Chairman:** That has got one text defended. Let me move now to Michael Quinlan, who has a contrary view of these things, as I understand it, from what you have been writing, because you talk about a move towards presidential government without the openness, checks and balances of that. Then you say that people are being displaced from the Service in favour of less professional and less accountable actors chosen neither by the electorate nor by an impartially-run process. Who are these people who are taking over?

**Sir Michael Quinlan:** I did not say it is taking place. I think there is disadvantage if it is taking place. I should remind the Committee that it is now 14 years since Her Majesty employed me directly. I am going essentially on what I read in the Hutton and Butler Reports and how business was done there. It seemed there the way business was done, the system and the openness and the involvement of the professional civil servants I had been used to in the past, I am not in the least arguing against the involvement of other sources of advice, I think it is highly salutary there should be other sources, but the impression I get from those reports, and from what I hear from such contacts as I have now in retirement, is that there is less weight given to the Civil Service side than there used to be in the past. No more than that.

**Q227 Chairman:** These people that you refer to, these less professional, less accountable people, chosen neither by the electorate nor by an impartially-run process, that is special advisers, is it?

**Sir Michael Quinlan:** I have worked with special advisers and I think they are an essential lubricant in the system, provided, I think, that they do not become gate-keepers who exclude advice from the more traditional sources, and provided also that their advice is transparent, it is open to inspection and to contestation, if you like, and I am not clear that those things are happening.

**Q228 Chairman:** Let us see if we can get a consensus on this; first of all, whether we think there has been broadly a process of politicisation

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going on, which is that the political element is encroaching on areas where it should not encroach, presumably? Do we all have the same view on this?

**Sir David Omand:** I said I would not make an opening statement but perhaps I could step back just slightly from the question and make a plea, first of all, for a sense of proportion about the risks of politicisation. In this period that we are talking about, and one distinguished ex-Cabinet Secretary was led by you into talking about it as a period in which government was less good than it might have been, this is also a period in which, since records began, the country has had an unparalleled period of economic success. That has not been achieved by corporate governance codes or by cabinet secretariat committees, so you just have to pause, I think, and think about the context. A second remark is that there have been—and this is using Michael's words—some significant errors, that is inevitable, governments do make errors, but also there has been very significant underperformance. What I hope your Committee will do is get to the roots of what lies behind that underperformance. I do not think the Civil Service has been politicised. I do not think really there is very much risk that it will be politicised, but there is a very considerable risk, in my view, that we will continue to have significant underperformance in administration. Michael has identified some of the factors which may lie behind that, there may well be others which we can explore, but I would not join a consensus to say that there is a great risk of politicisation, if you mean by that that the structures in the public service, which are there to preserve the neutrality of that service, are seriously at risk. I do not think they are.

**Q229 Chairman:** I think the argument, as heard from Sir Michael and from Lord Butler, to whom you referred, is that there is a connection—they did not put it quite like this but I am giving you my version of it—between politicisation and underperformance, insofar as politicisation leads to short cuts on the process side, which in turn then leads to poor decisions. Was not that what Butler told us, in his report?

**Sir David Omand:** What really I am inviting you to do though is put the label 'politicisation' to one side and look at what is underneath, which is not just about the part that special advisers play, it is about the proper relationships between the different parts of government, including the permanent part and the elected part, and about the role that secretaries of state play vis-à-vis the centre of government, the role that junior ministers play vis-à-vis special advisers, there are many different parts to this. Talking about politicisation raises old issues, about selection on merit, and so on; those are not the key issues, in my view.

**Sir Robin Young:** I think I agree with that. If that disagrees with your consensus, I agree with David. I think it would be true to say that we are the least politicised civil service probably in the whole world and we are well known for our integrity and

political neutrality, rightly, and I think other countries would be amazed to hear anyone suggest that there is a real danger of politicisation of the British Civil Service. If it was being said that it is politicisation which has led to underperformance then I would disagree strongly.

**Q230 Chairman:** Why do we have queues of former senior civil servants hanging around saying that had been being squeezed out of the policy process, that the traditional relationships are being disturbed in an unbalanced way, short cuts are being taken in policy-making and that special advisers are creating a source of disturbance inside the system? All this is in the atmosphere, is it not?

**Sir Robin Young:** It is, and I think it is a wrong impression and so I am quite glad you have invited some more recent ex-permanent secretaries. Maybe summers were perfect in those days too and MPs skated down the Thames to the House of Commons. I will argue that lots of things are changing for the better in the Civil Service. I would argue I left a Civil Service that was far better than the one I joined. We have managed to adapt successfully, I think, to the various things that are changing in the real world. It would be astonishing, in my view, if the sorts of cabinet committee structures and processes, which some of our colleagues are urging on you, which were fitting 30 years ago, were still suitable now, when we have got e-mail, the internet and 24-hour news. I am delighted to have had the opportunity at least to put a slightly more recent view to this and to try to put it in the perspective of the changing pace of life, the changing circumstances in which we are all working, the way in which all other organisations of similar size have had to change, to adapt to things like e-mail, the internet and 24-hour news. In my view, it would be absurd if the Civil Service had not had to adapt as well.

**Sir Nicholas Montagu:** I think there is a strong element of the supplanted spouse in this. You do not expect turkeys to say, after Christmas, that everything was wonderful. There is an element of that. Certainly, when Michael, Robin, David and I came into the Civil Service, a permanent secretary had this tremendously pivotal position vis-à-vis his, and unfortunately almost always it was his, secretary of state. There had been a tradition where all advice, not that long ago, had gone through the permanent secretary. The Civil Service that the four of us left had rightly been transformed. The permanent secretary was expected to do far more in the way of managing his, and unfortunately it was still mainly his, department, and governments had come in indicating that they wanted to do business in a different sort of way. And certainly the special adviser, there is no question of that, usurped some of the role of principal policy adviser to the secretary of state which traditionally used to be that of the permanent secretary. There is nothing wrong intrinsically in that, provided that it is supported by proper and minimally bureaucratic processes; in other words, it is desirable that the

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ministerial head of a department should have access to impartial, non-political, or apolitical, advice before taking a decision, as well as to political advice. It seems to me that if ministers want to bring people of like political opinion into the decision-making process, that is fine, that is something which should be regarded as time moving on, rather than as intrinsically bad and resulting in people looking back from nostalgia to a golden age of the permanent secretary as principal policy adviser.

**Sir David Omand:** Just to bring us back down to earth for a moment, there are 24 special advisers, at the last count, that I was aware of, working in 10 Downing Street, out of the 81-odd. Downing Street is a mixed economy; there are civil servants and there are special advisers. If you replaced those 24 special advisers with 24 bright, young, civil servants, you would still have a lot of the issues that I have about the way government is run. It is not about the fact that they are special advisers. If you look at the team which was around the Prime Minister in the events to which Lords Hutton and Butler were referring, this was not a team which was dominated by special advisers, this was a team which had the best professionals in the military and diplomatic fields around it. It is not about politicisation, it is about the concept of how good policy is made, without the separation between policy and delivery, which is the main besetting sin, or the unreality of regarding local government simply as a vehicle for efficient delivery of central objectives. There are deep systemic issues about how performance in government could be improved; some of those are about simple processes. I rather agree with what Michael and Robin Butler have said about the need for a bit more process, but that is not really at the heart of the problem.

**Q231 Chairman:** No. The Committee intends to turn its attention shortly to some of these performance issues but we want to clear the ground about some of the relationship issues which have dogged this discussion for a long time, to start with, if we can.

**Sir David Omand:** I am sorry to interrupt, Chairman. I ought to have declared perhaps a past interest, in that I sat on the Special Advisers Pay Committee and was therefore privy to all the job appraisals of what special advisers actually do. One thing that left me with was that it is quite dangerous to use the label 'special adviser' to cover what are entirely different kinds of people. The existence of those people does give rise to some difficult changes which are necessary in the relationships with civil servants, and they are doing rather different jobs. Very, very briefly, you have experts, and the public service is very lucky to have the services of a number of experts recruited through that special adviser route, who are acknowledged experts but they have political affiliations; that is the route to get them in. That has never caused a problem, as far as I am aware.

You have another group, media minders and media assistants, and in the old days parliamentary private secretaries would have done that, because in the old days it was the tea room of your House that mattered; now it is not Westminster, it is Wapping. Ministers have to have somebody who can go and pad the corridors of the newspapers and put their side of the story in a political sense. There is nothing wrong with that, and it is enormously helpful to the Government Information Service because it does not lead to pressure on them to become political. There is no pressure then on the official machine to get involved in that kind of work. The third group is the Number 10 special advisers, 24-odd, another nine in the Treasury, who are bright, young, policy-makers, and there are issues there about how those groups interrelate. Then finally you have a smaller number, who their ministers hope will act as *chefs de cabinet* and progress-chasers, general chiefs of staff. I am not talking about Jonathan Powell's role, which is *sui generis*, but actually in Whitehall. There, there are very significant risks of upsetting proper relationships with the official machine and relationships between junior ministers and the secretary of state, if a special adviser actually is being used as a *chef de cabinet*. There are thus a number of issues which come out of looking at special advisers and from trying to clear the ground.

**Q232 Chairman:** Just on that, as you have raised it, there are two issues, in particular, which have arisen around special advisers, which need to be resolved, I think. One is that there is something unsatisfactory, it is said to us, at the moment, about who can manage and who can discipline them, what are the lines of responsibility, and, although being temporary civil servants, they fall outside the normal Civil Service line management. Could that be corrected, is one question? The second one is, would it not be better if we did not pretend that really they were civil servants and actually we paid them, for example, through the short money, so that they came from a different source, they were demonstrably different kinds of people? Would that be helpful?

**Sir David Omand:** To answer the second question first, I would need to think quite hard about the balance of advantage. If you make them temporary civil servants, you are drawing them into a machine with an expectation that they will get training, which they will not otherwise do or receive, in the values of the Service of which they are temporary members, and about the informal relationships, informal rather than formal ones, with the permanent secretary and senior officials, it puts them within a framework. If you had them entirely outside a framework, as entirely political animals, then I think it would be harder for a permanent secretary to deal with the very occasional problem that might arise. When I left the Service, it was still the responsibility of the employing secretary of state to look after the discipline of the special advisers that they had

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recruited. I think that is still the case; certainly that was the case. I think that is right. In the end, it was the secretary of state who chose the individual; if something has gone wrong or there has been some bad behaviour, so very rarely but if it happens, I think you should look to that minister, in the first instance, to sort it. If it cannot be sorted then it is going to escalate and the Cabinet Secretary and the Prime Minister are going to have to look at it, and in the end the Prime Minister could withdraw the consent he gave to the appointment and the appointment would end.

**Q233 Mr Liddell-Grainger:** I am intrigued by what happened yesterday. Have we seen the first removal of a permanent secretary for failure, in the form of Nigel Crisp? Has he been shifted, has he been got rid of because he could not deliver?

**Sir David Omand:** I am not in a position to say. I have no idea what the whole background is and it would be quite wrong to comment.

**Q234 Mr Liddell-Grainger:** What is your feeling about it; you are not in the Civil Service now, any of you?

**Sir David Omand:** I will give you just one feeling. What is at issue, as I understand it, from the media, and I have no other source of knowledge on this, is the responsibilities that the permanent head of a department holds, as the principal accounting officer, for ensuring the good value for money from the resources you vote and that the budget is controlled and that your authority to spend is not overspent. If that goes seriously awry then the civil servant is personally accountable. Had it been a debate not about money but over some aspect of policy then it would be a very much more complicated case. Really I do not want to be interpreted as confirming that I think that he was removed, because I just do not know the circumstances.

**Q235 Mr Liddell-Grainger:** Are we seeing a fundamental shift, where he has gone, he has gone early, and that does not normally happen, there was a slight deficit in the NHS, just a tad, so Ian Carruthers, God help us, because I know him quite well, is being promoted? He has been got rid of?

**Sir David Omand:** I am sure you will be able to find other examples where people go early. It does not tend to get quite the same publicity.

**Q236 Mr Liddell-Grainger:** A permanent secretary? Come on. Think back?

**Sir Nicholas Montagu:** I will give you an example, because it was public knowledge and he said so himself: Sir Peter Kemp, sacked from the Cabinet Office under Margaret Thatcher.

**Q237 Mr Liddell-Grainger:** So it does happen?

**Sir Nicholas Montagu:** Yes.

**Q238 Mr Liddell-Grainger:** Sir Gus O'Donnell is saying there should be more corporate responsibility amongst senior civil servants. Are we not going to have other examples; is this now going to be the norm, where ministers think "Crikey, there's a deficit," and actually what they will do is say, "Let's get rid of the perm. sec., let's send him down the road to the Inland Revenue," or whatever? Is this going to start happening?

**Sir Nicholas Montagu:** I think probably I should confront that last bit. I can think of only one example of somebody who was sent to run the Inland Revenue as a punishment. He made a joke about a Prime Minister in her hearing and I think she regarded it as Siberia; in fact, it was Paradise Island, but she did not realise that.

**Sir David Omand:** You used the word collective there and, as I interpret what Gus is trying to do, it is to get the senior leadership of the Service to recognise that together they have to make a difference and they have to support each other. It is not saying that, formally, there is any change in the responsibilities that those individuals have to their secretaries of state.

**Q239 Mr Liddell-Grainger:** One of the reasons I am going to ask this is that we have seen a vast explosion within Number 10 of policy groups: blue-sky thinking, direct risk groups. We worked out, I think, that there were 78 members of the policy group, I cannot remember, it is an enormous amount; it is under 100. That is a fundamental shift in central control of the organisation. You say that you do not see politicisation. I beg to disagree, because I think Number 10, the executive, now has a massive machine.

**Sir David Omand:** That is not politicisation. That is a real threat to the way government works, but it is not politicisation.

**Q240 Mr Liddell-Grainger:** Alright, but it is using it for politics, political ends?

**Sir David Omand:** It is taking it away from one group of politicians, the secretaries of state, and putting it in another place.

**Q241 Mr Liddell-Grainger:** Also we have seen Lord Birt, who did a job within government, nobody quite understood what but yet he crossed all lines, he went in and out of every department, looking at something. Surely, you are seeing interference from the highest level within all departments of the Civil Service?

**Sir Nicholas Montagu:** Do not confuse centralisation with politicisation. Yes, it is certainly true that in recent years we have seen the kind of shift of power that David mentioned from departments towards the centre, but that does not result in the politicisation of the Civil Service, it is something quite different. On your wider point, I think you have seen increasingly, over the last nine years or so, an emphasis on the role of permanent secretaries as managers and as deliverers. The rhetoric of delivery is used, in my view sometimes inappropriately, all

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over government. In a way, it seems to me that has resulted in a polarisation of what, in some sense, was already a traditional role, that ministers set the parameters of policy and permanent secretaries manage and lead departments to implement that policy in the widest sense. Accompanying that polarisation has been a much sharper focus on the accountability of individual permanent secretaries, and this has been manifested in all sorts of ways, not just by the Government but, for example, the ways in which departmental select committees operate. What you are describing is, if you like, the evolution of that process of a sharper accountability of the permanent secretaries, a determination to make it actually mean something, coupled with the emphasis on delivery.

**Q242 Mr Liddell-Grainger:** Can I take one example: targets. We have had target upon target upon target. The moment it changed the blame was shifted. That is one example. Surely the politicians now are going to blame the non-delivery, or the non-ability to deliver, on the senior civil servants and then use that as an excuse to say, "Right; it's their problem, not ours"?

**Sir David Omand:** A preliminary remark, if I may, which is to say that I take my share of responsibility for not having done everything you told us, and to say that there has to be *mea culpa*, because we were not in very good shape, in the late 1990s, as a Service, in terms of skills for actually project-managing and delivering. That said, there has been a gigantic category error of thinking that you can put policy and delivery in separate boxes and then assuming that the policy is a political world and the delivery is just people you hire in to do the delivery. Policy goes all the way down, there are policies in Her Majesty's Prisons for what time breakfast is served, and a policy is not something which is confined to a little box in the centre. Good policies are deliverable policies. The question, which I would put in any code which might be drawn up, is then who was in the room when the decision was taken, and if there was not a key representative of the deliverer in the room when the decision was taken the chances are it was not a very good decision.

**Q243 Chairman:** Sir Michael was shaking his head in dissent then?

**Sir Michael Quinlan:** I was going to disagree slightly with Nick Montagu, but may I say that I do not believe that permanent secretaries should be regarded as unsackable, and they have not been regarded as unsackable. It has happened rarely and I hope that is something to be welcomed rather than deplored. The point I wanted to recalibrate, as compared with what Nick said, is this, that I do not believe you can, or should attempt to, differentiate, and here I am with David, between policy and administration or organisation, in the sense that one is the minister's business and the other is the permanent secretary's. It may be that a particular minister, and, if I may say so, they come in all sorts of shapes and sizes, with different interests, different

capabilities, wants to leave administration to the permanent secretary; it is still the minister's responsibility. For example, when I was away from the Ministry of Defence, Mr Heseltine did very extensive things, and they were Mr Heseltine's, as David will know, to the organisation and the administration of the department. It would have been wholly inappropriate for a permanent secretary at the time to say, "Sorry, Secretary of State, that's not your business, it's mine." All of it is the minister's business, and if it were the case, and I have no idea whether it is, that a particular short-touring of a permanent secretary were the result of a Minister trying to put distance between himself and the way a department was run, I would think that was inappropriate.

**Sir David Omand:** Interestingly, Mr Heseltine, in deciding that major change was needed, with the Permanent Secretary appointed a small team of civil servants and military officers, and that worked, on reorganisation, so those who had to carry out the tasks of the Ministry were deeply engaged in the work of actually putting it all together.

**Q244 Chairman:** When Nick Montagu says that this corporate governance code is wrong, because it flags up ministers as being involved too centrally in the running of departments, given that fact, that you do not disagree with each other but you simply recalibrate each other's remarks, you do not agree with that, do you?

**Sir David Omand:** I think the idea of drawing corporate governance and codes into all of this is a huge muddle and I would strongly advise caution before going down that route, for reasons that we could expand. Michael is right, right in law and right in practice, and this is the Carltona principle<sup>1</sup>, which is the legal principle on which all our administration is founded, that the minister is responsible for the acts of officials done with the authority which actually only the minister has and gives to officials to act on his behalf, so you cannot separate them out in that sense, but a wise minister does not interfere beyond their competence.

**Q245 Julia Goldsworthy:** On that basis, I am not really sure why Nigel Crisp resigned, if the deficits were not his responsibility, or would they be the responsibility of the Minister, for the structural changes?

**Sir David Omand:** In a sense, this is precisely the point that I am making. Because it was a financial matter, it was a matter in which, as accounting officer, he had, from your House specifically, through the Exchequer and Audit Act, a specific personal responsibility. Had it been a policy disagreement then the case, in a sense, would have been more interesting.

**Q246 Julia Goldsworthy:** Was that in his role as Chief Executive of the NHS or Permanent Secretary?

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<sup>1</sup> *Note by witness:* See *Carltona Ltd v Commissioners of Works* [1948] 2 All ER 560.

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**Sir David Omand:** It is his role as accounting officer. He was both head of the department and Chief Executive, but he was the accounting officer for all the expenditure of the National Health Service, which of course is an enormous responsibility.

**Q247 Chairman:** The NHS has had financial problems for as long as any of us can remember, but it has not produced resignations of people at the top, has it, certainly not permanent secretaries?

**Sir David Omand:** No, and indeed I can think of other ministries, including some I have been in, where financial control at times has been difficult to maintain. I cannot speak for why he has resigned because, as I say, I have not talked to him about it and really I do not know the background and cannot speculate.

**Q248 Chairman:** Is there some confusion about having someone both as Permanent Secretary and Chief Executive?

**Sir David Omand:** I do not think it is confusion but I think it must be an impossible job.

**Q249 Julia Goldsworthy:** Is there a conflict there?

**Sir David Omand:** No, I do not think there is a conflict necessarily, and you could structure the organisation underneath you in such a way as to support you properly, but just the sheer weight of work in trying to both jobs, I would have said, was well nigh impossible.

**Q250 Julia Goldsworthy:** Changing the subject slightly, the other area which struck me as quite interesting is the parts of government that have been depoliticised more recently. If you look at the National Institute for Clinical Excellence and the transfer of interest rate setting to the Monetary Policy Committee, in these areas of depoliticisation, I wonder if you think that has changed the role and the relationship between ministers and civil servants, because what is apolitical has been siphoned off?

**Sir David Omand:** It is a fascinating phenomenon. It has been extremely successful; if you look at the Food Standards Agency or the Bank of England Monetary Committee, you cannot say that these moves have not been actually really very successful. The underlying reason for them, I suspect, is because of the lack of trust in the political system and in politicians. Therefore, to get credibility with the markets or get credibility with the public in food safety, you put the problem offshore and you put it in the hands of people who are thought not to be politicians. Of course, this distances the decision-making from the very people who are supposed to be the tribunes of the people, so in a democratic sense I worry about putting all of this offshore. It is about trust, I think.

**Q251 Julia Goldsworthy:** How has that changed the relationship then, do you think, between ministers and civil servants? It leaves the majority of the political decisions back with ministers, and if the

Civil Service has to be apolitical and if the apolitical stuff is being siphoned off then what is left to do, how does the relationship change, do you think?

**Sir Michael Quinlan:** Chairman, we are stumbling constantly over this word “political” and politicisation; are we talking about party politicisation? The Civil Service is highly political in many important respects, in that we have to be alert to political realities, realities imposed, for example, by your House and the other House, and we have to be political in the sense that, once the people have put in power a particular administration, we are trying to do the very best we can to carry out what they wish to do. That is a political activity, if you like. The worry, which I think is now overdone, as has been said earlier, is that the Civil Service is getting party political. I do not think that is happening.

**Sir David Omand:** The test of that is, which the Civil Service Code brings out, were there to be a change to a government of a different complexion, would that incoming government feel it necessary to replace the senior civil servants and would the senior civil servants feel it necessary to resign because they would not be able to carry out, in conscience, the policies of the incoming government. We are a very long way away from that position. I just do not think that is a real problem.

**Sir Michael Quinlan:** To come back to Ms Goldsworthy’s point, it seems to me that, on some of these outfits, like NICE<sup>2</sup>, a judgment has been made that the advantages of removing them from party political pressures, or the pressures of Parliament, outweigh those of losing a certain kind of accountability. There are different models of that. The Health and Safety Executive, with which I used to have some involvement, is another model which is at least distanced if not entirely removed from the day-to-day involvement of ministers.

**Q252 Mr Prentice:** Should Sir Michael Jay be sacked?

**Sir David Omand:** No.

**Q253 Mr Prentice:** Do you want to tell me why not? You saw the piece in *The Times* today, which referred the reader to the Report of the Foreign Affairs Select Committee, and apparently the Foreign Office brought in Collinson Grant in 2004 to examine its, that is the Department, efficiency, effectiveness and control of costs. The Foreign Affairs Committee concluded that Sir Michael Jay is part of the problem. Under his stewardship the Collinson Grant report was originally suppressed, they criticised the management that he was supposed to lead, he acquiesced in a situation where some senior managers failed to collaborate with Collinson Grant’s proper inquiries, his senior managers did not contest or seek to correct, prior to publication, errors which they now allege are contained in the report. This is damning stuff, and it goes to the heart of his role as accounting officer, something that

<sup>2</sup> National Institute for Clinical Excellence.

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David Omand spoke about earlier in relation to Nigel Crisp. I put the question again: should Michael Jay be sacked?

**Sir David Omand:** That is not a proper question to ask me because I have not read that report and I have no idea of the facts behind it. Just to comment that there are two routes by which Parliament, it seems to me, very properly, can look at this. One is the Public Accounts Committee, because we are talking about the administration of a department, and to call in the Accounting Officer and find out really what lies behind these reports. The other is for the Select Committee to call in the Secretary of State, who is, as it were, the employer of that permanent secretary, and that is where the main thrust of this questioning should go: is the Secretary of State satisfied with the state of the Foreign Office and its administration and the service that it delivers to British citizens overseas and to the construction of policy, and if not why not.

**Q254 Mr Prentice:** So the Foreign Secretary should be held responsible, or accountable, for the actions of his permanent secretary in this respect?

**Sir David Omand:** If we are talking about the delivery of the services, if we are talking about some specific problems with the management of the budget then that is probably a matter that the Public Accounts Committee could legitimately look directly to the permanent secretary for.

**Sir Michael Quinlan:** The secretary of state is always accountable, in the sense that it is his responsibility to give an account of what is going on within his department. He has the power to give direction on any matter within the department, with one or two small, conventional exceptions. A permanent secretary should not be totally exempt from sacking but, if I may say also, respectfully, they should not be sacked by select committees.

**Q255 Mr Prentice:** Select committees did not sack Nigel Crisp, did they?

**Sir Michael Quinlan:** No.

**Q256 Mr Prentice:** I am interested in why Sir Nigel Crisp went. Was it because of the financial overspend in the NHS, or was it because of a series of policy blunders? You all read the newspapers and I am not springing this question on you, but in June last year Sir Nigel sent out a letter to the NHS across the land, and I raised this at the last meeting of this Committee, saying that a quarter of a million employees of the NHS—chiropractors, physiotherapists, midwives, people like that—were going to move out of the NHS as an employer and into the private sector, “not for profit” or voluntary sectors. That letter went out from Sir Nigel Crisp and the Government decided to change the policy in November. Where does responsibility lie for that? Does the Secretary of State bear any responsibility at all for that colossal policy blunder? That is question one. Question two: how are these policies tested within the Civil Service; is it really just the old silos, that the Department of Health

decides what the policy is and everyone else goes along with it, or is there some collective examination of these policies, testing them to destruction almost, before they enter into the public domain?

**Sir Michael Quinlan:** Two separate questions, I think. I come back again, the secretary of state is accountable to Parliament, and the permanent secretary, apart from the special case of the Accounting Officer and propriety of expenditure, is accountable to the secretary of state. On the matter of Sir Nigel Crisp’s situation, I do not think we can possibly comment, or certainly I would not dream of commenting.

**Q257 Mr Prentice:** You can comment on the general point that I am making, that when you get hugely controversial policies—

**Sir Michael Quinlan:** That is the process. I have no idea what process was or was not gone through, but I do believe, and indeed I have said this, that process matters greatly and some of what was disclosed in the Hutton and Butler Reports suggests that process has not been working as well as it ought to.

**Sir David Omand:** Again, just looking at process, because I do not know the facts of that case, you would expect the permanent secretary, the permanent head of a department or organisation, to be the one communicating managerial decisions to the people who are employed in that department. I have had to do that on many occasions, and sometimes it is good news for them and sometimes it is bad news for them, but if you are the leader of that organisation it is your responsibility to stand up and be counted. I would expect him, in his leadership role, particularly in relation to the NHS, to do that. The policies that he is enumerating are the policies of the Government, they are the policies that he will have agreed with his secretary of state. If the Government then changes its mind and decides that the policy is to be reversed, and this does happen sometimes, that is the responsibility again of Government and the secretary of state.

**Q258 Mr Prentice:** Are you satisfied with the mechanisms within central government to test the robustness of policies?

**Sir David Omand:** No, I am not.

**Q259 Mr Prentice:** You are not? That is what I am trying to get at.

**Sir David Omand:** That is the answer to that. It comes back to what I was saying about whether you can construct sound policies that are going to impact on society without a great deal of work on the deliverability of those policies, bringing into the fold those who have to deliver them. Having been brought up, as Michael was, in the Ministry of Defence, it is inconceivable that Her Majesty’s Forces would be sent off on an overseas deployment without the Chiefs of Staff sitting down with the senior civilian advisers, working out what



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it was going to cost, how long it would take, what the casualties may be, what were the risks and discussing those parameters with the Government. Then, when everyone was satisfied it was doable, you would get 110% performance out of the military and they would do it. I think that is a very good model.

**Q260 Mr Prentice:** Legislation these days, on the face of a bill it says, "This legislation is complying with the Human Rights Act," or something like that, signed off by the secretary of state. I would like to see the same thing happen with major policy proposals, signed off by secretaries of state; this Education Bill.

**Sir David Omand:** Before I retired, we spent two years working on a major risk management exercise, it was reported to the House and in fact made public. An important part of that was setting up process, mechanisms, whereby secretaries of state who wanted to come forward with major proposals would actually have to demonstrate deliverability and would actually have to assess risk, in a very methodical way, as major companies do. We devised methodologies for this, with the Office of Government Commerce and the gateway process. I am more confident than I would have been a couple of years ago that this lesson has been learned. There are some processes being put in place, but it is still the case that you can wake up and discover that policy has suddenly been made and announced with timescales before those who really know how to do it have been called into the loop.

**Q261 Julia Goldsworthy:** Do you think those gateway reviews should be published, because they are not at present?

**Sir David Omand:** I think that is a real balance of advantage to be considered here. I was gatewayed myself on several occasions, on projects that I had a responsibility for, which were difficult. The process was hugely advantageous because it was private, and I knew, for example, that Downing Street would not be seeing the results of this, and certainly it would not get published. What that did was encourage people to tell the truth, and one of the besetting problems of modern government is that people do not tell the truth to each other about how hard things are, how difficult they are and how long they are going to take. You have the gateway team coming in and they are outside experts, they have done all this before, they know what they are talking about and they go through and they talk and the team talk and they tell the truth, "Well, actually we're rather worried, because we're not sure about this particular policy, what we're trying to do," or they might say, "We don't have the skills." Rather than finding, as so often happens when you have these reviews, people put up a defensive front and say, "Of course it's all alright; it's my project and it's going marvellously," they unpack the real problems. What I have found, going through this process, at the end, is hugely

greater confidence that we have actually achieved the objective, because we knew where the problems with the project were likely to be. You go and publish those reviews and I can guarantee—guarantee—that defensiveness will creep in and that people will say, "Well, there is this problem, but the last thing we want to do is air that." There is a trade-off here; it is really worth thinking about.

**Q262 Julia Goldsworthy:** A red light on a gateway review does not mean then that policy process stops, does it?

**Sir David Omand:** If you get a red, you are not going to get through the next gateway, which means your project effectively is on hold until you can show that you have put right the problems, which may be skills shortages, it may be the organisation of the programme, it may be the relationship with the customers who are going to use it eventually. All sorts of things could cause a red light.

**Q263 Julia Goldsworthy:** With something like identity cards, where there may have been an amber light, it is very difficult for parliamentarians to scrutinise the legislation if they are not fully aware of what the pitfalls may be which may have been expressed privately?

**Sir David Omand:** Yes, but you can get at that without saying formally that the private advice to the owner of that project, the senior official running that project, should be published. You have every opportunity to call for evidence and to explore in evidence-taking what is meant by an amber, but I think you just ought to leave enough room for truth-telling between experts, so that you encourage that culture.

**Sir Michael Quinlan:** Like the Attorney General's advice, Chairman, if I may say so.

**Chairman:** Do not take us there.

**Q264 Jenny Willott:** I want to ask questions in a couple of areas about the role of permanent secretaries and power and responsibility, and so on. Given that we have been hearing quite a lot from other witnesses about the fact that power and influence increasingly are being centralised in Downing Street, either in Number 10 or 11, depending on different people's views, and the fact that policy advice is being given increasingly by special advisers rather than by permanent secretaries and some people seem to think there is a bit more of a barrier between permanent secretaries and secretaries of state, do you feel that permanent secretaries still have the power and the control that they need to be able to run their departments?

**Sir David Omand:** Can I add just one thought, before others comment. I would not personalise this just to permanent secretaries. If you take a very large department, like Defence, for example, there is a senior, director-general level official whose full-time job is defence policy, and that individual works very directly with the secretary of state and

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always has done. The permanent secretary, who would have to spend a great deal of time on this enormous machine and its management, would come in when the issues were big enough on policy. If I may, I would broaden it to ask is there the right kind of interaction between the senior officials of the department, and indeed some of the more junior officials who are experts in the area, in the policy-making process? I think I would like to see a little more readiness to bring in officials at very early stages of policy creation. You are right, by the way, I think, to mention Number 11 as well as Number 10. This is not just a prime ministerial phenomenon.

**Sir Robin Young:** It is difficult to generalise, is it not, but in departments I have been in, in DCMS and DTI, there was absolutely no issue between special advisers in the department and between ministers getting the advice from officials, at all levels, permanent secretary included, absolutely no issue, so it is quite dangerous to generalise from a few well-known cases and then say the whole thing is bad.

**Jenny Willott:** I was not suggesting that.

**Sir Robin Young:** No, but others have. I am not talking of people in this room. In my view, in most departments, the relationship is absolutely excellent between special advisers and officials. If you ask most ministers, I think they are pretty happy with the advice they are getting from officials and the availability of officials to give them advice at all stages, not just secretary of state, I mean ministers of state and parliamentary secretaries as well, who are sometimes left out of this equation, it seems to me. You could test this, if you wanted to, because my last special advisers included Kitty Usher and Andy Burnham, so you can ask them what it was like to be a special adviser in the departments where I was permanent secretary. It would be interesting to hear what they say, actually. On centralisation, personally I think whichever government was in power now would want a stronger centre within Whitehall, because there was a danger in the past of the Civil Service being baronial silos in government departments. Most analysts now surely would say that most topics need cross-departmental working and it can no longer be delegated down the line in the old way, as they used to, down to baronial satrapies in departments, who came to the centre only when they wanted to clear a White Paper, or something. I think it is a very old-fashioned way of looking at government. Most issues now are subject much more to inter-agency approaches, cross-departmental approaches, breaking down old-fashioned barriers. If you accept that analysis, you have to have some centre, or somewhere and not in a department, drawing things together. In my view, most organisations, from Tesco to Birmingham City Council, are having exactly that discussion currently, about where the power, the centre, lies and what can be delegated in the old way down to more local delivery vehicles. There is nothing wrong with that, it seems to me. For some reason or other, within this Government, there is no open

discussion about it, either it happens or does not happen and then is complained about behind the scenes. Actually, there is nothing wrong with having a discussion about what should be done in the centre and in a cross-departmental, inter-agency way and what should be delegated to departments. It is a perfectly reasonable debate to have, which is being had in every other organisation of a large size. We should be proud that we are having one and it should be opened up, rather than snide remarks about a strong centre, though not from you personally. A strong centre is necessary, in my view, to drive through a cross-departmental approach.

**Sir Michael Quinlan:** Though, as I said, I am speaking from experience a long time ago, I venture to think that we should not be too breast-beating about this. In my observation of other countries, and I have had some experience of that, the British system is better than most at getting and keeping its act together across departments, partly because of the existence of a single, and in some ways quite self-confident, civil service, with the ability to move people around the system so that there is trust and a feeling of collegiality across the Service. The problem arises, I think, because modern government, in a state like ours, is an immensely complicated business. You have got to slice it up in some way, if you are going to define responsibility at all; the trouble is, wherever you slice it you will find there is an awkward interface and the question then is how do you get machinery to ensure that it is not just a set of silos. I am all in favour of having a strong centre, as long as it does not mean that responsibility is leached out from all the particular secretaries of state. The impression I get, and I do not claim it is more than an impression, is that there has been a certain removal of effective responsibility and independence from departments and secretaries of state through the way the centre has operated.

**Sir David Omand:** I think that is my perspective.

**Sir Nicholas Montagu:** I think the essential point here is that there is no single, ideal form of government or ideal pattern. A lot of the problem stems, I believe, from people who have enjoyed a previous style or form of government thinking that any change from it must be for the worse. From the Civil Service's point of view, the Civil Service is there to serve the government of the day, and that, to me, does not mean simply in terms of its policies but also in terms of how it wishes to do business. The effective civil servant, whether it is a permanent secretary or a senior official, or whoever, will understand, given the government's preferences, to whom they need to talk, where the influences are, whom they need to bring together, whom they need to make sure understands the particular departmental constraints. Let me give you a concrete example, because I hope this is supportive of what Robin was saying, it also goes from experience that he and I had. I headed the Economic and Domestic Secretariat of the Cabinet Office, very briefly, immediately after the 1997

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election and Robin was my successor. It is undoubtedly true that when the new Labour government came in there was a shift from what had been traditionally the Cabinet Office's role towards Number 10. That is fine, that is entirely within the Prime Minister's prerogative to decide how he wants to do business. As a result of that, I think it is fair to say that both Robin and I saw it as our job to keep in much closer contact with the Head of the Prime Minister's Policy Unit than perhaps our predecessors would have chosen to do. I much prefer to think in terms not of patterns of government but almost of, if you like, conditions that need to be satisfied, in order for decisions, and therefore government, to be, in very heavy quotes, "good".

**Q265 Jenny Willott:** Given that there are elements of responsibility and power being centralised, particularly with regard to things like communications and media control, and so on, are there any issues around still having clear lines of responsibility for civil servants through the secretary of state, or does the fact that elements of the role are being pulled over into Downing Street have an impact on the lines of responsibility for civil servants?

**Sir Robin Young:** We work quite carefully to get it right. When the recent change to the Information Service took place, there is now a Head of Profession in the centre, who is, as it were, professional head of the Information Service's folk, but the actual people in your department work for you, so the Head of the DTI Press Office worked for me but the Head of Profession was in the centre. Of course, you are right, that there always have been efforts from the centre to co-ordinate announcements, some successful, some not, and that has been around for as long as I can remember, so I think it is okay. You are right, it has to be testable, and there has always been a slight delicacy as to who is going to announce what, when, under governments of all colours, for as long as I can remember. I think the arrangements we have got for them are workable, head of profession and then a direct reporting line to the permanent secretary and secretary of state within the department; as always, they work better in some cases than in others.

**Sir Michael Quinlan:** That operates across the Civil Service as a whole. The Head of the Civil Service is not the line manager of permanent secretaries, he is responsible for competence and standards and the disposition of resources, but the permanent secretary answers not to him or to Number 10, he answers to his secretary of state.

**Q266 Jenny Willott:** Is that still clear enough?

**Sir Michael Quinlan:** Occasionally I have heard suggestions that it is not quite as clear as it used to be, but that is just gossip.

**Q267 Jenny Willott:** Just a final area, which is the increasing tendency to bring in people from outside, particularly in some of the more senior appointments. I think it is something like only 40% of the senior level posts in the last year have gone to internal candidates. Two questions. Do you think, in the long term, that is likely to have an impact on recruitment and making the Civil Service an attractive proposition for people coming in lower down, if they feel that they are not going to be as likely to be able to progress to the top; do you think it will have an impact on the standard of recruitment of civil servants? The second area is do you think it has a noticeable impact on the ability of the Civil Service to deliver, either for good or for ill, because of bringing in new skills, different perspectives, and so on? There has been some suggestion by others that actually one of the good things about having internal candidates being promoted throughout is that by the time they are at the top they understand how the system works, they know the vagaries, they know what you can and cannot achieve. Do you feel that there are issues for the ability of elements of the Civil Service actually to be able to deliver what is expected of them, if you have people coming in from outside who do not quite understand the system and do not know what is realistic and what is not?

**Sir Nicholas Montagu:** That is a really difficult one. In particular, on the first issue that you raise, actually it has been—and David will forgive my saying this—a worry of mine, ever since the group that he chaired in the wake of the 1999 White Paper looking at bringing in talent as well as bringing it on. I think that the Civil Service, in many ways, is no different from other big organisations, which tend, on the whole, as you are implying, to want to develop their own talent, to provide people coming in with the prospect of a career, with an implicit promise that if they are good enough they can get to the top. I am not saying that we should not bring in outsiders. What I am saying is that I think over the years there has been an unfortunate tendency to behave as though bringing in outsiders is intrinsically virtuous, and if there is, if you like, that implicit preference for outsiders, then I have always been worried that it would have the effect that you fear on recruiting people. If they know that they will get so far but that, other things being equal, at such and such a level, somebody will come in from outside, then I think that could well influence their decision. There have been similar decisions taken within the Civil Service over recent years, about which I have had similar misgivings. That is not to say that there are not a number of posts where I think it makes sense to have an open competition, particularly, again as many organisations would do, if there is a skills shortage in the Civil Service. Very obvious examples are finance directors with proper accountancy and finance qualifications, people with strong project management experience and chief information officers. I do worry about the "outside is good" philosophy insidiously getting embedded.

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**Sir David Omand:** Can I declare an interest, since I chaired the “bringing in and bringing on talent” group, where it was part of a Civil Service reform programme. I could not disagree more with Nick, I am afraid.

**Chairman:** This is not just recalibration, this is rephrasing.

**Sir David Omand:** I have spent the last two days at the National School of Government, coaching a group of the brightest; they are every bit as good as previous generations. The Civil Service is still number two, at the moment, in terms of graduate choice. There is no evidence at all that people are not wanting to—

**Q268 Jenny Willott:** What is at number one?

**Sir David Omand:** I think it was the Diplomatic Service, or maybe it is private sector now; but the Civil Service is number two. There is no evidence that this is having an effect. The interesting thing about talking to these young people, these are the bright people coming through in their mid-career, is that they do not think they will spend all their time in the Senior Civil Service necessarily, but they all went to get to the top of the Service. They are deeply committed to the values of the Service and its ethos and to public service, but they can see themselves being chief executive of a local authority, they can see themselves working in the NHS, depending on their backgrounds, so their career patterns are going to be more varied. With the influx of talent, I think the nation should be very grateful that a lot of very talented people have chosen to come into the public service. Where I would agree with Nick though is that we have to be careful about what the impact of this is, if we are bringing in, as we have been, fairly large numbers of people into significant positions of responsibility who have not grown up with the ethos of public service. I think there is recognition now that more effort should be made, and more attention being given, to how you induct them and how you make it very clear that there are values to which they have to subscribe if they are going to be members of the public service; so I am an optimist. Another point which might be worth registering is that, at the most senior levels, so we are talking about directors-general or permanent secretaries, where there have been open competitions and very good people have come in, there is a distinction to be made between those posts where a background in commerce may well be a very significant attribute and those posts where actually the professional skill that is being sought is knowledge of how government works, and that is the case with most departments. I would say that, if there are worries in the career planning and management of senior civil servants about whether there are going to be enough people of the right type to fill certain kinds of jobs, the time to act is a little earlier to bring people in, try them out in the Service, make sure they really understand how government works. The professional skill that I and my colleagues have is being able to operate on the

interface between the political and the executive, knowing how government works and therefore enabling it to work more effectively. With Nick, I would be a little careful about which posts I competed outside, unless there were specific needs to bring in skills which I knew did not exist sufficiently inside. There are some posts, for example, in defence procurement, and so on, where traditionally in the past we have had very successful outside appointments.

**Sir Michael Quinlan:** I agree essentially with what David has said. It seems to me it is a matter of proportion. The Civil Service is well used to having folk coming from outside, particularly, for example, during the war and its aftermath, a very large number of people came in and stayed in at the top level, so this is not an entirely new experience. I think we are enriched and refreshed by having people come in to appropriate posts from the outside. I would be worried if the proportion became very high, for example, if you had 80% of grade one posts, or permanent secretary posts, going outside and we began to get near to the US system; 20%, or something like that, absolutely fine. I do not see any ground for worry about the condition we are in now, either in terms of the numbers or in terms of the effect upon people's hopes and expectations, and therefore on quality.

**Chairman:** Thank you for that.

**Q269 David Heyes:** You could say perhaps that the Civil Service itself was to blame for this influx, or the need to search for talent outside. I want to explore your views on what the Civil Service is doing from within to renew itself and make sure it has got the skills in place for the future, and I would like to hear your views on that?

**Sir Robin Young:** Perhaps I can take that one, as it relates to the last one, not least because I chaired a group with Gus O'Donnell on it, about improving Civil Service leadership capacity. I think you are absolutely right with that question. What was happening when we put out posts to open competition was that the civil servants lost on merit. It was not because there was a decision taken in advance to have somebody from outside, it was just that we seemed to be not bringing forward people with the right mix of skills and the right self-confidence to win on merit in a competed interview process. Something was going wrong with the mix of skills and the self-confidence of our future leaders, which meant that whenever we did open up a competition we lost on merit. That was why I think we were right, since we always need to have the best people, to accelerate, in the short term, the number of people coming in from outside on merit. What we should be doing meanwhile though, in response to that, is making every effort to review our future leadership model so that we get and train up future civil servants who will beat outside candidates on merit in open competition. That was the way in which we tried to sell within the Civil Service something called the Civil Service Leadership Model, which is available out there, if

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people want to see it. Basically, it said “Let’s try to keep the historic strengths of integrity, neutrality, intellectual excellence, keeping the show on the road, but add to it some new skills which Civil Service candidates have shown they lacked when they failed to get these jobs in open competitions.” These included self-confidence, presentational skills, working in teams, taking risks, putting your head above the parapet and generally the things which outside candidates seemed to be beating us on in interview. Now we have a completely re-sorted training and development model for the young, senior civil servants and new fast-stream entrants, which was designed to make our existing population more likely to win in open competitions, and I hope it is going to work.

**Q270 David Heyes:** You did not mention the ‘professional skills in government’ programme, which came in about 18 months ago; you would see that as part of it?

**Sir Robin Young:** Indeed it was; it came in after it. I chaired something called the Improving Capacity Group and that was followed straightaway by the Professionalism group, so there were two strands begun under the last Cabinet Secretary and I imagine Gus is continuing them. These two strands are going to transform, I hope, the training and development of future leaders of the Civil Service.

**Sir David Omand:** The roots of this go back a very long way. There were lean years in the 1980s, when the Civil Service should have been taking in 300 fast-streamers from the graduates and they were taking in a dozen, or fewer, so there were lean years, and those are the people, who now, 20 years later, ought to be getting to the top. There was a deficit there. There was a big deficit in terms of giving civil servants the experience of managing programmes of change. In specialist skills, project managers we were very short of, and IT competence in dealing at a strategic level with major IT issues. There were very few people around who really had experience in those areas; that was a national shortage. Nonetheless, there were very good reasons for thinking, by the time of the late nineties, that the Service needed quite a lot of refreshing.

**Q271 David Heyes:** Sir Nicholas, do you feel that the Civil Service is doing enough to ensure it has got the right skills for the future, because you have all talked about the need to maintain a balance, a proportion, here between the injection of whatever benefits you get from private sector skills and the traditional Civil Service approach and ethic, and so on? Is enough happening? Can the lost ground be retrieved?

**Sir Nicholas Montagu:** I would be very worried about saying enough was happening, of any organisation, because there is always more that can be done. Certainly I think a lot more is being done. The Civil Service that I joined over 30 years ago tended to think in terms of development as ticking the boxes for how many days a year you spent on

training courses; we tell this Committee that development ain’t that. I do think that a lot more is being done now, particularly with groups identified as having particularly high potential, to ensure that their wider development needs are met, in terms of filling the experience and skills gap, giving them, for example, experience of management jobs and rounding them more for future, very high-level jobs. That is where I agree very much with David. I coach people on the ‘high potential development’ scheme, where, interestingly, there is a very good core of career civil servants and of people who have come in slightly later and who now therefore are being groomed up for very top posts. My only worry is, as always with these schemes, that there is a risk of neglecting what I might call the routine needs of people who at this stage are not in the very top cadre, who may be late developers, but in any case who will have very real development needs, to ensure that they too have a proper, individualised programme, and this ought to be the responsibility of their managers, which will equip them, in terms of skills and experience, for anything that may come along in the future.

**Q272 David Heyes:** Do any of you feel that we have gone too far in bringing in this private sector element to the Civil Service, with the risks of that distorting the public service ethos, the tradition?

**Sir David Omand:** A lot of the people coming in are not coming from the private sector, they are coming from local government, the Health Service, and so on.

**Sir Nicholas Montagu:** What exactly are you thinking of?

**Q273 David Heyes:** Bringing, if you like, a more businesslike ethic to bear, and you can acquire a businesslike ethic in other parts of the public sector and the voluntary sector, or wherever, that has a distorting effect on the policy direction and a view of the world that influences the advice that ministers are given. I would suggest, for instance, that some of the problems that we have talked about earlier, in the Health Service, could be traced to having reliance on looking to the private sector for service delivery at the expense of the traditional way of doing things, that the source of that is in the advice which has come from this new influx of people and this new view of the world?

**Sir Nicholas Montagu:** I do not think that. Certainly there are times when I have felt that the Civil Service Management Board, the group of permanent secretaries, which David, Robin and I were on, was assuming analogies with the private sector that were false, or on occasion believed that it was copying private sector practice when actually it was not doing so. I do not think that there has been an influx of what you described as private sector ethos at the expense of the public sector ethos. Public sector ethos is to do with a lot of the values and the institutions that we have been talking about today. What I think has been healthy

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under successive governments—and after all this is nothing new, remember that the so-called “Next Steps” report was actually called *Improving Management in Government: the Next Steps*—has been an increased emphasis on conducting government business in the kind of orderly way that would be natural for a private sector company concerned with a very different sort of business. So that you do expect coherent planning systems, you do expect aligned management processes, you expect to see proper risk management processes in place and again, obviously, a sensible use of non-executive directors on departmental boards. You could say that all of these were examples of importing what you describe as the private sector ethos. Actually, I would describe them as looking to other sectors and applying relevant experience from them in a way that genuinely improved Civil Service management.

**Chairman:** Thank you for that.

**Q274 Kelvin Hopkins:** I have detected varying degrees of concern about the increasing centralisation of power and decision-making in Downing Street, rather than in Cabinet and with a more pluralist approach to these things, but understandably you all deny that the Civil Service has become politicised. I just wonder whether this is because perhaps now everyone is signed up to a consensus on a world view and that there is not any real division of view about the direction of travel of government any more: the end of politics?

**Sir Nicholas Montagu:** I do not think so, myself, and again others will have their views. Even allowing for the sometimes artificially-generated heat among you lot in this House, one can see, I think, very real differences of emphasis and underlying differences of ideology. I do not feel that we have got the kind of sometimes bland consensus that I have seen in countries with different political systems, particularly those where a coalition is endemic. I think that probably the reason why we may seem perhaps a bit complacent about non-politicisation is because we believe genuinely that a shift in power from one part of government to another, or a shift of power from the permanent officials to political appointees, does not constitute politicisation. I think all of us interpret politicisation as more of an overt or covert process, in which permanent officials colour their advice on the assumption that if they do not show, implicitly or explicitly, party bias for the party in power they will suffer, or in which their progress is impeded if they are not seen as government supporters, or in which ministers interfere in an appointments system so as to give preference, in an ostensibly open process, to people who share their political views. Those are symptoms; it is not a definition. I think what we are saying is that they are symptoms we do not see occurring and that the shifts in power that were agreed on do not alter the truth of that.

**Sir David Omand:** I think I would put a little rider on that. I agree entirely with what Nick says about politicisation. It is not about the Civil Service being

pressured to take a partisan view. I do not think there is any evidence of that. If, however, the style of government is one in which there is a prevailing view about a particular issue which is very strongly held then it is possible to fall into group-think. It is possible to find that actually it is difficult to be the dissident voice saying, “Actually, this will take twice as long as you think it will,” or “It can’t be done within the budget,” or “This is actually going to have a serious knock-on effect on another area of policy altogether and, before you decide to do it, you had better consult that secretary of state and get it worked out.” This group cohesion at times can influence how decisions get taken. Smart secretaries of state, and I have worked for some very smart secretaries of state and I am very well aware of it, talk to their permanent secretaries and avoid getting into these problems. It is one of the risks of having a smaller number of people involved in higher policy-making.

**Q275 Kelvin Hopkins:** Your careers blossomed under the long period of office of the Thatcher/Major Conservative governments. During that time Mrs Thatcher was known to prefer people whom she described as “one of us” and people who were “not one of us”, in various spheres, I understand, were marginalised, or were not preferred. Radical changes took place in the approach to politics—in particular, privatisation, moving towards economic liberalism—a very dramatic shift from the kind of social democratic consensus that there had been before. In that era, if one wanted to progress as a civil servant, would one not, effectively, have had to sign up to that emerging new view of the world and would people perhaps who took a social democratic view and did not like privatisation select themselves out and do something different? Was that how it worked?

**Sir Michael Quinlan:** I worked through the whole of this period in fairly senior posts. I do not think that did happen at all. The story that Mrs Thatcher appointed people according to whether or not they were “one of us” I think is media fantasy, very largely. Clearly she had some influence on who got appointed to a few permanent secretary posts, but that is something which any Prime Minister is in a position to do. It is clearly the case that civil servants who serve ministers—that is what they are there for—are going to be influenced by what ministers want. It is no good, if you do not believe in a particular policy to which the government is wholly committed, saying that constantly every time it comes up; to that extent you have to conform. That does not mean that you do not criticise, you do not point out difficulties, and I think that remained so right through the Thatcher years, as I remember them.

**Q276 Kelvin Hopkins:** There is a model described in our committee papers which some seem to think is the way we live now, the model that there is always a right answer to every policy and therefore that there is no need for political choice any more.

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Indeed, if one looks at leading members of all the political parties, the differences between them in many cases are negligible. Do you think that we have now got to a point now where government is saying "There is a right answer; it's only delivery. The direction is decided, the policy is agreed by everybody; it's just a question of getting to the delivery"?

**Sir David Omand:** I think there are many problems for which there are no solutions and the political choice comes in taking the least worst, and deciding, as it were, which bits you compromise on is the essence of political choice. It is very hard and I think there are still many disagreements about how that could be done.

**Q277 Chairman:** It is not much of an election slogan, is it?

**Sir David Omand:** Yes.

**Q278 Kelvin Hopkins:** In a healthy democracy, and I put this point to Sir Christopher Foster last week, pluralism, different centres of power and a bit of tension between them is a good thing. Do you not think that the Civil Service would do well to encourage people who take different views from that prevailing at the moment, who might even be old-fashioned, middle of the road social democrats, like me, who would be completely out of favour with our present leader. Might it actually be a healthy thing inside the Civil Service to promote, more of a debate about policy in a real sense?

**Sir Robin Young:** I think you would find, if you came through a government department, that you would be really struck by the different types of people and different views actually that are there. Far be it from ex-mandarins to tell MPs whether there is now a new political consensus; you know that better than I do. When you are in a government department, say, DTI, looking at nuclear energy or Rover, it is not obvious there is consensus on those issues, whatever the leaders of the parties might be saying. When you get down from the general to the particular there is plenty of room for disagreement, both amongst officials and amongst politicians, in ways which are not always predictable either by party or by manifesto. There is plenty of room for interesting discussion in departments and I think you would be struck by the variety of people we do promote and actually, if they were able to tell you, the different views they hold too.

**Kelvin Hopkins:** You must introduce me to some of your Socialist colleagues, Sir Robin.

**Sir Robin Young:** I could. I would not dare, but I could.

**Sir Michael Quinlan:** Could I say, Chairman, that there is very clearly a wide range of attitudes to be found in the departments; on the whole, they do not come with a political label. I would not have the faintest idea whether my colleagues in the Ministry of Defence were Social Democrats or

Conservative, any more than, I hope, they would know whether I was. There are just different temperaments and different judgments.

**Chairman:** I think the point behind Kelvin's question, and he puts it sometimes well, is the worry that the grit is removed from the machine and the traditional "truth-telling to power" role of civil servants can be eroded, in conditions particularly where there is group-think of a kind that you describe. I do not think it is the question of ideology, as you say, Michael, that people bring to it, it is whether we can retain those independent, critical voices that will improve the policy process, and I suspect we all agree about that.

**Q279 Mr Prentice:** On that very point, in what circumstances should civil servants blow the whistle on their secretary of state? Let me cite a current example, it was in yesterday's *FT*, the Chancellor of the Exchequer's decision to remove the requirement for an operating and financial review, which would apply to all listed companies; business felt this was a burden, the DTI had consulted on this for months and months and months, and the Chancellor, a kind of *ex cathedra* pronouncement, just set it aside. We see from the story in the *FT* that officials in the Treasury were urging the Chancellor to consult other departments but it did not happen, and it came into the public domain only because Friends of the Earth decided to make an issue of it. In what circumstances should civil servants, let us take the case of the Treasury here, say to themselves, "If the Chancellor isn't going to speak to the Secretary of State for Trade and Industry, well, we're going to do the consulting for him"?

**Sir David Omand:** This is a very good question, and you have to say blow the whistle to whom? The Secretary of the Cabinet exists in order to fulfil the role of someone to whom a permanent secretary or senior official can take a problem like that. Actually, I think it occurs remarkably rarely, because permanent secretaries actually do spend a lot of time talking to each other and they act as a short-circuiting network. It is not uncommon that you can find in any government, and I can go back many, many years, with different kinds of governments, strong personalities which clash, and therefore ministers do not want particularly to consult colleague X or colleague Y, and part of the value of having a permanent Civil Service is that, in the end, the business still gets done. If your question was when would they blow the whistle outside then the answer is never.

**Sir Michael Quinlan:** Never.

**Q280 Mr Prentice:** Coming back to what I said earlier, I would like to see some kind of a British standard, a kite-mark, attached to policy as it comes out of the machine, and we do not have a kite-mark, in the way you talk about, Sir Michael, in articles you have had published in the *Guardian* and in others, where you talk about the shambles of some policies, the decision to abolish the office

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of Lord Chancellor. For people like myself, on the outside, trying to get some kind of understanding of what happens inside the machine, it is profoundly dispiriting that we get half-baked policies coming out and not a peep—not a peep—from people inside to express their reservations. Maybe the channels are not there; that was your comment.

**Sir David Omand:** The channels are there, and, in a sense, the germ of what I suspect you are looking for is already in the Ministerial Code, which says, ministers have a duty to give fair consideration and due weight to informed and impartial advice from the civil servants. If those ministers are disregarding due advice that actually it is unsound to proceed, for various reasons, including the fact that you will destroy a colleague's programme with your proposal, or whatever, then the minister is in breach of the Ministerial Code. That is where the Cabinet Secretary and the Prime Minister have a duty to intervene.

**Sir Michael Quinlan:** Arguably, only the Prime Minister can enforce this within government, and outside it only you can police it.

**Q281 Chairman:** You have seen that this is coming out of what Gordon was asking you. Last week we had a very interesting discussion with Sir Christopher Foster and Lord Butler about this business as to whether there has been a decline in simply the quality of government, and they both assented to the proposition that there had been, and indeed Lord Butler said, yes, he shares culpability for this process. Collectively, you all seem to be saying you are not declinists; in fact you are telling us that things have got better?

**Sir Robin Young:** I am, certainly. I am not sure that everybody else is and I do not buy the Foster thesis that things were perfect when he was around and are worse since then.

**Sir Michael Quinlan:** He does not say that.

**Sir Robin Young:** I do not buy that thesis and some of the examples he uses, the poll tax, and things like that, he was involved with personally, so I think, if I were you, I would investigate that thesis more carefully.

**Q282 Mr Prentice:** We are striving after perfection, are we not; we just need some pointers from people like you about how policy-making can be improved, and there is just so much stuff coming out now which is kind of mutually contradictory?

**Sir Robin Young:** In my opinion, government is hugely more complicated than it was before. Things are moving quicker than ever before, there is more of it than before; if you want less of it then you are in Parliament and you can stop it. I would say the Civil Service machine is coping fantastically well with the challenges it is getting and is improving in the way it is doing its business; that is my position, and it is not the position maybe I read from Lord Butler, which was why I was quite pleased to come along today.

**Sir David Omand:** It is consistent with Robin Butler's position, because the world we are working in now is not the world of ten years ago and certainly not that of 20 years ago, so to say that things are getting worse is, I think, a very misleading way of looking at it. It is a different world, and the question is are we actually as good as we might be in today's world, and my answer to that is, no, we are not and there are things we can do to improve. That is the way round to look at it, I think.

**Q283 Chairman:** We have not really talked about appointments at all, in relation to ministers and civil servants. What I want just to test on you is, if it is being said that ministers are accountable for the running of their departments, that is what the constitutional relationship is, clearly they will want a role in choosing the kinds of people who are going to do the actual running for which they are going to be held accountable, would it be dreadful if ministers had rather more of a role than they have now, in appointing people inside departments?

**Sir David Omand:** Are you referring to the permanent secretary or generally to the appointments within a department; because there is a clear distinction, which I think sometimes does get forgotten, between the process of appointing somebody from within the Civil Service to a key appointment, such as a permanent secretary or a director-general, in which there is no bar whatever to a secretary of state being fully consulted in that process and his, or her, views being taken into account. However, if it is being run by an open competition, in order potentially to bring somebody new into the Civil Service, then that process has to be seen to be objective and impartial, and if we are to maintain the standards I think we should maintain you cannot compromise on that.

**Q284 Chairman:** This seems a rather artificial distinction, does it not?

**Sir David Omand:** No; it is not artificial at all. I think it is a very real one.

**Q285 Chairman:** If we are saying that it is perfectly normal, and indeed proper, for politicians to get involved in internal promotions, internal movements, inside the Service, which is what we are being told and were told last week by Lord Butler, but that if we run an open competition then these great rules kick in, with the Civil Service Commission, I am putting it to you, that rather gives the game away, in terms of politicians not being involved in Civil Service appointments when in fact they are routinely involved in Civil Service appointments, except when we run open competitions?

**Sir Nicholas Montagu:** I think I will dissent probably from some of the things my colleagues said about running departments. I have a very clear and rather traditionalist view that ministers should not get involved in the actual running of



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departments, in terms of appointments, management processes, allocation of budgets, and so on. So far as appointments are concerned, I think that a sensible permanent secretary will talk informally to a minister before making a senior appointment to an important job where productive contact with the minister is going to be critical to success. What worries me, and this was the reason I wrote that memorandum which I did about the code of conduct, is the thought of a blurring of lines of responsibility between ministers' and the permanent secretaries' accountabilities, which I would argue are accounting officer responsibilities for the running of the department. I would see appointments as coming squarely within that.

**Sir David Omand:** There is not a lot, in fact, between Nick and myself, because the process I am talking about is that informal consultation with the secretary of state about which individual would work best with the secretary of state as a private secretary or a director-general, or whatever. Provided the individual was coming from within the Service and therefore had been accredited already by the Civil Service Commission as at an acceptable standard, in terms of merit and in terms of their values, and being confident that the individual will live the values of the Service then, perfectly properly, the secretary of state can be consulted about it. In the end, it is not the secretary of state's decision, if it is a Civil Service posting, but nonetheless the secretary of state, almost invariably, indeed would be consulted over senior departmental appointments. If you extend the proposition and say then, "Well why don't we do the same for external appointments?" what you are doing then is you are beginning to breach, I think, an important part of the structure that Robin Mountfield set out in his really excellent paper on this. I think you have to allow the Civil Service Commission to be the judges of whether an individual meets the standard for a senior position in the Service; therefore, if you have chosen to run an external competition, you have not got an alternative. This comes back partly to my point about when it is advisable to run open competitions for the permanent secretaryship of a major line department, and I suspect probably it is not often.

**Q286 Chairman:** I am sorry to go on about this, but this tests some of the rather general things that we say. It is not just a question of meeting the standard, because indeed that is what I think ministers, and I believe the previous Cabinet Secretary, were asking for in wanting to get some revision to the rules on open competitions. They wanted to move over, I think, to something like the public body model with the Commission of Public Appointments, where they are allowed to choose from a number of candidates who meet the standard, so there is no question of not meeting the standard. The question is, if two or three candidates meet the standard, as found by the open competition procedure, monitored by the Civil Service Commission, what would be

constitutionally outrageous about ministers then, as with public bodies, having a choice, given the fact that they are involved routinely in internal competitions anyway?

**Sir David Omand:** You are suggesting effectively a two-stage process. You could build such a process in which the Civil Service Commissioners were the first gateway and then you had a ticket saying, as it were, "You are appointable to this position." Then you would have to go to the minister and say, "Of the available appointable people, some of whom come from outside with tickets, some of whom come from inside, which would you prefer?" You could make such a system work; the danger would be, in terms of the perceptions from outside, and that actually you would have to construct this system really rather carefully. An alternative way of doing it, which would be informal, is just simply, at the stage of the long list, that you consult the secretary of state and ask whether "any of these people are people you would not be able to work with?" I have found, in running these competitions, that an informal consultation at long list stage, which you can do with public bodies, you get the information you need from the secretary of state yet you preserve the impartiality of the objective selection, which of these people then is the best; so that is another way of approaching it.

**Sir Michael Quinlan:** On the matter of internal appointments, this has to be a matter of convention, not of formal rule or law. Certainly I would consult the secretary of state about who I was going to propose as Policy Director in the Ministry of Defence. Secretaries of state, in my experience, will accept that and will disagree with me only on very strong grounds and will not expect all senior promotions to be referred to them. There is no formal reason why they could not insist, and I can remember one case, in one department, when I had a battle with the secretary of state about insisting on a particular appointment. It rests on convention; it is a very healthy convention, it is a very well-established convention. I do not think it can be better than that.

**Q287 Chairman:** Let me go back, just finally, to one question which came up earlier on, which is the difference between politicisation and centralisation, and this takes us into territory that we may get into as a Committee later, not immediately, but because we have got you I would like just to ask you about it. There is an argument around which says that we have got the worst of both worlds at the moment. That is, we have lost, as it were, the integrity of departments, they have been weakened, but, at the same time, we have not built the kind of strong, strategic centre that other organisations would have, that we live in this limbo state where departments feel that they are being endlessly interfered with but the centre has not equipped itself with the kinds of skills and powers and resources to make it a genuine centre. Sir Michael, you have argued about the presidentialisation that

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is going on and the lack of checks and balances; is this the state that we are in and, if so, in which direction should it be resolved?

**Sir David Omand:** I raised this in my earlier remarks. In a sense, I think it is the state we are in, but the choices open are not straightforward. The centre does not have, and the Prime Minister does not have, the statutory authority. The statutory authority comes from this House to the secretaries of state through the various pieces of legislation. The permanent secretaries report to their secretary of state; that is the constitutional position. To change that is a very big decision and one that Parliament would want to oversee. I do not myself advocate such a change, nor do I not think it is necessary to make such a change; what is needed is a rebalancing of the processes of government so that you can produce a genuinely strategic centre. Colleagues have pointed out the need to join up government policies. You cannot run government in departmental silos and therefore you need to have a centre that is capable of ensuring that government joins up, and you need to have a centre that can produce a strategic view about these major policy issues. What perhaps you do not need is a centre that is trying to do the individual secretaries' of state job for them, in constructing the detailed policies that will give effect to the government's strategic direction, but this is a matter of personal choice for the ministers and prime minister of the day. It is convention again; you cannot really legislate for it.

**Sir Michael Quinlan:** There have been mechanisms; you will remember, Chairman, the Central Policy Review Staff, which sadly, in my view, Mrs Thatcher abolished. Essentially, that was something set up to look across departments; so it is not an innovation, what is happening.

**Sir David Omand:** Just to add this thought, because we have not had time to discuss it, to consider the influence of the media. That runs through all of this and drives a lot of what happens under the label of "centralisation", because of the need to ensure a coherent, consistent approach, and in some cases that is really distorting the way policy gets made.

**Sir Robin Young:** I think it is roughly the way you said it. I do not think we have lost the integrity or strength of departments. I do not think you should take that as read. I think departments are strong and are better than you believe, or that the critics believe, and some of the generalisations just do not apply to work in departments, actually they are all about Number 10 or Number 11. A lot of things said about the Civil Service, really, in my view, are talking about Alastair Campbell, or something of that nature, whereas actually what goes on in departments, if you speak to ministers or civil servants in departments, is very, very, very different from the generalisations about Numbers 10 and 11. I think you are right, we have not got the strategic

centre that we need, and, as I said earlier, we do want a strategic centre, nor do we have clarity about what the centre does, and thinks it does, and what we mean by the centre, whether we mean it is Number 10 or Number 11. In my opinion, the government should set that out for itself; it should not be laid down by you or by Christopher Foster, or even Nick Monck. The government should say, "This is what we want at the centre and this is what we're going to get. Here is the job description of the Lord Birt figure, here is his willingness to appear before Mr Wright and explain what he does." There should be transparency and confidence about the strategic centre which we are setting up, but the government should decide what to do.

**Q288 Chairman:** This is a foretaste for another inquiry; it is a tantalising foretaste.

**Sir Robin Young:** You have a solution now.

**Chairman:** Some people say that Gordon Brown is going to resolve this, in practice, by putting Number 10 and the Treasury and the Cabinet Office all together and we shall not have to worry about these things because they will be gone and we shall look back on a golden age of pluralism under the present Prime Minister. Anyway, that is for another day. I think we have had a really interesting session; in fact, I think we will have to call on you as a sort of standing panel and bring you back for all these inquiries. Thank you very much. We have covered a lot of ground. I am sorry we have not been able to do justice to everything. I am sorry, I have got one sort of "sting in the tail" question from David Heyes.

**Q289 David Heyes:** Clearly, you have got a huge wealth of experience between you and I just wondered if any of you had thought about sharing that with the wider world. Have any of you written your memoirs, or do you intend to write your memoirs?

**Sir Nicholas Montagu:** I satisfy my ego trip by writing monthly for the *Guardian's* new "Public" magazine, which, of course, is compulsory reading for all Members of this House.

**Sir David Omand:** No memoir.

**Sir Robin Young:** No.

**Sir Michael Quinlan:** No memoirs.

**Q290 David Heyes:** What do you think about top civil servants retiring and cashing in with memoirs?

**Sir David Omand:** We deplore it utterly.

**Sir Nicholas Montagu:** All of us could tell John Major y-front stories; most of us choose not to do so.

**Chairman:** That is a tantalising thing to say at the end. As you know, we are doing a little inquiry on memoirs as well. Thank you very much indeed for this morning.

Thursday 15 June 2006

Members present:

Dr Tony Wright, in the Chair

Mr David Burrowes  
Paul Flynn  
David Heyes  
Kelvin Hopkins

Mr Ian Liddell-Grainger  
Julie Morgan  
Mr Gordon Prentice  
Paul Rowen

*Witness:* **Mr Jonathan Baume**, General Secretary, First Division Association, gave evidence.

**Q291 Chairman:** It is a great pleasure again to welcome Jonathan Baume, General Secretary of the First Division Association, to help us with our thinking about ministers and civil servants. We thought some time ago that we were having a serene little inquiry on this matter when it all seemed to blow up in our faces and yours too. We wanted to hear from you anyway, but we particularly want to hear from you now because all these issues have suddenly become very live. As you have heard, the First Civil Service Commissioner tells us that she does not know what ministerial responsibility means any more. We look to you for guidance on this matter. Do you want to say anything by way of introduction?

**Mr Baume:** Thank you, no, Chairman. I am happy to take questions as they come.

**Q292 Chairman:** Before somebody else does, let me quote back to you what you have been saying. You have been saying that ministers have been scapegoating civil servants and seeking to blame them for things which are their fault. You have been telling us that there are lots of ministers around who are lazy and inefficient. This is quite an indictment. What is going on?

**Mr Baume:** I think that is a paraphrase of what I said. Two separate statements were brought together there. One was that I felt some politicians and commentators sought to blame civil servants, and separately I also tried to bring into the debate the realities of how government worked. As to the first comment, on 2 June the FDA put out a press statement in my name. I hasten to add that I wrote it. In that I drew attention to what appeared to me to be almost an avalanche of comment over the previous couple of weeks, triggered I believe by the Home Secretary's comments about the Home Office. To be fair, when one goes to his exact wording to the Home Affairs Select Committee he talked about "systems". But other media commentators, some basing themselves on politicians and some having a political perspective, sought to attack the Civil Service, not necessarily naming individuals. We are not talking about allegations about so and so in a particular office, but it was an attack on the capability of the Civil Service and what they argued was the non-accountability of the Civil Service. I felt that something needed to be said. This is not a new comment on my part. I was looking back in preparing for this to the evidence that I offered on the scrutiny on the effectiveness of the Civil Service.

We submitted evidence in December 2004 in which I made exactly that point in written evidence to the effect there was a danger that some ministers might use the Civil Service as the scapegoat. This is not a new argument, but I recognise that we are in slightly different times. I do feel that there has been an attempt to use the Civil Service as a scapegoat for what a more measured assessment would reveal as a more complex picture as to why particular initiatives have not succeeded. As to the second issue, I did not say there were many lazy or incompetent ministers, but that when we were examining these issues they could not be separated from the reality of day-to-day government. I was trying to make the point that in any government one did not have an homogeneous group of individuals who were ministers but a collective of individuals whose talents and abilities varied considerably. I was not singling out this government or, frankly, any other; I was making the point that all governments had within them extremely capable and experienced ministers, extremely capable and not very experienced people—they can be up and coming individuals—but also a range of ministers who, frankly, are not as capable, are not always particularly effective or committed to the outcomes; they are sometimes lazy. With the best will in the world, sometimes they are not very good at taking difficult decisions. That is human nature. If you looked at almost any group of individuals in employment you would find that breadth of skills and abilities. I was trying to make the point that civil servants work in the real world of which the political world is a part. I am also keen to make the point that I have enormous respect for the work of ministers, particularly at junior minister level where they have a very thankless task and a grinding job. People work immensely long hours and in very difficult circumstances, with media scrutiny not being the least of them. I always accord to a minister, regardless of any personal opinion of an individual minister enormous respect for the post that is held. I think you will find that is exactly the same among civil servants in the round. Civil servants have their personal views about ministers in all governments and those are rarely political judgments; they are about the abilities of the ministers, but they also accord enormous respect to the offices held by ministers. I believe that to be an important differentiation.

**Q293 Chairman:** You sound a little like a politician, saying that your words are wrenched out of context and we must understand the wider picture. I have

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been reading this stuff which is very good. You say that, frankly, one has the not very good and not very competent ministers; one has ministers who are lazy and who cannot make decisions and prevaricate. If we ask you who these are you will not tell us, but I put two questions. First, in any government at any one time approximately what percentage of such people are we talking about?

**Mr Baume:** I am sure that you would have your own views on these matters. I am not going to give a figure because I do not think it is easy to do so, but I make the point that in any government, and sometimes within a department, there is a range. Ideally, the prime minister of the day identifies after a while which ministers are making a success of the job and which ministers are, frankly, not coping very well.

**Q294 Chairman:** If it is the odd minister one understands, but if it is a quarter of the government it is a different issue. I am asking approximately what we are talking about here?

**Mr Baume:** I cannot give an answer to that. People will have their own judgments about the skills of individual ministers. I made a commitment in my own mind to say nothing here that would be of any interest to the media today. I shall not be drawn into trying to make a checklist of the state of government at any one time. What I am doing is to state the obvious, and sometimes doing so becomes quite newsworthy, as I have found from experience. But the fact is that in the Civil Service one deals with ministers with different capabilities and abilities. Sometimes ministers are not particularly suited to the role that they are playing at that moment but might well be suited to a different role in government; and occasionally ministers themselves say that they do not believe they are coping but enjoy the role they play and there are other roles that they could play in government. There is the famous example of Estelle Morris—I do not want to labour it—who decided that she did not feel she was the right person to be a secretary of state but nonetheless was happy to continue to work one tier below. That was a personal decision. I have not been led to believe that that was the decision of anybody other than that particular minister. Like yourself, Chairman, there are those who have spent periods as ministers and have chosen to step back from those jobs because presumably those have not been the ones they most enjoy and you have taken on this role. There are other examples. The chairman of the Home Affairs Select Committee resigned as a minister on a matter of principle and has continued to play a very effective role in politics as the chair of a Select Committee. People find what makes them satisfied. Sometimes that happens to people; sometimes individuals make a choice.

**Q295 Chairman:** You are trying to be very nice to us and not to be newsworthy, but we are old hands; we recognise all this company. Broadly, what scale are we talking about here? Is it a serious problem or a problem at the margin of government?

**Mr Baume:** I would say that it is more towards the margin in any government but within any team one will still have differentiation. I should like to make a point that touches on the previous evidence. There is an area that is always very sensitive but perhaps to which we ought to give more attention: the training and development of ministers. We seem to have a culture in which almost the only job in the economy where it is not felt necessary to have any training and development in the positive sense is that of a minister. There are initiatives in local government for the training and development of councillors, for example. Perhaps one of the matters to which we ought to give thought given the enormous pressures on individual ministers is how we train and develop them as they continue in their roles. A little bit of that kind of things goes on quietly behind the scenes, but it is not something that is ever talked about. We should not be ashamed of saying that any minister who takes up senior office in this way ought to have support that allows him or her to develop the skills and abilities. That might be something ministers would find helpful.

**Q296 Chairman:** All of these comments were provoked by the recent kerfuffle in the Home Office. The question is whether these references to lazy, incompetent and prevaricating ministers is in any way connected with recent events in the Home Office?

**Mr Baume:** No; they were not connected. They were part of an attempt to try to understand how a department in general functions. One accepts that the Home Office was a catalyst for some of the remarks. First, the Civil Service works in a way that makes it very hard to delineate precise roles. I know that a few moments ago you raised the different roles and responsibilities of ministers vis-à-vis civil servants. There are also pressures and difficulties faced by civil servants themselves in the jobs that they undertake. They are working with human beings who hold ministerial posts and it is not a straightforward relationship. I was trying to explain, if you will, the obvious about the working environment within which ministers and civil servants find themselves. If one is trying to understand how government works one will have a range of abilities among civil servants. We have always acknowledged that. At the same time, I was trying to point out that there is a range of abilities among ministers as well and the human dimension has to be taken into account in understanding how government works in practice.

**Q297 Chairman:** Although these remarks were in the context of the discussion about the events in the Home Office they were not relevant to them in any way?

**Mr Baume:** I was not referring particularly to the Home Office.

**Q298 Chairman:** Let us talk more widely about the key relationships between ministers and civil servants. I quote an interesting article by Sue Cameron in the *Financial Times* the other day. As

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you know, she is a veteran Whitehall watcher of good contacts. She writes: "At their regular Wednesday morning meetings, the permanent secretaries who head each department have been preoccupied with accountability. They want more discussion about the role of ministers and greater clarity about who should take responsibility for what. If a minister opts to disregard civil service advice, the permanent secretaries want it to be clear that he or she should carry the can." Do you recognise the discussion that is going on?

**Mr Baume:** I would not necessarily put it in exactly those terms, but I believe that there is a debate to be had, which we have explored in the past, about responsibility and accountability. My best understanding of the status quo is the work of the Public Service Committee. I refer to the report from the 1995-6 Session, and I believe that a final report was issued just before the general election in 1997. I believe that the Government's response to that, which in a sense brings different perspectives together, sets out probably as clearly as anywhere the current understanding of responsibility and accountability. To be fair, I do not believe that fundamentally anyone challenges that understanding at this point. It is quite obvious that whatever may be the current understanding there is a public debate—one cannot pretend that such a debate is not taking place—about where particular responsibilities and direct accountabilities lie. In one sense one can simply argue that in reality there is not a problem because the accountabilities are clear, but the fact there is public and political concern about the issue means that permanent secretaries and those in the centre of government recognise the need to reopen the debate and explore it further. I believe that in his speech last Tuesday at the public services seminar, which the Prime Minister attended earlier in the day, Sir Gus O'Donnell himself said that there was probably a need for a debate, if there was doubt in people's minds, to clarify where real responsibility and accountability should lie in the work of central government.

**Q299 Chairman:** I was on that Committee and involved in the report to which you referred, but I do not believe that 10 years on one would be expecting this kind of discussion to be surfacing in such an acute form, with people saying that they no longer understand what the relationship is and it has to be redefined. It is not simply a question of clarifying what it is but redefining it. Sir David Normington, permanent secretary at the Home Office, said to the Home Affairs Select Committee: "I am completely clear that we have to have accountability of officials and we have to pin that on them. We have discussed this and we are absolutely clear that people have to have accountability and have to be held accountable for how they have performed. That is what I would put in place." Something is going on here, is it not?

**Mr Baume:** In my comments of a couple of weeks ago I tried to set the political context as to why I thought this particular debate had surfaced now, and I do not resile from that. In a sense, it is about the concept of the Civil Service working in a highly

political environment. The point about political impartiality is one that we have talked about before, but it is not that civil servants are not very politically aware and politically conscious; it is just that their actions are not gauged by their own personal political views. The fact is that the Civil Service does work in a highly political environment, and we are at a change in the political cycle where there is a revitalised opposition, which is obvious to us all. At the same time, we have a government that faces difficulties in the way that perhaps it did not before with polling figures, for example. What will also be a testing time for both ministers and civil servants is the movement into a period where not only does the Government have a smaller majority and lower support in the polls but there is also a cycle of decreasing expenditure in departmental budgets. This is a very testing time—perhaps the most testing time for many ministers and government supporters since 1997. In that period some of the issues that become part of any government cycle—one gets into a difficult period when things come back to haunt government and not everything seems to work in quite the way it was envisaged five or 10 years earlier—are about where the responsibility lies for problems that are apparent to all of us, whether it is the issue of the release of foreign prisoners or other issues in this Session which were referred to earlier. In some people's minds that has reopened the debate about the accountability of civil servants. I take a slightly different view from Sir David. I read his evidence. I believe that those mechanisms are in place. It is not necessarily apparent, however, that those mechanisms are always accepted or understood. I believe that there is very clear accountability for civil servants within the departmental processes that already operate. However, what is being raised—I take it from what the IPPR is trailing, though I have not seen the detail of its report—is that others will be proposing that there should be more public accountability of individual civil servants. I am happy to explore that although I believe that if we seek to go down that route we need to be very clear about why we seek to do it and what the implications might be. If we are approaching this debate about accountability we should stand back and ask a more fundamental question about accountability of the executive in the round. I have argued before this Committee in the past that the first question that we should be considering is how we hold accountable the executive in the round, whether it is ministers or civil servants, and the problems of the relatively weak scrutiny by Parliament of the work of the executive. I have argued for a much stronger role for Select Committees, for example, with more powers, etc. Chairman, you and I have discussed on occasions why Parliament has stepped back from giving much stronger powers of scrutiny to Parliament and Select Committees. Therefore, the issue is: what is the right way to hold the executive to account? If one goes to the second level one asks: within the executive how does accountability work in the different relationships between ministers and civil servants?

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**Q300 Chairman:** We hear important voices on both the political and official sides saying that despite all that has been said in the past there is now a need for a much clearer statement of respective accountabilities between ministers and civil servants. What I am asking you is: do you think we do need that?

**Mr Baume:** I do not believe that there ought to be doubt but I recognise where we are now; that debate has opened and, whether or not it is necessary, if everybody is to feel comfortable with how we move forward with central government, we need that debate. I believe that the responsibilities are clear; they were set out 10 years ago, and I have not seen anything that fundamentally changes the way that the constitutional relationships which have operated over decades should need to operate in future. But I recognise that the reality in 2006 is that we will probably need that debate, so let us have it.

**Q301 Kelvin Hopkins:** The problem starts at the top; it is not to do with junior ministers and civil servants. Is it not the case now that the prime job of ministers is not to be intelligent or competent but to be loyal and if they do not carry out the wishes of the centre they no longer have their jobs?

**Mr Baume:** I would like to answer a slightly different question. There is no doubt that there have been changes in the way this Government has worked which makes it somewhat different from previous governments, and in turn that puts pressure on the Civil Service. There has been a deliberate attempt to create a much stronger centre around the Prime Minister's office. I do not pass judgment on it; I am trying to reflect on what I see. That has been complicated by, if you will, what some people have called a kind of dual leadership and the pressures and independence of the Chancellor's office and the Treasury. I have remarked in the past that this is of some concern. Nonetheless, the fact is that we have operated in a period when Number 10 and Number 11, as it were, have both had very strong and at times competing agendas. That has made the work of central government more difficult in the round, though I hasten to add that on a lot of issues given the breadth of scale of day-to-day government and the work going on in departments we may well be talking about a relatively small number of issues in the scheme of things. These are, however, the issues that we often see in the headlines. Nonetheless, that has meant central government has had to change the way it works. There have also been weaknesses in the way the Government has worked which have been highlighted in the public domain, for example in Lord Butler's report and what some have referred to as "a sofa government". All of that has been in the public domain and it has been identified as a weakness in the way the policymaking process operates. I think that it has been more difficult for the Government to achieve its agenda because of the way central government has operated. One can argue whether or not that is right or wrong. That is not my role. But what one can do is at least assess

what the implications of that have been and what lessons perhaps this or future governments might want to learn from it.

**Q302 Kelvin Hopkins:** One of our two leaders a couple of years ago said that one of his objectives was to sack lots of civil servants. Yet, was it not the case that if we were to solve the problems on immigration, tax credits and whatever we needed more, not fewer, civil servants? Was that not media posturing for political purposes and was it not at odds with what was really needed?

**Mr Baume:** I think that what the Chancellor said at the time—I remember it because I received a phone call to say that he had just made this statement as I was returning by train from the Midlands—was that he would cut the number of posts. To be fair, he never talked about sacking individuals, although we as a union have been working with our other colleagues and the Cabinet Office and departments to try to manage the run-down in jobs. That process continues. I think that at the time there was great concern about the emphasis on numbers which many people saw as a largely political exercise designed to shoot the Tory fox, which I believe was the jargon at the time. That arose just after the publication of the James report. It caused concern in departments because for 20 years departments had been used to managing resources in the round; in other words, after the period between 1979 to 1982 when there had been an emphasis on numbers the then Conservative government changed the emphasis to managing budgets. Frankly, what was done with the budget was a matter for the permanent secretary. The number of jobs was not that important; what mattered was that one worked within one's budget. Whether one employed *x* or *y* number of civil servants was a judgment made by senior managers. The important thing was that one delivered what was expected. The reason why the Chancellor's comments two years ago caused such concern was that it was seen as a reversion to managing numbers as well as budgets and it was seen as a political gesture, not something which was to do with good governance and the effective running of the Civil Service. That has created problems in departments, but one would anyway have had a very difficult environment given the cuts in real spending which were being made because one was reducing budgets. As to the 2008 announcements made so far in the key departments such as Revenue and Customs, with their running cost budgets being cut by 5% each year, there are no job numbers attached to them, but the reality is that in most big departments staffing accounts for a significant proportion of the running costs. This is different from programme expenditure. Therefore, one will need to cut jobs. There is concern about the ability of the Civil Service to take forward programmes if staffing resources are continued to be cut. If one looks at those areas where there have nonetheless been some increases in staffing, or not many reductions, they tend to be in the very demand-led areas, such as the number of prison officers employed because prison numbers have increased.

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The FDA's view is that it is for government to decide what these budgets are and, frankly, what should be the size of the Civil Service. I have worked in a civil service of 730,000 and in a civil service of 450,000, but what ministers must do is reconcile the resources that they make available to the demands they place on the Civil Service in terms of the delivery of services they want provided.

**Q303 Kelvin Hopkins:** I have one more question about the Home Office in particular, because that is the current focus of the problems. Sir John Gieve has recently retired as permanent secretary to the Home Office. He was interviewed by the Home Affairs Select Committee the other day. I am sure he could see that if the Government wanted the immigration problem solved we would need the borders to be better policed and many more people working for the Immigration Service. Sir John Gieve's job was to say to home secretaries, "We need the resources. Give them to us and we will do the job." Was there any evidence that he did that? If he did that and the Minister said, "Sorry, you can't have any more resources; that's tough", then it is the fault of the Home Secretary. If he did not ask then he could to an extent be culpable. Is that fair?

**Mr Baume:** I certainly could not comment on what John Gieve may or may not have said to the Home Secretaries with whom he worked. What I can say in general is that part of the dialogue between ministers and the senior management of departments is how to reconcile the demands being placed on them with the resources made available. I believe that it is the job of any permanent secretary to say to the minister, "If you want me to perform a particular role I will need the resources to do it." If they are not available a different type of dialogue takes place. It is then the job of both the permanent secretary and the secretary of state to be arguing with the Treasury to make the resources available to the department in the round. It is not simply the secretary of state and an individual permanent secretary; the key to all resourcing is the Treasury, so a three-way dialogue takes place in any department. As to the question of where responsibilities lie, if one takes the simple example of a secretary of state saying, probably under instructions from the Treasury which is the main driver, that  $x$  number of jobs have to be cut, the permanent secretary with a department with a large network says, "I can achieve this. I have a coherent plan for doing this and it will involve the closure of a number of offices around the country. You leave me to get on with it. I can deliver the job cuts." If the secretary of state comes back a few months later and says he has been heavily lobbied in his constituency, or there is a by-election where this is becoming a big local issue, and he decides that that particular office must stay open, I think that the permanent secretary would be perfectly within his rights to say, "Well, you must now take responsibility for the fact that changes have been made to the way in which we were intending to reduce the numbers." That is a very crude and simplistic example. In the end the permanent secretary must take responsibility for many of the areas of work of the department and I

do not think that any permanent secretary would step away from that, but ministers must also recognise that if plans and programmes are changed there is a consequence for which ministers must be prepared to take responsibility.

**Q304 Kelvin Hopkins:** Is it your impression—it is certainly mine—that over the past 25 years we have moved away from the Sir Humphrey model of the Civil Service, if you like, to one where civil servants now knuckle under much more to the control of Downing Street and try to carry out the wishes of our leaders, even when they are contradictory, and that what we really need is for the Civil Service to be strong and independent again, so it can give bold and objective advice to ministers when they need it?

**Mr Baume:** Whether or not we accept there was ever a Sir Humphrey, there is no doubt that the Civil Service has changed, in many ways for the better I believe. I have been working in the Civil Service under different guises. I am now a full-time employee of the FDA but I have worked in the Civil Service since 1977. I think it has changed for the better. I believe that the Civil Service has been more effective over that period. Central government has changed. Each Prime Minister has a different way of working and a vision of government that will be different. Margaret Thatcher was different from John Major and Tony Blair and no doubt it will be different when the next Prime Minister takes over, but there is a much stronger centre. That has been complicated slightly by having perhaps two centres which often work together very harmoniously but at other times evidently there have been different approaches, and that changes the way the Civil Service works. What is important is that the Civil Service must be able to give frank advice to ministers. At the same time, ministers must be prepared to listen to that advice. It is the job of ministers to decide whether or not to accept advice, but if there is a culture where ministers are unwilling to listen to frank and difficult advice—at times one hears of arguments between ministers and secretaries of state, never mind between civil servants and ministers—or they make it clear that they are not particularly interested in having such advice, then in the round the ministers are weaker, but that is often about the personalities and traits of individual ministers; I do not believe that it is particularly about one government or another. One will find across different governments the same things. I believe that in most cases the relationship between ministers and civil servants works very well across government, and continues to do so as we speak today, but there will be areas of difficulty, sometimes based on the personalities of ministers themselves. It is part of the Ministerial Code that ministers must take account of this advice, and a minister with any sense will want to have frank advice in private and have his ideas, wishes and visions tested to destruction, if you will, to make sure they will work on the ground. If there is one criticism it is that at times policy initiatives emerge without sufficient thought being given to them and work

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done to ensure that they will stand up robustly to public scrutiny when action is taken to try to make them work on the ground.

**Q305 Paul Rowen:** I should like to change tack a little. Obviously, you are employed to represent your members. Are not your comments really a smokescreen? You have attacked incompetent ministers. If one reads John Reid's comments he is not talking just about systems but about leadership and management within his department. Are not the problems with the leadership and management in some areas of the Civil Service?

**Mr Baume:** I am here to represent FDA members, and I have no hesitation in saying that. I believe it would be naive to suggest that in any organisation there are not ways to improve leadership and management. I do not think that the Civil Service is exempt from that. Whether that is the same as leadership and management that is inadequate is a different matter. I have some difference with the comments of the secretary of state, but those were the comments he made. I do not want to get into a row about John Reid.

**Q306 Paul Rowen:** But are they not backed up by facts? If you look at the IND and the sorts of issues that regularly crop up—we as elected Members deal with the consequences of those—it is quite clear to me that that organisation is not functioning?

**Mr Baume:** I want to be very careful not to become involved in the detail of what has happened.

**Q307 Paul Rowen:** That is an example.

**Mr Baume:** It is an example. Speaking generally, I know that the Home Affairs Select Committee is examining this matter and it is clear that the Home Secretary and permanent secretary will want to examine what has happened in IND to make sure lessons are learnt.

**Q308 Chairman:** It is not just John Reid. The message sent out by the permanent secretary to the department as reported by *The Times* is: "We now need radical improvement in our performance, our service standards, our systems and processes and, most of all, in the quality of our leadership and management." This is the top civil servant in the department speaking?

**Mr Baume:** I do not believe anyone denies that some real problems have been highlighted in the work of the Immigration and Nationality Department. It is not fashionable at the moment to praise the Home Office. Large amounts of the work done by the Home Office are done extremely successfully and well. The fact is that it has not been done well enough because some very significant problems have arisen, but one could take almost any area of the Home Office and point to some very significant successes, including the Prison Service, IND and some other parts. This is a department that has been under enormous pressures, some external and for reasons not of the Home Office's making, whether it is a significant increase in the prison population and its nature or the response to terrorism, with the

complete rebalancing of priorities and tasks that emerged after the attack on the twin towers and last July's bombings on the tube. That department has been under enormous pressure and in many ways has coped extremely well under it, but clearly in the circumstances has not coped well enough in all areas. Some would argue that parts of the work were being neglected as priorities were focused on others. Clearly, it should not have happened, and I do not think anyone argues to the contrary. Nonetheless, I do not want people to walk away thinking that somehow the Home Office is failing, because I do not think it is.

**Q309 Paul Rowen:** I do not think we are saying that. But we are focusing on this Government where clearly there is a leadership and management problem. Do you think it right that civil servants in one branch of a department that is clearly not functioning properly should be getting bonuses? It is reported in the papers that several civil servants in the IND are in line for £15,000 bonuses. Is that right? Should they not be carrying the can for what is happening or not happening in that direction?

**Mr Baume:** I will not answer the comment directly as to what happening to individuals in the IND because I have not seen the detail of that. Within the Senior Civil Service the 3,500 individuals are all potentially entitled to a bonus under the senior salaries review body recommendations published about six or eight weeks ago. For some individuals that might be up to about £15,000 but it depends entirely on the grade within the Senior Civil Service and salary. We are talking about the way that the pay system works in general. Whether or not a decision is taken to award a bonus is one that is based on the performance of that individual, and ultimately that decision is made by the permanent secretary. That is just a fact. Whether or not bonuses are awarded is another matter. I have not seen any announcements on that and I will certainly not comment on it. If one tries to unpick some of the ways in which government works one will find that particularly at levels below the management board—the permanent secretaries and director-generals—people will have specific areas of responsibility. It is quite possible that even in an area where something has gone wrong those identified areas of responsibility have been carried out extremely effectively. That may still mean that between those teams across an area of a department something has not happened, for example in the IND, and yet all of the priorities and targets set for that particular department have been undertaken to the letter. That means one has to stand back and see why those cracks in the system have been allowed to appear. One needs to take a very sober look at it. One is talking of extremely serious issues, and no one denies that. But at the same time it does not necessarily mean that there is one person to blame in an organisation or that one can single out an individual. We have a problem in the public services in the round, including the political system. We have a media-driven culture where there is an easy tendency to go for scapegoats. Somehow it makes



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people feel better if an individual scapegoat can be identified: sometimes it is a politician or a public official, whether in the Civil Service, Health Service or whatever. The problem is that we are often working in very complex systems and processes in the broad sense and in reality it is not about one individual's failure. You might say that the person at the top of the organisation, whether it be a chief executive, permanent secretary or minister, in the end has to take personal responsibility, but quite often it is not about any particular individual; it is about trying to undertake the breadth of work that an organisation carries out, whether it is a NHS local trust or government department, and balancing out all sorts of priorities and trying to juggle the balls in the face of events as well as take forward the organisation's strategic direction. These are immensely difficult and complex jobs. In a country like the UK, where we have a big state, in the American sense—I do not pass judgment on that—public organisations are often extremely complex bodies to run, and in central government when mistakes happen they are up there in lights in a way that they might not be in other parts of the public services. On the one hand, that means people should be accountable directly for their own actions but, at the same time, we also need systems to allow us to analyse why these problems have arisen. Sometimes that is not about individuals; and certainly in central government one cannot separate that out from the political process as well as the administrative process.

**Q310 Paul Rowen:** Therefore, on your logic nobody should carry the can?

**Mr Baume:** I am not saying that. It may be the case one can find that there are personal and individual failings and then, depending on their severity, one will need to take some form of action. The Civil Service does take action about individuals. I am saying that it does not necessarily help us to understand, remedy and avoid problems arising in the future simply to single out somebody because it is very easy in the short term to put up a scapegoat.

**Q311 Paul Rowen:** Do you think that to sack somebody because he did not make farm payments on time is not the right way to go about dealing with the problem?

**Mr Baume:** I am saying that it may be; and I am also saying that it may not. I have to be very careful because I do not want to make a judgment about what happened. Clearly, there was a major problem on rural payments. If it is clear that an individual failed—it could be somebody at a very senior level or someone in the middle of an organisation—it may be there are grounds for dismissing that person. On the other hand, that might not be what has happened. There will be times when it is about individual failings and times when it is about systems that are not comprehensive or ones put in place long ago.

**Q312 Paul Rowen:** Surely, the permanent secretary or senior civil servant is responsible for that to make sure that the systems are satisfactory?

**Mr Baume:** Yes. I am saying that I do not think you will find permanent secretaries standing back from that responsibility. But one needs to be clear why that particular problem arose. All I am saying is that in complex organisations it is not necessarily about an individual, and quite often there will be a balance of responsibility between permanent officials and politicians because they work in a very political environment where the decisions of both ministers and civil servants together lead to particular outcomes. There will be times when it is very simple. There will be areas on one side or other of the spectrum in which it is clear where the responsibility lies, and there will be lots of areas in the middle where it is difficult to unpick exactly who took the right or wrong decisions and where the responsibility lies given the compromises that take place within the work of government.

**Q313 Paul Rowen:** Surely, ministers make policy and civil servants tell them how to implement it. If they do not give the right advice should they not carry the can for saying, "That is impossible; you cannot do that"? But if a minister says he wants something done and you say, "Right, we'll go ahead and do it", and it is a shambles should you not carry the can for the failure to implement the policy?

**Mr Baume:** If only it were so simple. I am sure that if I thought long and hard enough I could come up with cases where it is simply a matter of telling civil servants the policy and they are told to do it and if it does not work the officials take the blame, but most of the time it is not that simple. Policy is not a straightforward, easy process; even designing policy is not a simple and easy process. There are lots of issues and problems to which there is no simple policy solution. There may be a vision of a particular policy that is easy and straightforward but very often one is trying to understand complicated events in communities and coming up with what at times might not be particularly desirable policies in anybody's view but probably the least worst options to tackle a particular issue. One can think of hundreds of examples like that. Every government wants to cut crime. What is the policy that cuts crime? There are all kinds of initiatives that will help to lead to a reduction in crime, some of which are to do with personal behaviour. Most governments would like to cut child poverty, but it is very easy to have such visions; it is much more difficult in reality to find the policies. One breaks it down to particular initiatives, but how one makes policy is part of what the Civil Service and ministers together have to try to do together. I read the previous evidence of retired permanent secretaries and others. I think there is a consensus that there have been times when government in the round has not focused sufficiently on ensuring that the policy process is as sharp and effective as it should be, and making policy is about policy that can be delivered on the ground. That is a point which some of the previous witnesses have made. One has to get that right, but even translating what ought to be a very effective and efficient policy from central government to the local classroom or the police in the local community or hospital is itself

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quite an important area of transmission where so much can go right or wrong. I am not trying to step away from the fact that people must be held personally accountable for their own failings, but in a very complex process it is often hard to strip out where the individual responsibilities lie.

**Q314 Chairman:** What was so shocking about recent events was that it seemed absolutely straightforward to most people; it was basic administration; namely, whether or not one releases somebody who should be deported. There was no basic check in place of an administrative kind. It was not because of great complications of policy and so on; it was the basic administration that went wrong. Somebody who is charged with administration did not do it?

**Mr Baume:** I am not arguing against that. I am being very careful not to pre-empt any such conclusion. For example, the FDA could find itself representing individuals who might be caught up in that, and both the Home Secretary and permanent secretary have said they will look at this. Therefore, I will not pre-empt that. But it may well be, without prejudice to any inquiry that takes place, that in that kind of situation it was about simple administrative failings. One then has to decide where that particular failing lay. All I say is that if one tries to generalise too far it does not help. To take a very simple case, there was lot of press coverage about an immigration officer who was publicly charged in connection with sex for visas. I have to be careful; I do not know if criminal charges were made laid. It appears from the newspapers to be a very straightforward issue of corruption. That could happen in the best run systems but one still has corrupt individuals. There one has very easy personal accountability. It may well be that in IND we find that it was about individual failings and basic administrative systems. Perhaps as a consequence of that individuals have to be held personally to account. All I am trying to say is that often it is not as straightforward and simple as that in trying to understand why particular initiatives have not worked. One can take almost any area. Why do we still have literacy problems in the UK? Whose responsibility is that? Is that a failing of central government, policies or individual teachers? At times it is very difficult to unpick how all of that operates.

**Q315 Mr Prentice:** On the question of the Civil Service being accountable, you told GMTV that the Home Office sacks between 400 and 500 people every year. Can you give us a breakdown of why those people were sacked in terms of incompetence, fiddling the books, stealing, inappropriate behaviour or what?

**Mr Baume:** I cannot. The answer was taken from a Parliamentary Question on 15 November last year by the Conservative Member for Monmouth, David Davies. Those figures were put before Parliament.

**Q316 Mr Prentice:** Did those figures shock or surprise you when you read that answer to the PQ?

**Mr Baume:** They did not shock or surprise me because there are good, although there could be better, systems of performance management. They will cover a range of issues, one of which is conduct. An extreme example is someone who steals or whatever. There are systems to pick up poor performance, and we as a union deal with them.

**Q317 Mr Prentice:** But there must be information systems within government departments to list the reasons why people are sacked. The information must be there; it is just that you do not have access to it?

**Mr Baume:** I do not have access to it.

**Q318 Mr Prentice:** Do you know how many of the 400 or 500 people quoted in that Parliamentary Answer were members of the FDA?

**Mr Baume:** The members of our union in a department the size of the Home Office are very small in number. The Senior Civil Service comprises 3,500 people out of 530,000, but in general week in and week out most of the FDA negotiating staff spend their time supporting individuals. There will be a range of reasons for that, but the fact is that we assist individuals. There are two ways in which individuals are held to account. First, they are held to account for their own personal performance, which has an impact on pay and at times it has an impact on their very job security. Secondly, we assist people in moving to other posts where their particular skills will be more appropriate, and at times we assist them to leave the Civil Service, not because they are incompetent or ineffective but that their particular skills and background are no longer appropriate to future needs.

**Q319 Mr Prentice:** I understand what you are saying. Given that you represent a very small group of people at the very apex of the pyramid, can you give us any sense of the numbers of FDA members who are dismissed because they are incompetent or for any other reason?

**Mr Baume:** The numbers dismissed for incompetence are very few, because I do not believe that there is a major problem of incompetence.

**Q320 Mr Prentice:** We have heard about all these cock-ups in the Home Office, IND and you cannot tell us how many members at the top of your organisation lose their jobs because they are just not up to it? You told GMTV when you spoke of the 400 or 500 people in the Home Office that, frankly, some of them go because they are just not up to the job. My question is: how many of your FDA members have lost their jobs because they are not up to it?

**Mr Baume:** Very few. I make three comments. First, in any situation where one is looking at somebody's job, and any other form of disciplinary process, one must have proper and fair processes that are conducted in private. That was a point I made to GMTV. Second, I am sure that further analysis of what has happened in the Home Office will take place. I do not want to pre-empt any of that. Third, what we are seeing much more is not people being

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necessarily inefficient or incompetent but rather a civil service renewing itself with turnover of staff and so on as people move out of the Civil Service and other people are brought in with the appropriate skills. But the bigger point I make is that to try to pin it down to individuals is not necessarily a particularly helpful process or frankly the answer to why particular problems have emerged, because the answers are much more complex than saying that it was the failing of one particular individual.

**Q321 Mr Prentice:** We cannot always be defeated by complexity and say that policymaking is so complex that no individual can ever be held to account because it involves lots of people within departments and departments working with each other before a policy emerges. The argument that things are just too complex is not good enough, is it?

**Mr Baume:** My argument is not that things are too complex but that in complex systems to identify where responsibility for particular problems arise is not always straightforward. When one works in a political process where the priorities, tasks and work of a department are constantly being changed and amended for political as well as administrative reasons responsibility is not always clear cut. I am not stepping away from this; I am saying that you can take any particular problem and analyse it in depth. Sometimes it is about individuals, whether politicians or civil servants, and other times it will be because systems, in which people have done an extremely effective job, are not operated.

**Q322 Mr Prentice:** I am trying to squeeze a quart into a pint pot here. I was interested in the Chairman's opening comment that it had been alleged that some ministers were incompetent and lazy. I am sure that the Prime Minister would be aghast that ministers he had appointed were lounging about doing nothing in their departments. My point, which I put to the two Janets earlier, is whether there should be a kind of reporting of ministerial competence, perhaps informally, through permanent secretaries up to the head of the Home Civil Service and then to the Prime Minister so that the PM knows the kind of people and their level of competence that he is putting into the Government?

**Mr Baume:** I could also ask whether you were aghast. I think that if you asked previous cabinet secretaries about this you might find that some kind of informal process does take place.

**Q323 Mr Prentice:** Let me help you. Our colleague Karen Buck resigned as a Minister of Transport, not because she could not do the job but because she did not want to do it. I am sure that she would have been perfectly happy in some other role in another department; she just was not interested in transport. That is a classic example where someone would say that here is a woman who is very competent but who may be better off in another department, but, no, she has to resign. Do you understand what I am saying?

**Mr Baume:** Yes. In the end that is the role for the Prime Minister. I tried to make the point myself. There will be ministers who are suited to different areas of interest and activity and sometimes people are put in the wrong posts.

**Q324 Mr Prentice:** Do you believe that the Prime Minister is a bit light on personnel management skills? Sometimes people leave the Government and there is no exit interview; it is just, "I need your job", or something like that.

**Mr Baume:** I suspect you will find that with almost any Prime Minister that process takes place. I will certainly not single out any one Prime Minister. I think that it is a very imperfect practice. People are appointed to different roles for all kinds of reasons. You even hear of people not being appointed sometimes because their names have been forgotten, but that is part of the political process and that is the context within which civil servants work, and they do their damndest to try to make sure it does work. I suspect that every MP will have his or her own personal perceptions of the abilities of individual ministers. I think that at times we never really talk about it; it is just something that we can politely ignore, but the fact is that in that environment it has an impact on the way a department works. If anything comes out of all that has happened recently it is, first, the importance—we have talked about this in other contexts—of the secretary of state of a department making sure that the team of ministers works effectively, which does not always happen; and, second, that the permanent secretary does the same with his or her team and those two teams are brought together. I think that the departments that work well are those where there is a strong level of integration and common purpose between the senior Civil Service and ministers. They know the direction in which they are going; that is what happens in most departments, but clearly not always.

**Q325 Mr Prentice:** This inquiry session is entitled "Ministers and Civil Servants". The affair between John Prescott and Tracey Temple was regarded by the Prime Minister as a private matter. You represent civil servants. Do you believe that it is a private matter or are there other implications?

**Mr Baume:** I would again answer a different question.

**Q326 Mr Prentice:** I would prefer you to answer the question I have just asked you, because it is very straightforward.

**Mr Baume:** I have said on the record that there is nothing in itself wrong in a minister and a civil servant having a personal relationship. In any organisation regardless of the employment status there are standards of behaviour which one would expect to see observed. I have suggested that it might be appropriate to have clarity that where a minister and a civil servant enter into a personal relationship that matter should be reported by the minister—I think the responsibility is on the minister—to the permanent secretary. It is easy to laugh. That would be no different from many organisations out in the

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wider economy where if a senior manager and member of staff have a relationship at least account needs to be taken of it in the work place. In some organisations it is laid down in staff handbooks to avoid conflicts of interest, problems with colleagues and perhaps, in due course, one of the parties presenting a claim for sexual harassment if the relationship goes wrong, etc. But I believe that at this level it would help all concerned if that was the way it was taken forward. It would be a matter to be dealt with privately, but if issues arose in the future nobody could argue that the minister had done something surreptitious; it would have been logged privately, because people are entitled to a private life. It would also avoid future suggestions that individuals had been coerced into relationships, which is the kind of thing one sees happen in the normal employment arena. One has cases of individuals claiming that they have been coerced into personal relationships by colleagues. One needs only to read through Employment Tribunal cases. One can say, "Oh, this is ministers and we cannot go anywhere near this", and somehow ministers should

be in a class beyond normal employment practices. I do not believe that ministers are beyond normal employment practices. I believe that, just as at times ministers can have a relationship with a civil servant where everybody lives happily ever after—there are such examples—there is also a danger of real embarrassment and difficulty arising from such a relationship if it is not handled appropriately. It is a small issue but potentially it can be a very difficult one. Sometimes one just has to employ normal employment practices to this very odd and unique circumstance of the minister and civil servant.

**Chairman:** That is a rather good answer. As to the other issue about sacking ministers, there is a story about Clement Attlee. When a minister was being sacked by Attlee and the minister protested, "What on earth have I done wrong?" Attlee just looked up, grunted and said, "Not up to it!" That is perhaps the way to approach it. Consistent with your intention not to say anything remotely newsworthy, we have had an extremely interesting session. Yours is always a voice that we like to listen to, particularly so this morning. Thank you very much indeed.

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**Thursday 29 June 2006**

Members present:

Dr Tony Wright, in the Chair

Mr David Burrowes  
David Heyes  
Kelvin Hopkins

Mr Gordon Prentice  
Paul Rowen  
Jenny Willott

*Witnesses:* **Rt Hon Michael Howard, QC**, a Member of the House, and **Rt Hon David Blunkett**, a Member of the House, gave evidence.

**Q327 Chairman:** I call the Committee to order and welcome our witnesses. I hope that we shall be joined by a few more Members as we go along. I am very pleased that Mr Howard and Mr Blunkett are able to come and give evidence to our inquiry into Ministers and Civil Servants. Both of you are former distinguished ministers. Your responsibilities have included the Home Office, but in taking evidence from you we want to draw upon the whole range of your experience and thinking about these matters. Do either of you want to say anything before we start, or shall we just begin our questions?

**Mr Howard:** I am happy to go straight to questions.

**Mr Blunkett:** So am I.

**Q328 Chairman:** Mr Blunkett, you have given us a very interesting and robust memorandum about the existing arrangements. Towards the end you say: "If in the next five years fundamental change is not made I regret to say that I think that confidence in the public service and the ability of that service to underpin the working of our democracy will be in doubt." Would you like to say a little more about that?

**Mr Blunkett:** I am a bit like the general public who think that the health and education services for themselves and their families are superb but the services as a whole are falling apart, in the sense that of any experience I have had in life I have had some of the best members of the Civil Service working with me, but I have also seen structures which just do not live up to the expectation that now exists publicly of what people are prepared to put up with, do not match what is happening in the private sector in terms of modernisation and reform and has not taken account of new technology and globalisation. Unless the Civil Service is able to underpin new forms of delivery, often at arm's length, with clear lines of accountability we will have a drip-drip corrosion of confidence in what it is government can do at any level to the point where democracy is damaged. People cease to vote and be engaged; the media are full of the worst possible stories about how a service does not work; and people's experience is then coloured by the culture around them. I believe that we are at a pivotal moment.

**Q329 Chairman:** Your memorandum breathes frustration with the system. It reflects the frustration of someone who wants to make the system move and

do things but finds it very difficult to make it happen. In general terms, do you believe that the Civil Service is now fit for purpose?

**Mr Blunkett:** The honest truth is that I hate the phrase. I think it is an awful expression and I have never used it, but I understood what the present Home Secretary meant. I do not believe that that phrase covers the whole of the service or a department. It can be applied, if people want to use that terminology, to particular directorates or actions at a time, partly because of the failure of government, which are down to ministers as well as civil servants, to be futurists and see what is about to come round the corner. Mr Howard will probably want to comment on this. The Home Office always talked about the dark clouds and the storm arising out of a blue sky, but with the exception of 11 September—even then we could argue that potentially we should have seen from 1998 onwards what was likely to come—most of the things that were allegedly immediate crises could have been foreseen. Therefore, we take joint blame for that. We as politicians engage in taking a look at the future and developing policy ideas with those reporting to us who have some capacity to look to the future rather than the moment. That is increasingly difficult. In a department like the Home Office at the moment that is virtually impossible because if you put a microscope to any dining table you would find "whirlgories" there and that is what is happening with government. We come back to your original question. If we reach a point where dissatisfaction arises and people are constantly looking for things that are falling apart, rather than being able to look to the future to reform, develop and modernise, we will get to a stage where we find something virtually every day.

**Q330 Chairman:** I shall ask you in a moment what we should do about it, but perhaps Mr Howard will tell us what he believes is going on?

**Mr Howard:** I have not seen Mr Blunkett's memorandum, so I cannot comment on it. I have listened to what he said and I do not agree. As I said in my short letter, I believe that it is a delusion to suppose that there is some different kind of structure which will make everything easy and solve the problems. What one needs in any department, including the Home Office, is strong political leadership and a clear expression of determination by the secretary of state as to what he wants to do and a determination to get it done. Then one needs

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the readiness of the secretary of state to roll up his sleeves and make sure that there is in existence an action plan for doing what he wants to do and to keep in regular contact with those who are responsible for delivering that action plan and to monitor its progress regularly and frequently so that what he wants to get done is actually done. I think that that is pretty much what has to be done in any organisation; it is not rocket science. If you do that the Civil Service will respond and give you what you want. I believe that civil servants respond to what they believe to be ministers' priorities, and I am afraid—at this stage you will think that I am becoming a little party-political, but it is what I believe and I have to say it—that if civil servants believe that ministers' priorities are eye-catching initiatives with which they can be personally associated, or they capture tomorrow's headlines, they will concentrate on delivering those ministerial priorities, but it will be at the expense of the grind of government and the often boring business of making sure that delivery takes place and things get done. There was an article written not long ago in *The Guardian* by David Hencke under the headline "Blair Doesn't Do Boring". I think there is a lot of truth in that. The Prime Minister sets the tone for the whole administration. On the day I was appointed Home Secretary the then permanent secretary, Sir Clive Whitmore, came to see me in my office at the Department of the Environment where I had previously been Secretary of State. He said that the one thing the Home Office needed above all else was strong political leadership. I think that if it is given in the way I have suggested the Civil Service will get things done.

**Mr Blunkett:** I do not disagree with that. Strong leadership can ensure that policy is understood because that is my primary concern about the failure of ministers over generations. If ministers are not clear about what they want the Civil Service cannot deliver it. One might want to place emphasis on a massive improvement in standards in education. The setting up of a standards unit, as I did in 1997, to drive it forward had a dramatic impact. That unit has now been abolished because the succeeding secretaries of state have different ways of approaching things, but it worked, just as the employment service was completely transformed from 1997 to 2000 in terms of introducing the New Deal. Things can work only if the administrative, managerial and leadership structures under them are either recreated or restructured to be able to meet those priorities. I do not disagree with the central point that Mr Howard is making. I just think that politicians who believe that if they only will things to happen they will happen are deluding themselves.

**Q331 Chairman:** Mr Howard, I am struck by the fact that these things seem to go round in cycles. Although you make a point about what is happening now, you were in the mire 10 years ago in the wake of prison escapes and reports about too many government initiatives and ministerial interventions. The Learmont report said: "Any organisation which boasts one statement of purpose, one vision, five

values, six goals, seven strategic priorities and eight key performance indicators without any clear co-ordination between them is introducing a recipe for total confusion." Very much the same charges that are levelled these days were levelled a decade ago. It seems to me that the issues are common. A week or two ago the new First Civil Service Commissioner who appeared before the Committee said that she no longer believed that we knew what ministerial responsibility was. For the new head of the Civil Service Commission to say that is pretty remarkable, is it not?

**Mr Howard:** You make two separate points. First, certainly problems did arise 10 years ago and there were all sorts of different challenges, but I do not believe that they are the same as the ones we experience today. To pick up on something that Mr Blunkett said—I suspect that he will agree with this—the Home Office is different from all other departments in one respect. Things go wrong in every department; people make mistakes in every department, but very often the things that go wrong and the mistakes made take place in dark and hidden corners which never suffer the glare of the searchlight of public attention. There are very few dark hidden corners in the Home Office. Almost everything that the Home Office does attracts the attention of that searchlight and that is why there is so much attention on things that go wrong in that department. Second, you made a point about ministerial responsibility. I am very clear as to what it should mean. Perhaps people do understand it in different ways, but I am very clear about what it should mean. When we had a great row about prison escapes in my time I took as my text what Jim Prior had said when he was Secretary of State for Northern Ireland after prisoners escaped from the Maze. He said he would hold an independent inquiry which would decide what went wrong and who was to blame. He said that if that inquiry found that anything he did or did not do had contributed to the escape of the prisoners from the Maze he would resign. I took the same view in relation to the prison escapes in my time. I commissioned an independent report. The Learmont report, to which you referred, said that there were shortcomings at all levels from top to bottom within the Prison Service but did not make any criticisms of me. If it had I would have resigned. I believe that if a minister who is clear about what he wants done and constantly asks the questions to make sure that it is being done, and is reassured that everything is on track to deliver what he wants to deliver, but it turns out that as a consequence of the failures of others further down the line those things are not done the people who did not do what should have been done should bear the responsibility. But if the minister did not do what should have been done, did not ask the questions, provide the resources or whatever then he should carry the can. I believe that is the way in which responsibility should work.

**Mr Blunkett:** There may be an underlying issue in the remark of the commissioner which you quoted, namely: is it clearly understood what is the divide in responsibility between ministers and senior civil

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servants? Do civil servants understand their responsibility and accountability as well as their responsibility to ministers? That is what I have been trying to get at in the memorandum. We all pay lip service to neutrality and we should in practice adhere to it because it has served us very well, but that is not the same thing as ministers hovering—Mr Howard certainly did not and so this is not a knock at him—above a department as though what is happening in it has no bearing on the role of the minister. Our mechanisms, however, are now even less effective for the responsibility of ministers in terms of what happens managerially in the department, short of the nuclear option. I said on Radio 4 about five weeks ago on the back of Charles Clarke's resignation that I chose not to use a nuclear option when in the Home Office, because getting things delivered and changing what was a potential crisis was more important than that. One does not want ministers sacking permanent secretaries on a regular basis in order to bring about change.

**Q332 Chairman:** Do we need a clearer definition of the respective responsibilities between ministers and civil servants?

**Mr Howard:** I believe I have given you one.

**Q333 Chairman:** You have said that it is working more or less all right?

**Mr Howard:** I did not say that it was necessarily working more or less all right. I said I was clear as to where the line should be drawn between ministers and civil servants.

**Mr Blunkett:** I think that is fine in terms of being at the Despatch Box and defending yourself, but that is different from driving through radical change and, at the end of your term in office, believing you have achieved anywhere near what you intended to do. Mr Howard's position is perfectly defensible in a defensive role; namely, whether he has had anything to do with the particular failure. The answer can often be "No" but that is not a great deal of comfort. What I am trying to get at is how we change the whole nature of the leadership and management throughout the service to meet the new challenges. I am trying to work out how we do that post-Nolan, the Wicks report and everything else. The press likes this because if it is anybody versus politicians the "anybody", whoever it may be, has to be right. In this country if it is the minister versus the Civil Service or anybody else it is the minister who is obviously to blame. I am trying to get away from blame. How do we ensure that we do what Mr Howard said and monitor what we have laid down as policy and what we think we have had reported to us as a structure with five-year plans, the management laying out what it intends to do? How do we monitor that and hold people to account? If I had a big failing as a minister it was not to set up in my private office a unit to monitor what was taking place. My main monitoring was my advice surgery and going round the country where I soon found out things that civil servants did not tell me, because they did not know; they never went into those communities and heard what people said to me.

That is not good enough; it will not do. When I said to one department, which was not the Home Office, that we should set up a unit responsible jointly to the permanent secretary at the time and me that went round and tested the delivery of services, the answer was that the heads of the agencies were doing it. Patently, they were not doing so.

**Q334 Chairman:** There is a proposition which says that civil servants have to be more visibly, almost contractually, accountable for their part of the operation. Is that a proposition to which you would assent?

**Mr Blunkett:** I think you can do that if it is a specific project with a specific timescale. Therefore, those people can be seen individually to be held to account. I make a point in my memorandum—I am sorry that Mr Howard has not had an opportunity to read it, not because it is profound but because he could otherwise have commented on it or disagreed with it—about Bill teams. Civil servants are historically very good at legislation; they play a role in getting a piece of legislation through. Afterwards people breathe a sigh of relief and have a party, which I am fully in favour of because to get some Bills through is a nightmare. The Bill team is then disbanded, whereas in a logical structure a team that has done well would not be disbanded but given new responsibility for ensuring that the legislation was put into practice, monitored and was effective. People would be promoted in post to do that rather than what is clearly musical chairs in which someone is moved every 18 months or two years to get promoted. That is a crazy system.

**Mr Howard:** I agree with that, but I do not believe that there is a need for a new code of practice or document to achieve it. What one needs is an infusion of commonsense. The secretary of state can have a word with the permanent secretary and see if that can be done. If one has these agreements an awful lot of attention will be focused on the nature of the agreement and whether or not it has been observed. That is not always helpful. I give a painful example within my own experience. Everybody remembers my famous, or infamous, interview with Jeremy Paxman. Most people remember how many times he asked the question. Very few people remember the question. The question was whether I had threatened to overrule Derek Lewis. The man in the street did not give a damn about whether I had threatened to overrule Derek Lewis. The man in the street and I were concerned about whether we were doing all we could to stop dangerous criminals escaping from prison. The only reason the question had any relevance at all was because of the structure of the agency agreement which set up the Prison Service Agency. I am very sceptical about the helpfulness of these structures. As I said at the outset, I believe you need a secretary of state who gives proper, strong political leadership and gets down to the nitty-gritty of delivering what needs to be done.

**Mr Blunkett:** Mr Howard was very lucky because Jeremy Paxman asked him the wrong question—15 times I believe, or whatever it was. I do not disagree

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that simple codes will not change anything; some new structure set in aspic will not change anything, but I come back to the commission. I am sorry that I have not had an opportunity to read the evidence given to you. I believe that the Civil Service Commission needs a new formula because it has been partly responsible for the nature and the way in which recruitment and promotion take place within the Civil Service and appointments are or are not made with the involvement of ministers. When one has a good commissioner attached to a department and a permanent secretary with a bit of imagination it works, but it works because of their personal relationship and co-operation, not because of the structures. I think you will find that where the structures are followed to the letter there is friction and difficulty. I also believe you will have silliness, for example that the Civil Service now believes it breaches equality of opportunity if people are promoted within their existing posts rather than giving other people the chance to take it away from them. You do not get that in private enterprise; it is a nonsense.

**Q335 Mr Burrowes:** Why is the Home Office so bad? Is it the fault of home secretaries or civil servants?

**Mr Blunkett:** I do not believe that it is as bad as it is painted. I believe that it has the biggest problems with the most difficult people that government has to deal with. The more difficult it is and the more dispirited and demoralised people become the more difficult it is to recruit people who want to commit their lives to it. There are saints in the Immigration and Nationality Directorate as well as people who would rather not be there and, therefore, get out at half-past four as fast as they can. The core of the Home Office, I believe, over the past 20 years has improved enormously. Mr Howard is the one who can best describe what was offered to him when he entered office as Home Secretary in terms of the view taken of the role of that department. It is now totally different. We were talking about it before we came into the room. I do not know whether he would like to share it with the Committee, because people will not remember it.

**Mr Howard:** Mr Blunkett was kind enough to say outside that I was the Home Secretary who got the Home Office to focus on reducing crime. I have told this story many times. When I came in the first presentation made to me by officials was to show me a graph demonstrating trends in crime over the past 50 years. It was a line going straight up. They said that crime had increased on average by 5% a year and it would carry on increasing at that rate. I was told that the first thing I had to understand as Home Secretary was that there was nothing I could do about it: my job was to manage public expectations in the face of this inevitable trend of rising crime. It was advice that I did not take. It took quite a while to change the culture of the department and to get it to understand that I was serious about trying to reduce crime, that I had a strategy for doing it and I would make certain that that strategy was followed and implemented. After a while they accepted it and recognised that I was serious about it. As we know,

crime fell by 18% over the four years I was there. But that indicates to me that if you make it clear to officials what you want to do and they are serious about following through they will deliver.

**Q336 Mr Burrowes:** To contrast the case of Charles Clarke, he failed to deliver and change the culture. In the words of your biography, perhaps he had gone soft and had to go?

**Mr Blunkett:** I think that he was being judged on a particular incident at a particular moment in the middle of a controversial local election campaign. I do not think that a department or individual should be judged entirely on one incident. The issue that Mr Howard raised earlier is whether or not there has been a report back to ministers and the monitoring elements are in place so you know what is about to hit you and whether you have taken appropriate action in the light of that monitoring and reporting back. I think the jury is out in relation to the particular incident to which you refer: Charles Clarke's departure as Home Secretary. I think that the underlying issue we both raise is that the more the department accepts responsibility, quite rightly, for the rapidly changing challenges of a modern era the more it will find new mechanisms are necessary to be able to deliver, and the harder it gets. Just before I became Home Secretary Roy Jenkins told me—he was predicting that I would assume that office, which was very kind of him—that I should not take seriously any of the stuff that Mr Howard and Mr Straw had done because there was no way I would be able to take responsibility for or continue the reductions in crime. It fitted in with a view of the past. That has gone; there is no way that the department cannot accept responsibility for the part it plays in counterterrorism, reductions in crime, reform of the criminal justice system, immigration, nationality and asylum and the plethora of offender management and other systems. We have to find a way to ensure that we know who is accountable for what decisions at what level and how they report back.

**Q337 Mr Burrowes:** Is not the problem that senior civil servants themselves do not feel that poor performance is effectively dealt with? A survey last year revealed that just 16% of senior officials felt that poor performance was effectively dealt with. In the Home Office in particular where you suggest the picture is still fairly rosy 66% of senior officials felt that poor performance was effectively dealt with, giving the impression that perhaps the Home Office is one of the worst offenders in terms of dealing with poor performance?

**Mr Blunkett:** First, we should look at monitoring poor performance rather than just ticking boxes. There are departments that give virtually all their senior and middle managers the highest possible rating on the ground that to do otherwise would diminish the recruitment and self-esteem of the department. In my experience the Home Office did not do that and was rigorous about appraising whether people were performing. I think that the



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Civil Service as a whole is poor at following through on poor performance, and the sooner we do away with euphemisms like “gardening leave” the better.

**Mr Howard:** I agree with Mr Blunkett. I believe that to be a real problem. If you have time and it does not weary you I will give you an anecdote. Shortly after I arrived at the Home Office a very sensitive document was leaked and I was very cross. A leak inquiry was instigated. After a period of time the results of that inquiry were reported to me. Speaking from memory, the results were as follows: it had narrowed the field to two suspects. Anyone apart from those two suspects could be excluded. The first one whom we questioned answered all our questions frankly, fully and without any evasion whatever. He was very convincing. He convinced us that he was not responsible for the leak. The second suspect was very evasive in his answers to our questions. We established that he had without authority taken home a copy of the document in question; that he had had a drink with the journalist who had written the story two nights before it appeared; and he was unable to give any satisfactory explanation for this. He continued to deny his involvement in the leak, however, and we were unable to take any action against him.

**Q338 Chairman:** What did you do?

**Mr Howard:** I said, “Are you serious about this?” and the reply was, “That’s the result of the leak inquiry, Home Secretary, and there’s nothing we can do about it.” I asked what was going to happen to this gentleman and they said that he would be moved. They said that the fact he would be moved into a different department would be a terrible blow to him.

**Mr Blunkett:** I hate to think where he is now.

**Chairman:** Probably the IND!

**Q339 Mr Burrowes:** In terms of under-performance of senior officials—we see that in recent times in the Home Office two officials have been suspended or transferred from their posts, but there does not seem to be much other movement or accountability—how did you deal with that during your reign?

**Mr Blunkett:** You have to deal with it through management. The lines of responsibility and the boundaries over which we should not step are very clear. There were occasions—I will not go into them now because other people who are now ministers were involved—when they identified that very senior people were under-performing and put to management that they should be moved and they received promises that they would be. In due course they were removed but, as Mr Howard describes, they were transferred to other jobs. In your own private office you can say that you want this or that person out because you want to create a team around you that is committed, energetic, puts in the hours and is dedicated not to the politics that I espouse but to the job. We were able to do that, but successively over the eight or more years I was in government when people were moved out it was not

because they had failed; they were moved sideways, and in some instances promoted, because it was the easiest and quickest way to get them out.

**Q340 Mr Burrowes:** Mr Howard, what about getting in the good people you want to have working with you? How much influence did you have over that? Would you have preferred more freedom to have with you those people whom you could trust?

**Mr Howard:** I had to fight one big battle. When the permanent secretary who was there when I arrived retired I was very clear—because I was engaged in a systematic attempt to change the culture of the Home Office—that his successor should be someone who had not spent his career in the Home Office. Quite sensibly, the Civil Service has an elaborate system of career planning so that when a permanent secretaryship falls vacant there is someone designated—sometimes there is more than one—as being appropriate to fill that post. The person who had been designated as being appropriate to fill the post was an admirable man. I had no personal difficulty with him at all. He was not then in the Home Office but he had spent most of his career previously in that department. I said that I was not prepared to have him, not that I had anything against him or that I insisted on the appointment of anybody in particular, although I had worked closely with Richard Wilson when he had been my permanent secretary at the Department of the Environment and would have been my first choice. I said that I did not insist on Richard Wilson but that we should have someone who had not spent his career in the Home Office. That caused enormous consternation. In the end, it went to the Prime Minister for resolution. That was resolved in my favour, and Richard Wilson in the event came over to the Home Office as permanent secretary.

**Q341 Chairman:** Does that not go to the heart of some of the questions that we asked earlier? Ministers are being held responsible for systems over which they have no ability to appoint people to deliver. This is unlike any other organisation where normally someone at the top is responsible but in great part they have that responsibility because they put in place the people who are delivering it. This is simply not the case. The rather exceptional case at the top of the organisation and the trouble that you had to go to demonstrates that?

**Mr Howard:** I think it is an exceptional case in two senses. As I keep saying, I believe that for the most part this is not as big a problem as it is sometimes made out to be. It can be a problem. It is true that ministers’ ability to choose the people they want and reject those they do not want is limited, but on the whole if you do the sorts of things I have been talking about, that is, you give leadership, make sure that it is followed through and so on, I do not believe this is an insuperable problem; you can overcome it. Exceptionally, it matters as in the instance that I have just described, but in that case I was able to get my way.

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**Mr Blunkett:** I was extremely fortunate that when I became Secretary of State for Education and Employment in 1997 Michael Bichard was my permanent secretary. I was fortunate, first, because he was the only permanent secretary at the time who had run anything outside government; second, because he had a grasp of the broader policy in terms of education and employment; third, because he was a manager, which is different from being an administrator; and, fourth, he had a real desire to bring about change. I might not have been fortunate, but I believe that the things we were able to do in those early years would not have happened had I not had that particular permanent secretary who, incidentally, was disliked intensely in the higher echelons of the Civil Service. I regret that he left the Civil Service; it was a great loss to that service and to government, but I pay tribute to him. Throughout my time in government I would have liked a range of choices of senior officials in whom I had a hand in appointing, not that I appointed personally because it would have caused all sorts of difficulties in managing a system that is still based on the belief that we as ministers are ephemeral amateurs who will not be there for all that long. I am afraid that very often government reinforces that view. I was lucky to spend four years in the first job and the best part of four years in the second because you can move things. But there remains an underlying view that we are amateurs who pop in and give advice and a bit of leadership on policy and it would be a good thing if we did not upset the applecart too much.

**Q342 Chairman:** Mr Howard, would you have liked a greater role in appointing some of the people who had to deliver what you wanted to do?

**Mr Howard:** A little more. I became Secretary of State for the Environment immediately after the election in 1992 and at that time permanent secretaries were changing. I was asked whether I would agree to the appointment of Richard Wilson, as it happened, whom I did not know at all. I believe that they mentioned one or two other candidates, so I was asked my view on that. I believe there is scope for some greater say, but I would not want us to get anywhere near the political appointments system that exists in the United States where great swathes of the civil service depart at the end of every administration and it often takes a year before those jobs are filled with people who are sympathetic to the incoming administration. Our present system is not perfect, but it has a lot of merit and strengths and I am not in favour of changing it too much.

**Mr Blunkett:** I would not want the American system either, as I say in the memorandum, for the reasons that Mr Howard has spelt out. In making a point, as I constantly did in cabinet, about the need for reform and modernisation, you exaggerate in order to move people along; in other words, the greater the resistance to the idea that you need to change anything the more irate I become, which is one of my failings. We need to get a balance here. There is a need for change but there is such resistance to any fundamental change that you have to advocate it very strongly to get any movement at all.

**Q343 Jenny Willott:** Mr Blunkett, your memorandum states: "The permanent secretaries should be appointed by the secretary of state through open competition. One single name should not be offered to a secretary of state for approval, nor should an incoming secretary of state be expected simply to ratify the existing incumbent." You have said that you do not favour the US system of wholesale change, but that passage indicates that that is perhaps what you are suggesting?

**Mr Blunkett:** There are examples in this and previous governments of a secretary of state taking on a job and saying that he will take the job if his existing permanent secretary is prepared to move with him. There are examples of such a change. Post-last year's election a large number of vacancies came up in a whole range of responsibilities and incoming secretaries of state, including myself, were able to say whom they wanted. That was not by open competition but by knowledge of who might be suitable and capable of doing the job well and being able to be, not accommodating towards, but compatible with the particular secretary of state. There is nothing worse than a three or four-year battle between the person who is publicly accountable and the person accountable to them for running the service. At the moment, however, unless there is substantial change, such as Mr Gus O'Donnell brought about in terms of the permanent secretary vacancies in May/June of last year, you would simply take on whoever was handed to you by the previous administration. I suggest that in those circumstances we adopt the same system as we have in private offices. As soon as you enter the private office the existing principal private secretary will say, "Look, there is a convention that we try each other out for a month or two and if you think that you need a change I will not take offence and if I think it is a suitable time to move I will do so." Quite often, principal private secretaries are so worn out by the time you take them on that they say, "Look, I will do this job for four or six months in order to establish stability and then move on." There is then open competition and you are presented with a short list. You can interview those who can do the job. If you can do that for the head of your own private office surely you can do it for the permanent secretary.

**Q344 Jenny Willott:** Criticism has been made this morning of the practice of people moving around after 18 months or two years and you lose collective memory and some of the expertise. Is there not a danger that if you were able to change permanent secretaries with a new secretary of state, given that some people are in post for quite brief periods of time, you might inadvertently lose some expertise and that would affect the quality of advice?

**Mr Blunkett:** Yes, there is. That is why in establishing project groups you ensure that at middle and senior level under the permanent secretary there are people who can see that their careers lie in having some expertise in what they are doing rather than in having to move and adopt expertise about which they do not have the first idea including, by the way, finance and accountancy.

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**Mr Howard:** I must say that I am a little sceptical about the practicality of the proposal to have open competition for permanent secretary appointments. The point about principal private secretaries, where the relationship is vital because you are in minute-to-minute contact with the person concerned, is that it is at a level in the Civil Service at which it is not too difficult to accommodate people if they go in for a month and then go out or go in for four or six months and then go out. There are lots of other jobs at a comparable level to which they can go and so it is perfectly manageable. Obviously, at permanent secretary level there are very many fewer jobs to which they can go. As a matter of practicality, if a permanent secretary is on trial for a month and it does not work out what on earth will happen to him, unless he just leaves the Civil Service? That will introduce an element of huge uncertainty in the upper echelons which will have a considerable knock-on effect on the whole structure of civil service careers. I am doubtful about its practicality.

**Mr Blunkett:** I take that point but I do not balk at the outcome, and that is the difference between us. I have noticed that they do not do too badly in leaving the Civil Service. I do not believe there is anything terribly dangerous in this. To cease being a cabinet minister is also quite upsetting.

**Mr Howard:** We know what we are in for; we go into it with our eyes open.

**Mr Blunkett:** We certainly do.

**Q345 Jenny Willott:** We have two other inquiries going on at the same time, one of which is about political memoirs. One interesting fact to emerge from it is that some of what happens in theory does not happen in practice particularly in relation to the recruitment of civil servants. It is clear from the memoirs of some of those from whom we have taken evidence that as ministers their involvement in the recruitment of civil servants at a whole range of different levels was much more involved than it might appear from the outside. Was that the experience of either witness?

**Mr Blunkett:** It was mine initially, because in setting up the standards and effectiveness unit we recruited heavily from outside with the benign support of the head of the department not in terms of my picking people but at least having a clue as to where we would look, for example head teachers who might have a clue about what was happening in the education system. What Gillian Shephard spelt out was something that I was determined to overcome; namely, that she did not have the levers to pull to make a difference in a department which historically did not have the first idea what went on inside the education system and, regrettably, did not think it was their business.

**Mr Howard:** I do not believe that I had the experience which has been quoted. On the whole, I found that if you were clear about your priorities—I was secretary of state of three different departments—and said to your permanent secretary that during your time at the department your priorities were A, B and C the permanent secretary would accept that and try to make sure that the best

people were engaged in delivering those priorities. Obviously, in any walk of life and in any organisation there are some people who are better than others. The important thing is to put the best people in the places they are most needed. My experience in general was that once I had made clear my priorities the permanent secretary would do his best to put the best people in those areas. Where I felt I needed to intervene, as in the example I mentioned previously, I did so successfully, but I did not feel the need to do it very often.

**Mr Blunkett:** Since memoirs have been mentioned, before I became a secretary of state I should have read—I now have more time—*The Crossman Diaries*. That is really instructive. It is amazing how little has changed in 40 years.

**Q346 Jenny Willott:** As to special advisers, which is another element of this inquiry, should there be more?

**Mr Howard:** I think there should be fewer.

**Q347 Jenny Willott:** Why?

**Mr Howard:** I apologise to my colleague in advance because so far we have got on very well and I do not expect him to agree with this. Since 1997 I believe there has been an element of politicisation of the Civil Service. You see it most glaringly in the information officers in the communications departments where in the old days there was a very clear line in regard to what could go out under the department's imprint, what had to be non-political, what a minister could put out under his own name and what could be party-political. I believe that that line has been very significantly blurred, which is regrettable and needs to be put right. Perhaps not as glaring as the case of information officers is the power of political advisers who take their tone from the top. We know that Alastair Campbell and Jonathan Powell were actually given the right under an order in council to instruct civil servants what to do, although other special advisers were not formally given that right. I believe that the role of special advisers in relation to the Civil Service has developed in an unhelpful way, so I certainly do not think there should be more of them. You need special advisers, and I was very well served by those I had, but their role is limited and it is very important that the line between them and officials is clearly drawn. That is how you safeguard against the dangers of politicising the Civil Service.

**Q348 Jenny Willott:** Can one not turn on its head the example you gave of information officers becoming politicised and say that part of the problem is that there are not enough special advisers and, therefore, those who are in a civil service rather than a special advisory role are taking on more political activity?

**Mr Howard:** I do not think that is the reason at all. I think it arises because the line which used to be very clear between what officialdom could do and what the party could do has been blurred.

**Mr Blunkett:** The first permanent secretary to whom I have already referred on one occasion in relation to a junior minister had to veto a press release where

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there was conflict in terms of whether or not it was politicised. Good mechanisms exist where people are clear about the dividing line. I agree that there needs to be a clear dividing line. My view is that we should adopt the *cabinet* system that exists across Europe. Like my colleague, I do not believe that we should have the American system; it causes massive disruption and destabilisation and lack of continuity, but I think that there should be a proper divide between the role of the special adviser and that of the career civil servant. Every minister and junior minister should have special advisers working to them and monitoring and following through on policy, and designated special advisers or advisers dealing with media should be the ones who have to deal with those things which, quite rightly, the information and press office feel are overstepping the mark. I do believe, however, that modernising the way we communicate is different from politicisation. When I came into government people were still working on letters to be sent to the press. They got round to sending faxes but not to following them up. We are in a world that is now completely different with email, and the training of people has completely changed, but with it comes new dangers of having to respond within an hour. With 24-hour seven-day a week news if you do not respond somebody else has taken the lead and filled the vacuum. There is a danger that without good special advisers who are able quickly to check with the minister, or anticipate his view, the department is left high and dry. I would prefer special advisers to do that rather than that ministers should have to break off in the middle of determining clear policy, which both of us agree is crucial, to rewrite a press release.

**Q349 Jenny Willott:** My final question is about the relationship between special advisers and the Civil Service. At the moment, although special advisers are technically civil servants basically recruitment, performance management and things like that lie with the secretary of state. Should there be a larger role for permanent secretaries in overseeing that to try to maintain performance levels and oversee the relationship between the Civil Service and ministers?

**Mr Howard:** Probably not. I think that the relationship between a minister and a special adviser is a very personal one and it must be up to the minister to decide who he has as special advisers and whether he or she keeps them.

**Mr Blunkett:** I have been very fortunate. Even my critics inside and outside my party would agree that my special advisers have been absolutely first rate and have been taken on elsewhere. I would not have wanted them to be formally appraised by anybody except myself and my fellow ministers, because we acted as a team. But, believe me, when senior officials did not get on with them they made it clear. There was an informal monitoring process and it was my job to sort it out.

**Q350 Kelvin Hopkins:** I find myself slightly uncomfortable in that I agree with quite a lot of what Mr Howard has said. Richard Wilson has been before us. Clearly, he is extremely able, very bright

and a strong personality. I would hope that as a senior civil servant he would have told you, when you were Home Secretary, if something was not possible or practical or required more sources. He would have told you the truth, and you would have accepted it. He would not just make excuses.

**Mr Howard:** The way I worked was to encourage discussion of what I wanted to do and there would be times when I would be persuaded that my ideas were not right, would not work and should not be pursued. I was very happy with that. What I was clear about—it took a little while before the Home Office accepted it—was that once I had taken a decision that had to be implemented. There was one notorious example quite early on when I had taken a decision and the next meeting was to my mind to discuss exactly how we would implement it and take it forward. Some of the civil servants started arguing again about the decision that I was quite clear I had made. That was not something I encouraged. But I believe that that kind of debate before a decision is made is very valuable.

**Q351 Kelvin Hopkins:** Is there not a danger that ministers, particularly those with very strong wills and political agenda, will be tempted to appoint civil servants who are compliant, who will simply go along with their view and not tell them the difficulties, as would somebody like Richard Wilson and others in the classic mandarin mould?

**Mr Howard:** There is that danger, and that is why I have been more cautious than Mr Blunkett about the extent to which ministers should have free rein to appoint whoever they like to whatever jobs they like. You have to be careful about that. The Civil Service is a very valuable resource. When an experienced civil servant says that he just does not think something will work for various reasons you have to take it seriously. You look at the reasons. You may decide that the reasons are not good enough to prevent doing what you want to do, but you should always listen very carefully to what they have to say.

**Mr Blunkett:** I should like to tweak the question a little. I believe that strong-minded and clear politicians like strong-minded and clear civil servants to deal with. They like to bounce ideas off them and know that those people are strong enough to get on with and deliver and deal with the challenges and awkward customers about whom we have been speaking this morning. I do not think, therefore, that to be obstinate about radical change is the same as being a strong senior civil servant. They are not necessarily the same thing.

**Q352 Kelvin Hopkins:** Obviously, I agree with that. Perhaps I may go on to suggest that there has been change which began with Mrs Thatcher's appointment of Terry Burns to the Treasury. He was not the classic mandarin but was a very well known neo-liberal free-market economist of the right. Was it not that "From now on we want people to think like us and be like us, not just traditional civil servants who will carry out our wishes but tell us when we are wrong. We want people who are compliant because they share our ideology."

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**Mr Howard:** I believe that that problem was very much the exception to the rule. It would not make much sense to have as Permanent Secretary to the Treasury someone who held a view on economic policy that was completely different from that of government. I believe that that particular appointment is perfectly defensible, but it was the exception to the rule. One of the matters which the best civil servants are good at is putting aside whatever views they may have in a general way, and whatever philosophical frameworks they may have within their minds, and accepting that it is the minister's job to set that kind of political framework and it is their job to do what they can to deliver it and, as part of that, to point out those bits of it which are particularly difficult and those ideas of the minister which are unlikely to work from his or her point of view within the framework of what the minister is trying to do. They do it on the basis that it is for the minister to establish the political framework, not them. I believe that that is one of the strengths of our traditional civil service and that is why I think we should be very cautious about tampering with it.

**Mr Blunkett:** I do not disagree with a word of that. I think it is a good definition of what we are aiming to achieve. My argument is a different one. I suggest that in the modern world with rapid change, globalisation and 24-hour seven days a week news the scrutiny of what is being managed and how it is being delivered is greater than in all our history. That is positively a good thing, but the challenge we have to rise to is to have managers and leaders below the political sphere who can also rise to that challenge, and that means being able to manage. We cannot muddle on with people emerging in the way they have on the basis of the assessment of their fitness to rise to permanent secretary or just below in the way we did it in the past century, not because people are bad, evil or incompetent. All three of the permanent secretaries with whom I dealt, and the one who was about to come in when I stepped down last November, were in my view extremely good and up to that point had served their country extremely well. But what I am dealing with is not just personal experience about four people; I am talking about how we shape the Civil Service and its ability to manage and deliver for the next century. That is the challenge. It will not do just to reflect on how good a mandarin was back in the 1990s.

**Q353 Kelvin Hopkins:** My last question follows on from that. The process of politicisation, particularly at the Treasury, reached an extreme under Nigel Lawson who wanted to have around him in his office people of like mind. He was apparently one of those in the Conservative government who was determined to get Britain into the euro and the ERM at that time. A number of other ministers, including John Major, were of the same ilk. We joined the ERM with catastrophic consequences for the economy and for the Conservative government because there was perhaps no one around to say that it would not work. A strong Richard Wilson character in the Treasury might have taken a

different view. The Civil Service opposition in a sense had been combed out over a period of years. We sailed into a disastrous economic situation which in the end brought down the Conservative government?

**Mr Howard:** I remind you that the decision to join the ERM, which I bitterly regret for the reasons you have set out, was supported by almost every strand of opinion in the country at the time. It was supported by your party, the Liberal Democrats, the TUC, the CBI and, alas, it was supported by a very considerable majority of what might be described as informed opinion. It was a calamity, but I do not think you can blame that on the people whom Nigel Lawson had appointed to be with him in the Treasury. I think that if you look to the high water mark of political appointments to the Treasury perhaps you need not look very much further than the present incumbent.

**Mr Blunkett:** Perhaps I may be mischievous and say I do not think that the Permanent Secretary to the Treasury would have made a difference. I like Sir Richard Wilson greatly and I was in cabinet when he was Cabinet Secretary, but I presume he gave Mr Howard advice that the computer system introduced in the immigration department in 1996 would work and it did not.

**Q354 Mr Prentice:** You were both very lucky; you spent four years in the Home Office. Charles Clarke was told by the Prime Minister that he could expect three or four years in that department and did not get that. Do you believe it is important to have stability in the system and that ministers spend enough time in departments to get to grips with them?

**Mr Blunkett:** I do, but if any prime minister said to me he could guarantee that I would be in a department for three or four years I would have to take it with a pinch of salt. My experience is perhaps different.

**Mr Howard:** The thinking behind the question is right. There should be more stability and ministers should be there longer, but things happen.

**Q355 Mr Prentice:** John Reid is now Home Secretary. He has been described as "the oven-ready minister"; he has had nine jobs in nine years. Do you believe that he needs more than a year to put the Home Office right?

**Mr Howard:** It depends on how well he does.

**Q356 Mr Prentice:** But it is the top man who moves the pieces around the board; it is the Prime Minister who has moved John Reid around nine times in nine years?

**Mr Howard:** That is right.

**Q357 Mr Prentice:** The civil servants are getting a bit of a kicking today.

**Mr Howard:** I thought I had been defending them.

**Q358 Mr Prentice:** It sounds as if we, the politicians, are perhaps philosopher kings.

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**Mr Blunkett:** I thought that was what the inquiry was about. If it is about modernising ministers I will go into it, if you want.

**Q359 Mr Prentice:** We heard from Jonathan Baume, General Secretary of the First Division Association, who said that there were under-performing ministers who just had to be carried by departments. What does one do about under-performing ministers?

**Mr Blunkett:** They get carried by their departments for a period.

**Q360 Mr Prentice:** Is that a statement of modernisation?

**Mr Blunkett:** No, it is not. I presume he was making a statement of his perceived facts. I imagine that it is a perceived fact. If ministers are under-performing they should cease to be ministers.

**Mr Howard:** They tend not to under-perform for very long and stay there.

**Q361 Mr Prentice:** So, he was just exaggerating for effect?

**Mr Blunkett:** I am sure that there are such examples, and that is why reshuffles end up with ministers being dropped.

**Q362 Mr Prentice:** I want to ask about policymaking. There are people out there who believe that maybe the Civil Service is presented with half-baked policies that they have to turn into something workable. How effective do you believe the Civil Service is in making a silk purse out of a sow's ear?

**Mr Blunkett:** On the whole, pretty good, given time. I am trying to think of an example that will not get me into a controversy that I did not come to have. If we consider criminal injuries compensation, where I argue that in retrospect we should have had instead an insurance system, I think the Civil Service made a pretty good job of something which was very difficult to deal with. We were taking on a task that should not have been that of government; namely, to compensate people for criminal injury in a way that would not apply to non-criminal injury.

**Mr Howard:** I agree that they do a pretty good job, but I do not think I would put it in quite the same terms. I do not think that it is necessarily a question of being presented with half-baked policies and making a silk purse out of a sow's ear, but it is frequently the case that politicians have an idea which they believe is the right way to deal with a particular problem but which needs to be tested in respect of the practicality of implementation. One of the things that civil servants have traditionally been very good at is dealing with and working out the practicalities of how things can be done. That is why it is a thoroughly good thing, for example, that six months or so before a general election discussions take place between senior civil servants and opposition politicians so that the Civil Service can start to perform the traditional task of identifying the practical advantages and disadvantages of the policies which those opposition politicians have propounded.

**Q363 Mr Prentice:** But we had a very controversial policy last year which did not feature in the Labour Party manifesto: the transfer out of the NHS of 250,000 district nurses, physiotherapists and people like that into the private, not-for-profit and voluntary sectors. The instruction went out from Sir Nigel Crisp, who is no longer with us, on 28 July to tell the world that those people would have to leave the NHS. The policy was rescinded by the Secretary of State in November last year and Sir Nigel Crisp has gone. There were no ministerial resignations at all. Just reflecting on that episode, I am wondering where responsibility really lies?

**Mr Blunkett:** It depends on whether the particular minister at that moment signs off in detail something that then goes out, but we should rejoice that it was withdrawn, should we not?

**Q364 Mr Prentice:** Absolutely. Mr Blunkett, in your memorandum you speak about the declining influence of politicians on appointments to non-departmental bodies and so on. Our colleague Jane Kennedy, Health Minister, resigned a month ago because of the appointment of Sir David Henshaw as chairman of the new North West Strategic Health Authority. She said she was a bit upset that her views were completely disregarded. I take it from what you say in your memorandum that the views of ministers in those kinds of appointments should be given much greater weight?

**Mr Blunkett:** All I am saying is that we swing the pendulum. We had a situation where understandably there was concern and Nolan was supposed to ensure there were clearer rules. I now would put to you that the Civil Service makes most of the appointments that previously would have been made by ministers and somewhere in between is a happy medium.

**Q365 Chairman:** Mr Howard, you have lived through both the pre-Nolan and post-Nolan eras. This issue has surfaced in our evidence quite regularly. What is your view now about the role of ministers in making quango appointments?

**Mr Howard:** I agree with what Mr Blunkett has just said.

**Q366 Chairman:** Mr Blunkett, you have talked a great deal about the managerial side of the Civil Service and the need to beef it up and make it better. You spoke of Michael Richard being almost uniquely someone who had good management credentials.

**Mr Blunkett:** I do not want to make him even more unpopular than he was in the Civil Service.

**Q367 Chairman:** He is a regular visitor to us and we know what you are talking about. Is there a case, as is sometimes proposed, for having, in addition to the permanent secretary who has all the silky skills of a senior civil servant, a chief executive in the department who is really the top manager and makes sure that the system can deliver?

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**Mr Blunkett:** I think that is appropriate for a directorate. Where it is not a next steps agency or an NDPB, which obviously where appropriate will have a board and be responsible to the cabinet minister, and it is felt that it is integral to the core activity it would be very useful to have such a head of the directorate with a clear remit to report both to the permanent secretary and the secretary of state and to be much more accountable publicly so that people know the face and who the person is. I think that that has started to emerge. Just before we came in we mentioned that things had started to emerge in departments. People are much more visible than they used to be.

**Q368 Chairman:** But that is different from having a managerial head alongside a permanent secretary inside a department?

**Mr Blunkett:** I would merely ask what the permanent secretary's role would be. Is it to go to the weekly meetings of permanent secretaries and talk about how their chief executives are doing?

**Mr Howard:** I believe that it would be a recipe for chaos and confusion.

**Q369 Chairman:** Let us return to the question of accountability. Mr Howard, you made a very clear statement about how you thought a politically astute leader of a department could grapple with this. But is not the problem that often we do not know who is accountable for things that have happened? We simply do not know in this black hole what went on. Is there a case for civil servants being able to record when they have given advice to ministers? When they said, "Minister, the policy that you are proposing and asking us to implement is completely unworkable", would it not be good if that could be recorded so that at least we could find out if things go wrong who had said what to whom?

**Mr Howard:** My experience is that it is, and it certainly always was.

**Mr Blunkett:** You write down everything.

**Mr Howard:** Of course, although it is right to say that very often we do not know who did what there is quite a lot that could be found out from proper questioning in Parliament, the kind of interrogation that takes place in Select Committees and, in the ultimate when it is a big enough issue, the holding of independent inquiries.

**Q370 Chairman:** But you know that if we get a permanent secretary in here and ask, "Did you record your advice to the minister that this policy was completely unworkable", you will not get the answer, "Yes, that was exactly what I did."

**Mr Blunkett:** Otherwise, they would always write it down, and then it would be a matter of, "It has nothing to do with me." You could go off and have a go at implementing the policy and if it worked you could say, "Fine. I am not revealing anything", and if it went wrong you could say, "It is nothing to do with me. I told the Secretary of State that it was a stupid thing to do."

**Mr Howard:** The kinds of problems that public attention has focused on recently are not like that. They are not so much a question of whether the civil servants advised that it was the wrong policy. Ministers are entitled to reject the advice of civil servants on policy because they are there to decide policy. The kinds of problems on which public attention has recently focused are much more likely to do with when the minister knew about it and what he did when he knew about it. Did he follow up? Was he kept in the dark by his civil servants? Did he ask the right questions? Those are different from the example you put to us and they are the kinds of things which it is possible to discover.

**Q371 Mr Prentice:** But are civil servants right to be so concerned about process? Some months ago Sir Nick Monck appeared before us. He was very concerned that decisions were taken by cabinet, for example, without papers being circulated beforehand. We have Hutton, Butler and all that and the internal wiring of the Government has been exposed as never before. Is it not right that senior civil servants should say to ministers that they have to go through the proper processes? They have to commission the papers and read them; they have to be circulated beforehand; and they have got to take the advice. Ministers cannot engage in sofa-style government.

**Mr Howard:** I agree with every word of that, except "they have got to take the advice". Civil servants cannot say that; it is ministers who decide, but I absolutely agree that more attention should be paid to process. I believe that perhaps the main reason for the failure of this Government to deliver in so many ways is because it has not paid sufficient attention to process. Just occasionally I would ask a question at Prime Minister's Questions about this sort of thing and he would say in reply something like, "The Right Hon gentleman is talking about process", as though it was a million miles beneath him and to draw it to his attention was absolutely contemptible. But you are absolutely right that it is through process that things get done.

**Mr Blunkett:** I should like to put on record that I think Mr Howard is entirely wrong about the failure of the Government to deliver, and I believe that history will exonerate us. I believe that we should follow fiduciary duty. That was something which was inculcated by the Bayliss Committee and other local government reforms when I was leader of a major city. We had to follow fiduciary duty and in any case would have been held to account in terms of the audit service had we not. I think we should ensure that that is clear within government and that we are accountable for it. I believe that there should be processes to ensure that people have advice and information and they demonstrate they understand it and, where they choose not to take that advice, have done so cognisant of the consequences that flow from it. But do not mistake a labyrinthine process for having that fiduciary duty properly carried through. The fact that cabinets in the past used to go on for two days about absolutely nothing did not mean that they were a better government.

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**Q372 Mr Prentice:** I do not suggest that. But the permanent secretaries of all the departments meet every Wednesday before the Cabinet meeting on Thursday. Do the permanent secretaries collectively have a responsibility for testing policy proposals coming forward from government ministers and saying to the Prime Minister, if needs be, "What you are asking the Civil Service to do does not stack up"?

**Mr Howard:** Traditionally, the way it worked—I do not know whether it still works—was that officials including permanent secretaries would brief their ministers to make these points at the relevant cabinet committee charged with the responsibility for deciding whether or not to approve the proposal. It would be up to the minister to decide whether or not he accepted the advice of his officials, including his permanent secretary. But the great merit of the cabinet committee system is that it is intended to consider all the practical difficulties of various proposals before they see the light of day.

**Mr Blunkett:** I spent three years arguing to and fro one particular policy in the domestic affairs committee. One cannot have a more detailed discussion than that. However, one would not have thought so by the time it finished.

**Q373 Chairman:** Both of you were in government for a long time. We have a doctrine which says that the Civil Service serves the government of the day impartially, neutrally and independently. During your years were you ever asked in a serious and systematic way by the machine whether it was providing the kind of service that you needed?

**Mr Howard:** No, but I made it plain when I thought it was not.

**Mr Blunkett:** So did I.

**Chairman:** We have kept you longer than we promised, but it was a politician's promise. We thought that it would be both enjoyable and informative for you to appear together and so it has proved. We are very grateful to both of you for coming along.

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*Witnesses:* **Mr Nick Pearce**, Director, and **Mr Guy Lodge**, Research Fellow, Institute for Public Policy Research, gave evidence.

**Q374 Chairman:** We are very pleased to welcome Mr Nick Pearce, Director, and Mr Guy Lodge, Research Fellow, of the IPPR. You are doing work in the area in which we are interested: the relationship between ministers and civil servants. I believe that you are developing proposals in this area and we want to tap into that work, if we may. It is very kind of you to come along. We are grateful for your memorandum. I do not know whether you want to say something briefly to start with.

**Mr Pearce:** I should just say that we have been undertaking our work on the future of the Civil Service for about a year or so. We have not yet completed the research and some of what we say is somewhat provisional. For the sake of completeness, on a personal note I was a special adviser to Mr David Blunkett for four years in two different departments. Perhaps my colleague would like to say something about the research itself.

**Q375 Chairman:** That reminds me that Mr Lodge used to work in my office, so if we are making confessions we should make all of them at this moment.

**Mr Lodge:** We have conducted a year-long research project into the Senior Civil Service. It has been focused very much on the senior civil servants working in the main departments of state. The principal research method has been a series of interviews with both ministers and senior civil servants. We have conducted over 65 such interviews. We have also spoken to people abroad so we have international research informing our thinking. We have also obtained a series of documents from civil servants themselves assessing their own performance, which is quite rare.

**Q376 Chairman:** The research is associated with the idea that we must have much more open accountability of civil servants for what they do. You heard us earlier explore that to some extent with Mr Howard and Mr Blunkett. It is fairly clear, is it not, that if we go down that route it will not be a self-contained exercise; it will have consequences? When Mr Anthony King gave evidence a few weeks ago and we put that to him he said that we had to think through the implications of what it would mean in terms of behaviour inside the system. The idea that you can make one change and everything else stays the same is simply not true. Have you thought through the implications of it?

**Mr Pearce:** I think we have. To make it clear, all of our research has led us back to the principle that ministers are responsible for everything in their departments; they are publicly accountable and are accountable to Parliament. Many of those we have interviewed have said that that is at the root of the problems that we currently experience in terms of the performance of departments, how their civil servants relate to their ministers and how departments are held to account. The reform of that constitutional principle needs to be central to any process of change, so just doing civil service accountability on its own without addressing the overall principle will not succeed. It has been clear to us that the Civil Service does not have sufficiently strong internal governance arrangements and that the Cabinet Office and the Cabinet Secretary are not able adequately to hold permanent secretaries to account for what happens in their departments, and there is also insufficient corporate leadership of the Civil Service from the Cabinet Office. Almost uniquely, at the moment Whitehall departments, apart from the accounting officer role played by the



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permanent secretary in relation to Parliament, are not assessed or held to account publicly for their performance. There is no equivalent of what anybody in local government has to go through all the time, whether in respect of the Audit Commission, inspectorates or other bodies. Therefore, part of the problem lies in the constitutional principle, simply that ministers are responsible for everything and they are the only people who are held to account, and some clear performance issues flow from that. That is the central conclusion of the research. We have some ideas about solving that and perhaps we can talk about them, but it is worthwhile putting into context that we are not simply recommending something to do with accountability; it is part of a broader jigsaw.

**Q377 Chairman:** But your written evidence suggests that there is an accountability or a politicisation route that we could go down. You say that the former is preferred to the latter, but the argument is that by going down that road you will finish up politicising. Jonathan Baume of the First Division Association put this to us quite strongly. He said that if we went down the road of a much more publicly accountable civil service the danger is that we end up with a political civil service, because the next step is that ministers will say that they want their guys and girls running departments. We end up with political appointments at the top of the Civil Service. Is that not quite a powerful warning?

**Mr Pearce:** I believe that the reverse is the case. You are right that essentially there are two options: either we politicise it, as you discussed this morning with Mr Howard and Mr Blunkett, or establish new governance arrangements where it is very clear what the responsibilities and accountabilities of ministers and civil servants are. The danger in the current system is that we will have creeping politicisation, which we have already seen with the rapid turnover in permanent secretaries and ministers being frustrated that they cannot influence decisions and, therefore, want a say in who is appointed to departments. To put matters on a clearer footing in respect of the principles that govern the relationship between ministers and civil servants and Parliament and assuring new arrangements for accountability would prevent rather than increase politicisation.

**Mr Lodge:** The picture painted by Mr Baume is the worst case scenario, and I would argue that that is sometimes the proposition that civil servants will put to you if you suggest that they should be made more accountable. I am inclined to think that that is the way that they try to move the argument of accountability around, but I do not think that would happen. We argue that if we had a more accountable civil service it would drive up performance and ministers would have more confidence in it. I do not think they would see the need to politicise everything.

**Q378 Chairman:** The argument is that if civil servants are sitting where you are now and they are able to tell us that, of course, they knew that the policy proposed by the minister would never work

and they told him so and, therefore, when it went wrong they were entirely vindicated, that is what open accountability means and it has all kinds of benefits. The conclusion that ministers will draw from it is that if that is what is proposed they will get their own people in the departments so it does not happen. That is why the two things come together.

**Mr Lodge:** The argument against that—this idea that ministers and officials would start washing their dirty linen in public—is that in New Zealand, which is a case study that we have considered in some detail, this has not happened. Indeed, New Zealand has the most politically neutral civil service in the world. Civil servants are accountable for what they do in terms of their operational management and administration and ministers are still responsible for policy. You have much more publicly visible civil servants who are brought before select committees in New Zealand, but it is not a case of civil war. What happens is that you have clarified the relationships between ministers and civil servants. Ministers get on with what they are good at and what they can do and the civil servants are held to account for operational management. In local government there is a similar level distinction in roles, and we think that such clarification would be helpful in Whitehall.

**Q379 Chairman:** I am asking you practical questions. On your model will we have civil servants here who are able to dissent publicly from what ministers say on the grounds that they are accountable for their performance and they gave advice which was contrary to ministerial advice and openness and accountability decrees that they should tell us that?

**Mr Pearce:** It is probably important to distinguish policy objectives which are framed by ministers to which civil servants are then appointed and are held to account for delivery. It is clear, for example, that in the case of New Zealand it is agreed with the minister what the policy objectives are which the civil servants have to deliver. In those circumstances, it is quite hard to conceive that somebody can turn round and say, "I did not agree with it and told them so, and I did not get on with it." That is rather different from circumstances in which operations demonstrate that a policy is flawed or creates problems, and vice versa. I do not think we would want to argue that it is always clear cut and there is a binary division between policy and operations such that you can always separate out where responsibility lies. There is necessarily an interaction between them, but I do not think that it is necessarily right to say that if you have that clarity and stronger and better arrangements for governance there will be a civil war of the kind you described. My colleague is right to say that that is the worst case scenario. The issue is related to whether particular bits of policy advice are publicly available, and that goes back to freedom of information.

**Q380 Chairman:** It is not the worst case scenario; it is the scenario from the political world. People become interested in these matters only when issues blow up and are in the headlines. There is then a great

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scramble to find out who was responsible. We have just seen this in the case of the Home Office. On your model we would have precisely that. If different accounts of what went on are publicly available we shall not have concealed warfare but open warfare, will we not? Would that be a good thing?

**Mr Pearce:** I just do not accept that that would be the case. It is not the case in New Zealand or in reasonably comparable examples in next steps agencies and so on. In part, we do not know whether civil servants have given policy advice or sought to moderate ministers' views because we do not have access to such advice; it is not publicly available in terms of freedom of information, and whether or not it should be is an important question. But I simply do not believe that if you are clearer about the responsibilities of ministers and civil servants in respect of operations, resources and policy you will have the kind of civil war that you have described; the reverse is likely to be the case.

**Q381 Chairman:** I am not putting to you that there is a huge gap between what happens here and in New Zealand where great development goals are stated and everybody signs up to them in a general way. Immediately these things go live—we see this on a daily and weekly basis—these matters cease to be nice compacts that people have made and become intensely political. The argument I put to you, as put by Mr Baume, is that when that happens the conclusion that ministers draw is that they had better have their own people around them because that is the only way they will protect themselves from some of the consequences. Therefore, one will have the politicisation that you say you want to avoid?

**Mr Lodge:** Like my colleague, I do not agree with that. I accept that that is a scenario that could arise from these recommendations, but we believe that accountability will be a key driver of performance. Accountability of the Civil Service will, hopefully, ensure that the policy directions are much clearer and that the minister and civil servants have sat down and the latter have said, "Thank you, Minister, for setting the strategic framework. This is how we can deliver it." You are trying to improve the performance of government and, therefore, avoid the worst case scenario. It will not be perfect; no system is. The problem at the moment is that there is clearly a deficit in accountability whereby ministers who are seen as responsible and accountable for absolutely everything feel rather aggrieved for having to be held to account for what are obviously administrative or operational problems. The concept that we are pushing is that there is a ducking and diving scenario in government at the moment where officials are not accountable for what they do because ministerial responsibility says they are not, and ministers will tend not to be accountable for operational matters. That is the problem we are trying to solve.

**Mr Pearce:** In the system that we propose ministers would not have the right to make those appointments. In New Zealand the State Services

Commission appoints permanent secretaries, so one could not respond to that situation by seeking political appointments.

**Q382 Chairman:** I am quite interested to know whether the purpose of the work that you are doing is to improve the performance of Whitehall or is concerned with improving accountability. You may say that one serves the other, but that is not necessarily the case. One can have trade-offs between accountability and performance. What I want to know is whether in the end the point of all this is performance or accountability.

**Mr Pearce:** It is true that we started the research from the perspective of wanting to understand how to improve Whitehall's performance. We are led to the conclusions we have reached by virtue of what the research interviews told us. Where should we end up? Stronger arrangements for governance and accountability should, as you say, improve performance. If not, you will want to look at them again because you want a high-performing civil service, but you cannot at any stage sacrifice democratic accountability, obviously Parliament, and clearly those principles are also at stake.

**Q383 Chairman:** But one of the arguments that is now taking place is whether we have so developed mechanisms for accountability in so many areas that they get in the way of performance. It prevents risk-taking, innovation and the creative space in which people can operate. You have to be alive to the fact that there can be a real trade-off between the requirement for accountability and the objectives of performance, which are not the same thing?

**Mr Lodge:** In some sectors there has been a saturation of accountability, and in that sense there probably comes a point when there is a trade-off. It is clear that in the Civil Service and Whitehall there is such an absence of accountability that it needs more. I do not see how the argument works. Some sectors may need less but clearly Whitehall needs more. It is about putting in place the right governance and accountability arrangements in the Civil Service itself; it is not just about bringing civil servants in front of select committees. We are calling for a Civil Service executive that would provide much more performance accountability and line management within the Civil Service. It is not just external accountability to select committees but a complete overhaul of those arrangements for governance within the Civil Service itself. In that sense one would have performance, but democratic accountability would also be improved because instead of pretending that civil servants are invisible and do not exist and are not actors in their own right. If you hold them directly accountable for what they do you improve the accountability of government overall.

**Q384 David Heyes:** You draw heavily on the experience in New Zealand which you have studied in some depth. I would like you to share with us some of your learning from that experience. The obvious point to begin with is that New Zealand is

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the size of a large county council; here it would represent about 5% of the population of the UK. Can we really draw sensible conclusions from the experience of a tiny place like that?

**Mr Lodge:** You can certainly learn lessons from the way they structure their arrangements within government. I do not think that size is the key factor.

**Q385 David Heyes:** Does not complexity go with increased size?

**Mr Lodge:** To a degree, but Whitehall does not have effective governance and accountability arrangements in which there is strong corporate leadership with the Head of the Civil Service line managing permanent secretaries. Those arrangements exist in New Zealand, and that is what we are looking at. Does it mean that because New Zealand is much smaller we cannot import those techniques and arrangements? I do not think that is true.

**Mr Pearce:** Certainly there will be differences. We do not recommend wholesale importation. It is just loosely modelled on some of those ideas which seem to offer a better framework than the one we currently have.

**Q386 David Heyes:** From what I know about it, it looks as if the key difference between the UK and New Zealand is that ministers have even less power and influence there. Is that where you are leading us to?

**Mr Lodge:** That is a slight misunderstanding of the reforms in New Zealand. People think that all the power rests with the State Services Commission. Actually the original New Zealand reforms were designed largely to improve the control and influence of ministers over civil servants. Before the reforms (in New Zealand) ministers complained that there were Sir Humphrey-type mandarins who ran around with their own departmental views and agenda. They wanted much tougher control over their civil servants and that was why they developed this contractual model. People sometimes overlooked the fact that the contracts were between the ministers and chief executives, but in the end that model did not really work. Ministers did not have the time, capacity or skills to oversee these complex contracts. This is one of the reasons we argue against politicisation. Ministers do not really have the skills or time to hold their executives to account in detailed managerial frameworks and to assess performance against objectives and in the end the State Services Commission in the centre became much more central to line managing and holding to account chief executives.

**Mr Pearce:** Here, essentially one would take the Cabinet Office and split up its functions so that that office would become much more a corporate civil service executive managing and supporting the departments. The Cabinet Secretary would become Head of the Civil Service in that respect and one would have a permanent secretary in a department for the Prime Minister and Cabinet.

**Q387 David Heyes:** How do civil servants individually relate to what seems to be the fairly confused and fragmented leadership framework that you have just described?

**Mr Pearce:** In New Zealand?

**Q388 David Heyes:** You are advocating translating the lessons of New Zealand to this country. To whom would the civil servants report in the model that you have just described?

**Mr Pearce:** The permanent secretaries would report to a Civil Service executive or a reformed Cabinet Office equivalent of the Civil Service Commission in New Zealand. You would have a choice about how you hold that body to account to Parliament, to a governing body or some other arrangements. Those arrangements for accountability can be decided. Individual civil servants would be accountable through their line management in their departments.

**Q389 David Heyes:** To the executive of the governing body?

**Mr Pearce:** Through their own permanent secretaries in the departments as now. The permanent secretary would be appointed, performance managed and supported in performance by the chief executive of the Civil Service executives as we have described.

**Q390 David Heyes:** What would be the role of Parliament in this model?

**Mr Pearce:** Certainly, we believe that a lot of select committees should be strengthened to enable them to hold departments and civil servants to account. There is a question about whether Parliament should have a role in appointing people to the Civil Service governing body that we propose.

**Q391 David Heyes:** Does that not undermine your proposals?

**Mr Pearce:** I do not think so. Do you mean that essentially it would politicise the Civil Service?

**Q392 David Heyes:** Yes, absolutely.

**Mr Pearce:** Obviously, at the moment the Prime Minister has an important role. I believe that you need some executive input into the process. No prime minister will accept that appointments at this level are totally outwith their purview or that they have no role to play in that important process. But certainly we have other examples here, such as BBC governors and others. There are other ways in which you can configure governing bodies so that they are not politicised in the partisan sense but nonetheless there is a role for Parliament and the executive in that appointments process, whether it is a veto or more direct.

**Mr Lodge:** As to which recommendations we are going to make, we are talking about a governing body and a Civil Service executive. One of the difficulties is that we looking at it only through the lens of accountability, and the reason we have come to the conclusion that we need the new governance arrangements is more than just accountability; it is to give much more strategic leadership to the Civil

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Service and improve performance. There are a whole range of issues which lead us to these recommendations and we make all these arguments in the report.

**Q393 Mr Burrowes:** You cite the example of local government where the “roles and responsibilities of the political and administrative class are much clearer.” How far have you taken the example of local government, because obviously local government officers have a relationship with all members, not exclusively the executive, and you can take that example only so far?

**Mr Lodge:** The reason local government is an interesting example is that there seems to be a clearer demarcation of the respective roles of the politicians and council officials, this is what we are interested in. The question you are getting at is whether the Civil Service should serve the whole of Parliament.

**Mr Burrowes:** If you take the issue of accountability, I would have thought that the public are concerned about that mainly in relation to the executive, but that is very much merged and less clear in local government.

**Q394 Paul Rowen:** The other point is that local government officers are appointed by elected councillors, whereas your model takes it further away from ministers?

**Mr Lodge:** Yes, and in our report we set out exactly why we think that a Civil Service executive should make the appointments. It is not to curtail the role of ministers. We reject a politicised model, but we think that a Civil Service executive would be much more efficient and effective in appointing the right people to run these big departments of state. We are saying that ministers are not managers; they come into politics for different reasons and have different sets of skills, interests and agendas and, certainly from what we have heard, they do not want to be sucked into the vortex of departmental detail and be involved in a whole range of appointments. If we go back to New Zealand, that was one of the problems with the original model. The assumption was that ministers would have detailed control over their chief executives, measuring their performance, objectives and all that. It just did not work because they did not have time to do it; they were not interested in doing it. Rather than put that up as something to do we can give it to a body that has the expertise and skills and is designed to do it. We believe that that would be the most effective way of dealing with appointments.

**Q395 Mr Burrowes:** Are you trying to fix a system that fundamentally is not broken? Is not the problem as far as the public is concerned not so much a change in the system in terms of accountability but just performance delivery? We have heard from two former Home Secretaries with strong leadership skills who sought to get the Home Office to perform. The issue is the office holder and how he drives through delivery, rather than just the development of new structures of accountability and questions about whether civil servants are responsible to the

Head of the Civil Service, the Civil Service governing body or Parliament. They tie themselves up in problems of accountability rather than get on with delivery.

**Mr Pearce:** I believe that is the reverse of the situation that we all want to see. At the moment we do not have corporate leadership in Whitehall, support for departments from the centre or the pressure that comes from accountability to improve performance. All the ingredients that are required for high performance and which we believe are necessary in just about every other body are absent from Whitehall. Of course one wants political leadership and people to implement policies for which the electorate votes on the basis of manifestos put before them. That is absolutely crucial. But it is wrong to expect—I saw this when I worked for Mr Blunkett—those ministers to be able to drive that right through a department. They are not HR managers or IT experts; they do not have the time to performance manage people right down the system. One needs the system to be responsible for things itself and to have the professional skills to do so. In order to get to that point one needs a better system for governing, supporting and holding the Civil Service to account. At the moment that is simply absent.

**Mr Lodge:** To follow on from that, I note that Mr Blunkett says in his memorandum that capability reviews will fail if they do not address why incapability exists in the present structures. The reason we focused on governance and accountability as the key point is that if you look back you can see that we have been trying to reform the Civil Service for the past 40-odd years since Fulton. The main agenda has been to try to improve managerial effectiveness of Whitehall, to bring in different sets of skills and open up the Civil Service. They are in a way ‘second order’ solutions to ‘second order’ problems. We are trying to put in place an effective governance and accountability regime and that is the way to drive up performance. In terms of improving delivery in the Civil Service that is something that we would all like to see, but if there is no accountability there are not that many incentives to push up performance. People have told us regularly that there is no price of failure in Whitehall and civil servants do not have a strong sense of feeling responsible for outcomes. There is a weak sense of individual responsibility. We believe that to put in place some accountability and incentives is the key way to drive up performance.

**Mr Pearce:** It was a permanent secretary, not a minister or academic, who said to us that the real problem here was the constitutional principle.

**Q396 Chairman:** It is difficult to understand what is seen as the key problem and therefore the key solution. If the key issue is lack of strong corporate leadership in the system and all that flows from it—that may or may not be problem—it would be possible to strengthen it by a variety of mechanisms without opening up all the stuff that you seem to be opening up which does not appear to contribute to that directly?

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**Mr Lodge:** We looked at this by saying that ministerial responsibility was the key governing convention of the Civil Service. It determines the incentives in the system; it shapes its culture and it regulates the relationship between ministers, Parliament and the public. That is the key governing manual for the Civil Service, if you like. Our view was that attempts had been made to reform the Civil Service for so long with mixed results, and most commentators believe that the performance has not been wholly successful. How can we really change that? We came back to the principle of ministerial responsibility. One problem is accountability. Ministerial responsibility says that the Civil Service is not accountable. The weak corporate management and leadership comes from the fact that another element of ministerial responsibility is that permanent secretaries are seen as being accountable to ministers and to Parliament in their role as accounting officers, but not to the Cabinet Secretary. There is no relationship between the centre and permanent secretaries. What we are saying is that these governing constitutional principles, if you like, are at the root of the problem and explain why the Civil Service behaves as it does. Our key argument is that we need to address these core governing conventions—they need to be reformed and in doing so performance will improve.

**Q397 Chairman:** My worry is that by starting all these hares running one will have less chance of addressing what I believe is your key point: to make the corporate centre work better and then to performance manage the system. That is a strong and coherent proposal and it involves the things that you say about a prime minister's department and so on. But the problem about opening up every other relationship and introducing other models of wider governance is that it will probably detract from your key proposal?

**Mr Pearce:** I reiterate the argument that my colleague has just made. We have spent many years attempting to reform the Civil Service and improve its performance without addressing those fundamental issues or the constitutional principle that guides the Civil Service. They have failed. I put it to you that although it is not perhaps quite as evolutionary as the British model has been historically, now is the time to look at the arrangements more radically because we cannot rely on incremental reform any longer to do the job for us.

**Q398 Mr Prentice:** In New Zealand do ministers or senior civil servants ever resign because of failure in delivery in one case or because policy has just not been thought through in the other?

**Mr Lodge:** Regularly. Chief executives are on five-year contracts and they are regularly not renewed if they are deemed to have under-performed. There is a high turnover.

**Q399 Mr Prentice:** Do you want to see that model here where permanent secretaries would be on fixed-term contracts?

**Mr Lodge:** Yes. Under our model you would see a higher turnover of permanent secretaries which I believe would be a positive step.

**Q400 Jenny Willott:** Would they go to other jobs in the Civil Service or go outside?

**Mr Lodge:** They leave the Civil Service. It might be that they go elsewhere to jobs that more suit their specific skills sets. In New Zealand—and this is a factor of size—chief executives who have left will often move to other parts of the public sector. But to be clear, in that regime if chief executives are seen to have messed up operational and administrative matters they go. That was the purpose of the reform.

**Q401 Mr Prentice:** That five-year tenure is not renewable, so somebody could be doing a very good job?

**Mr Lodge:** They are renewable.

**Q402 Mr Prentice:** But you say that in most cases they are not renewed?

**Mr Lodge:** I am saying that in those cases where they under-perform they are not renewed, and that is the pressure.

**Q403 Mr Prentice:** I am not as familiar with the New Zealand model as I should be, but how often is a contract not renewed because of failure to deliver?

**Mr Lodge:** Off the top of my head I do not know, but I can send you a note with those numbers.

**Q404 Mr Prentice:** Are there any disagreements about the necessary resources to deliver a particular policy and the civil servant says, "I need more staff and money in order to deliver what you ask for"?

**Mr Lodge:** The arrangements in place that seem to work quite effectively are that if, for example, ministers ask the chief executive to deliver their pension reforms the chief executive will have to make sure that he has the resources to do that. Chief executives are highly autonomous managers—all powers over hiring and firing are delegated to them, so they are in charge of the department and able to deliver.

**Q405 Mr Prentice:** But the resources must be voted by Parliament. When one is talking about reform of the NHS and other big money-eating organisations in the UK resources are absolutely essential, are they not? It is essential that there is enough money about. Are you saying that there are no controversies between ministers and civil servants in New Zealand about the adequacy of the resources that are made available?

**Mr Lodge:** I am not saying there are no controversies and it would be unfair to hold the chief executives to account for operational delivery if you did not give them the resources to do it. That is negotiated at the time the policy is being worked out.

**Q406 Mr Prentice:** I am just wondering if there are any controversies about the adequacy of resources?

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**Mr Lodge:** I am certainly not saying that the system works without any problems at all, but the attractive side of it is that there is a much clearer dividing line between the role of ministers and the role of chief executives. To follow on from that, if chief executives are to be held to account for operational matters and ministers want to intervene then there are some pretty strong mechanisms to deal with those arrangements. Ministers are not allowed endlessly to intervene in operational matters, which is sometimes the complaint made by the British Civil Service about their ministers.

**Mr Pearce:** There are procedures in place for how one deals with a situation where chief executives feel that they are being thwarted in their work by ministerial intervention.

**Q407 Mr Prentice:** It is very easy to give the Civil Service, particularly at the top, a good kicking, is it not? Politicians like Mr David Blunkett say that very often they are here today, gone tomorrow; the civil servants are of variable quality and they have to work with politicians who are slotted into departments. Departmental structures change constantly. Yet we expect the Civil Service to cope with huge organisational changes by ministerial fiat every year within the departments. Departments are dissolved and created and it is all done by politicians.

**Mr Pearce:** If the impression we are giving is that the Civil Service is the only problem in the system that is incorrect. Clearly, one needs to hold politicians to account for their actions and any system has to maintain proper democratic accountability of politicians. I would not for a minute suggest that problems have not arisen where rapid change has taken place or where the performance of ministers is weak. Of course that is true.

**Q408 Mr Prentice:** Did you think it was too easy for the Prime Minister to reconfigure Whitehall? In Canada there is a system where if there are departmental changes they have to be validated or approved by parliament. We do not have that system here. Would you like to see a Canadian system here?

**Mr Pearce:** I certainly believe that more planning and consistency over time for departmental reorganisation ought to be in place, and undoubtedly that has been a curse here for the past decade or so. Whether or not Parliament is given a role I do not know. It sounds like a good suggestion. I also believe that the sort of system we recommend should have more trust in the departments because they have been run effectively and in the mechanisms which enable them to be run. That does not answer the question whether we think the right areas of policy go together; it does not tell us whether the Home Office is too big or too small, but it should give us a system where the political class and the Prime Minister are more confident in the performance of departments such that we do not reach for reorganisation as a solution to some of those problems.

**Q409 Mr Prentice:** We now have a situation where the Home Secretary says that the Home Office is dysfunctional and there is public debate about whether it needs to be broken up. What do you think about that? Should there be a debate within the Civil Service, the Civil Service Management Board, Mr Gus O'Donnell and the rest of them resulting in suggestions about how the Home Office and IND should be reconfigured?

**Mr Pearce:** In the model we propose the ability of the Civil Service to think ahead and intuitively about itself and what kinds of skills it needs would be enhanced. That is an important role. As to departments specifically, I am not sure that in the current system it would be helpful to have more public debate about the extent, size and scope of the Home Office. My view is that the Home Office is roughly of the same size with the same sorts of functions as any ministry of the interior on the continent. Therefore, trying to break it up would not be sensible. Clearly, if you want to take bits of the IND and turn them into next steps agencies or any other such reforms the Permanent Secretary and Cabinet Secretary will have a view on it. Whether they should express that publicly is another matter. Under the existing system they do not have the scope to do so.

**Q410 Mr Prentice:** Why should they not? We have perpetual revolution in the public services: new police forces are being created and the NHS is being turned upside down. People have told us that the operational efficiency of organisations that have been fundamentally changed, or reconfigured—to use that dreadful word—has put back their performance delivery levels for two years, or something like that. Yet Whitehall departments can be changed just like that. Surely, an organisation like yours should be calling for an open debate.

**Mr Lodge:** As to who should be the ultimate decision-maker about whether or not departments can be reorganised, we say something about that in the report but not in that detail. Clearly, we say that if you are to hold the Civil Service accountable for operational matters it has to have control over operations and that control has to be delegated to it. There should be a much clearer understanding between ministers and officials about what each is doing. Ministers in those terms would not be able completely to reshape and reconfigure aspects unless they had had clear discussion with the permanent secretary about the operational implications of it. It is a case of having a much better dialogue.

**Mr Pearce:** I suppose one would say that the reason why civil servants do not publicly air opinions on these issues at the moment is that the doctrine of ministerial responsibility inhibits them from doing so.

**Q411 Paul Rowen:** You referred to the doctrine of ministerial accountability. At the moment we have a process going on whereby the Civil Service must shed so many jobs by a set percentage. There is an argument that units of some departments are not able to perform because frontline posts are being

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taken away from them. Presumably, the permanent secretaries have acquiesced and said that it is perfectly possible that these jobs should go. I am not clear how your model of accountability will prevent that from happening. There is a clear government directive that 2% or whatever has to go.

**Mr Pearce:** It is certainly the case that if you elect politicians you do so on the basis of certain policies that they put before the electorate, as all the Members of this Committee have done, and that Parliament must vote the resources. Those decisions have consequences, and it is a matter of democratic decision-making where you spend your money. If you decide there are too many civil servants and you are not getting enough effectiveness from them and want to cut the posts and you can do so without harming operational performance, that is something which the minister has every right to say and do. In our model basically policy and resources are the things for which you should hold ministers accountable. Of course, there is then a dialogue about whether or not certain policies can be performed at the level of resources provided.

**Q412 Paul Rowen:** At the moment, I would have thought that the permanent secretary would say that he cannot deal with the backlog of cases in the IND because there is insufficient staff to cope with it. Do you not believe that those sorts of conversations go on and that, according to the doctrine of ministerial responsibility, the minister says, "Well, I have made the decision. That is all the staff you are having. Get on with it"?

**Mr Pearce:** It is certainly the case in New Zealand that if there is an operational consequence of a policy decision it is important that you can feed that back to the policymaker. You might say in the circumstances you have just described, which have happened in Britain in the past, "We do not have the resources to deal with the backlog of cases. Can we have a policy decision to annul those cases or provide an amnesty in order to write off that backlog?" That has happened on a number of occasions in Britain with respect to asylum decision cases. Clearly, you need a feedback mechanism in relation to operational decisions, consequences and policymaking and you cannot pretend that there is a binary distinction between them. But it is not always clear that it is simply a matter of saying that a particular policy cannot be operated, or vice versa.

**Q413 Paul Rowen:** Who will manage the process? The policy has been made. As said earlier, part of the problem is that ministers are not bothered about the process.

**Mr Lodge:** The civil servants would be, and it would have a strong incentive to do so because it would be held to account as to how it managed that process and the operational delivery.

**Q414 Paul Rowen:** We have the NHS Appointments Commission which is supposed to have taken away decisions on appointments from ministers and depoliticised it, ensuring that the best people are appointed. Certainly, David and I have concerns

about at least one appointment that has been made: we do not believe that the right person has been appointed. We have the Civil Service Commissioner at the moment to ensure that everything is in order. How can you assure us that having this model whereby everything goes through a Civil Service executive will necessarily produce the best results, particularly when he is on a five-year contract? Will he not be watching out for that? We see it now where in some local authorities people are on five-year contracts: they are looking for their next job three years into the contract and then moving on before they are found out.

**Mr Pearce:** The contract could be renewed. In those circumstances, if you were right about the individual after five years it would be clear that he or she was not the best person for the job and would not get a renewed contract.

**Mr Lodge:** These are details that will be raised in the report. We do not say that ministers are wholly excluded from this process; we are just saying that this is a job best done by a professional body at the centre of government which has the skills and resources to do it. In the report we give lots of details about the roles that ministers can play; they will have inputs into the job specs and there will be an ultimate ministerial veto.

**Q415 Paul Rowen:** Do they not have it now? In the case of many appointments to bodies which come under their departmental responsibility they already have that power?

**Mr Lodge:** Not for senior civil servants.

**Mr Pearce:** We are concerned here primarily with the Senior Civil Service rather than quangos.

**Q416 Kelvin Hopkins:** I have been very pleasantly surprised reading both the IPPR paper and Mr Lodge's article in the *Guardian*. If you will forgive me, I had expected to see a couple of Downing Street apparatchiks churning out a New Labour line, which is definitely not that. I find a lot of what you say persuasive, but I have some fears. Some 12 years ago when the Prime Minister became Leader of the Labour Party one of the first things to happen was that, as I understand it, Mr Peter Mandelson went into the IPPR office and said words to the effect, "We are taking over here now." He told the then director, in effect, "We did not appoint you. We do not like you and we are taking over, so find another job", which he did. The same thing happened to the *New Statesman* which was bought out. The disagreeable journalist lefties were got rid of, but sales went down, and it has now changed back again. An attempt was made to pressurise the media generally to fall in line with the Government's new philosophy and political drive. That must have spilled over into the Civil Service. From your researches, to what extent did that affect the Civil Service? Things have moved on and have changed now, but was a serious attempt made to politicise the Civil Service certainly at the highest levels after that period. Have you found any evidence of that?

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**Mr Pearce:** We did not find any evidence of the politicisation of the Civil Service in the way you describe. There were orders in council in respect of particular individuals, as you discussed with Mr Michael Howard. I think that most of the growth in the number of special advisers was at Number 10. Our evidence has not been that there has been adverse concern among civil servants that they have been heavily politicised, but at the boundaries of a lot of decision-making there has been frustration felt by ministers about particular appointments, as you heard from Mr Blunkett. The current arrangements do not allow them to be either politicised explicitly about whom they appoint at senior level nor able to have confidence that systems are in place for proper performance management. We have had that feedback rather than the overt politicisation to which you refer. Personally, I believe that if you have a clear, proper and neutral civil service with clear performance management and a reformed service of the kind we propose here you should have some sort of small cabinet system of special advisers, as proposed by Mr Blunkett in his memorandum to the Committee. I think it makes some sense for the minister to have four or five people with him whom he appoints.

**Q417 Kelvin Hopkins:** But perhaps not a stratum of political and special advisers who tell the Civil Service what to do and act as an insulating layer between civil servants and the minister?

**Mr Pearce:** Insofar as they are formally able to do so—certainly, it applies to individuals who are the subject of the orders in council—I agree that if you have special advisers who come in on a *cabinet*-type basis they should be publicly accountable as well and Parliament should be able to summon them for questioning, but we should be clear as to their roles. That can be done only when one reforms the central doctrine of ministerial responsibility for everything. One of the consequences of that is that one has special advisers playing greater roles than one might otherwise expect in operational matters which under our model would be the responsibility of the Civil Service.

**Q418 Kelvin Hopkins:** I found myself agreeing with that and putting ticks in the margin of your paper, which perhaps is unusual. Let me quote one phrase from Mr Lodge's article: "In Britain, politicisation is unsuited to our constitution because there is no separation of powers. A politicised civil service would create an overbearing executive." Precisely. Is that not what we have been moving towards? I exaggerate perhaps when I say that we have seen government gradually becoming "Leninised" in Britain over the past few decades, with everything controlled at the centre and everything controlled to the lowest level to make sure that what happens at whatever level is controlled from the centre.

**Mr Pearce:** We do not propose any form of democratic centralism either, but there is a danger with the current system that because of the kinds of problems we have been experiencing and the issues that now arise on a regular basis which concern

people there will be a drift by default to a politicised model. Our argument is simply that we should be clear as to what the options are and what principles govern any system, whether it is politicised or not. Our argument is that the politicised route is the wrong one.

**Q419 Kelvin Hopkins:** Instead of the separation of powers, what we have had is a very strong system of pluralism in effect, with competing and alternative centres of power. To an extent they work in concert but also rub against each other. Parliament has become weaker and the executive has become stronger. We have in the past had a strong and independent Civil Service and strong and independent local government. We have also had strong trade unions. To a large extent this pluralism has broken down, and that is the position in which we now find ourselves. There is nobody there either to restrain our leaders or tell them sometimes, "I am sorry, Prime Minister, but you have got it wrong."

**Mr Pearce:** The centralisation of the political system in England has meant that the strains placed on the Senior Civil Service and Whitehall have become that much more intense. Ministers are doing more but fewer powers are held by Parliament, local government or other intermediary organisations in society less like Parliament. If more is concentrated in the executive of course more weight is placed on the Senior Civil Service. One of the reasons we have had a lot of these problems is that it is doing a lot more things than would otherwise have been the case.

**Q420 Kelvin Hopkins:** New Zealand was well ahead of us in all of this. It had a series of political crises and a breakdown of its Labour Party some years ago. It reformed its politics pretty radically. The system in New Zealand which you describe seems to be a good idea. Is New Zealand now a happier and better governed country than it was when it was much more like we are now?

**Mr Pearce:** I think Mr Lodge has described the evolution of the system quite well. My personal view of Helen Clark is that she is an excellent Prime Minister and that the New Zealand Government has done some very good things. One aspect of the New Zealand model that I would not recommend here is that the Cabinet should be elected by the Parliamentary Labour Party.

**Kelvin Hopkins:** I also find that appealing, but there we are.

**Q421 Chairman:** I do not think you are required to tell us whether or not you think that New Zealand is a happy country; it is beyond your claimed expertise. I just end by putting back to you the point with which we started. Are you not confusing different objectives: the objective of getting better performance management across the system, which is a solidly founded objective, and the idea of getting more transparent accountability across the system, which is a different objective and arguably may cut across the first one? It may perversely result in less accountability in the system. At the moment the



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people who have the biggest incentive to make sure the system works well are ministers because they are the ones who will be held accountable for it. Anything which detracts from that, cuts across it or stops them pulling levers—the witnesses before us this morning are determined to be there pulling the levers—will ultimately make for less accountability rather than more?

**Mr Lodge:** Part of the problem at the moment—that is why we have raised the two models—is that ministers are accountable and responsible for everything but they do not have effective control over the machine because of the governing principles of the Civil Service. Basically, “ministerial responsibility” means that ministers are exclusively accountable to Parliament for everything that happens in their departments and civil servants are accountable to ministers, but that is a bit of a myth. For if civil servants were to be properly accountable to ministers it would violate the principle of a politically neutral civil service. In the scenario that you paint you could make it more workable, but it would mean you would have to try formally to politicise it to make it more effective.

**Q422 Chairman:** Sometimes myths are useful. That could be a useful myth.

**Mr Lodge:** It could be a useful myth. The problem with it is that it deprives the Civil Service of effective performance accountability.

**Mr Pearce:** To return to one point raised by the Chairman, it was said that if one did not get the structures of accountability right they could inhibit operational performance improvements. There is no denying that if you layer the wrong targets, the wrong kinds of regulation and wrong kinds of accountability frameworks on organisations their ability to perform and get on with the job may be undermined. But our argument is that if you get the structures of accountability right performance will improve. Therefore, the current lack of mechanisms for accountability has a detrimental impact on performance. I do not think we are making a claim that there may not be circumstances in which if you get the structures of accountability wrong it will not impinge on performance, but simply that in the absence of the right ones performance is undermined.

**Chairman:** We could go on. This is interesting. We look forward to the report that you will produce which will inform our thinking and we are very grateful to you for coming along this morning to tell us about it.

# Written evidence

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## Memorandum by Baroness Fritchie DBE

When I last appeared before you on 10 November I promised to write to you before my term ends. The purpose of this letter, therefore, is to outline those things which I have achieved since becoming Commissioner in 1999 and those challenges which it will fall to my successor to meet.

### THE SITUATION IN 1999

When I was appointed as Commissioner six years ago, a great deal of good work had been done by my predecessor, Sir Leonard Peach to set in train the policy and workings of the Office and to establish OCPA as a prominent feature on the political horizon. I was, nonetheless, faced by a daunting series of challenges to build on this work, to clarify the overall policy of OCPA and to focus on issues relating to scrutiny and equal opportunities.

The policy issues which I faced were complex and fundamental. In 1999 the OCPA Guidance contained a mixture of mandatory regulation and optional good practice, encompassing four “tiers” of public appointments. This “mixture” between the mandatory and the optional increased the scope for confusion and did not provide the clarity which regulatory authorities should always seek to attain. There were also some anomalies in policy which needed to be addressed: an example of which was the lack of a regular appraisal system for holders of public appointments. The other key difference between the situation six years ago and now was that I was responsible for Scotland and (by a separate Order in Council) Northern Ireland as well as England and Wales; the NHS Appointments Commission had also yet to be established.

### WORK COMPLETED AND ACHIEVEMENTS MET DURING MY TERM OF OFFICE 1999–2005

Since my appointment, I have endeavoured to meet the challenges that I was presented with and to move forward the work of public appointments. I shall detail these under three themes.

#### *A clear and easy process for people to travel through*

One of my first tasks was to separate the mandatory and the optional parts of the OCPA Guidance. Accordingly, in 2001 I produced my first Code of Practice which detailed those parts of the old guidance which were mandatory. The Cabinet Office took charge of all the “optional” guidance and this was incorporated into their Best Practice Guide (now Making and Managing Public Appointments). As part of this exercise, the number of public appointment “tiers” was reduced from four to two (“upper” and “lower”).

We designed a series of “roadshows” in which OCPA staff go to Government Departments and talk to their appointments teams about the OCPA process. I also overhauled the way in which complaints are handled both by OCPA and Government Departments. To facilitate this, I set up a series of complaints roadshows with Departments to explain our policy and how Departments should be handling complaints in their initial stages. As part of this we emphasised the importance for Departments of providing a clear audit trail of documentation during a selection process. We have also instigated a series of “open mornings” whereby Departmental officials and IAs involved in the process may come in to discuss issues with OCPA staff without the necessity of setting up a formal meeting.

#### *Quality outcome*

I introduced a new focus on ensuring that the outcome of the selection process to the Principle of Merit and that there is a diverse base among public appointees. When I was reappointed in 2002, I was asked to focus on diversity; accordingly I set out to encourage greater numbers of people from diverse backgrounds to apply for public appointments. I also worked on specific diversity themed projects in the ensuing three years. To mark the 2004 “Year of Disabled People”, I set up a Short Term Working Group on Disability to identify why greater numbers of people with disabilities were not applying for public appointments. The group reported in January 2004 with 52 recommendations—many of which have been followed by Departments. In addition, following one of its recommendations, the group produced a leaflet Disability: Public Appointments and You. Work was also done with the Women’s National Commission, the Women and Equality Unit, and with Minority Ethnic groups such as Operation Black Vote.

A crucial part of achieving a quality outcome in the public appointments process was by impressing on the Government the need for centralised appointments teams within Departments; in tandem with this, I introduced a requirement for a professional permanent group of people carrying out these selection processes. In addition, following my report into health appointments, the Government set up the NHS Appointments Commission in 2001 to manage the vast majority of appointments to health bodies. To test the quality of appointments processes, I initiated a “Mystery Shopping” exercise whereby members of OCPA staff would “apply” for appointments and scrutinise the application packs and the advertisements, checking that the Code of Practice was being followed.

Perhaps the most important changes that I made in terms of ensuring a quality outcome were those relating to Independent Assessors. In 2001 following an independent scrutiny, I established a Central List of 22 Independent Assessors who were trained and recruited by my Office rather than Government Departments. The primary aim of this was to bring within the Commissioner’s remit a truly independent system of Independent Assessors, selected and managed by OCPA. The Central List has had a pivotal role in underwriting the independence of OCPA processes and in restoring public confidence. This change has been reinforced by more frequent training and networking events for IAs. I am very disappointed that, despite recommendations from PASC and, more recently, the Committee on Standards in Public Life’s Tenth Report Getting the Balance Right, the Government is not prepared to bring all Independent Assessors under my remit.

### *Public Perception*

When I was first appointed to this role, I was very aware of the importance of the public’s perception of the selection process and the need to reinforce public confidence. In order to establish what the public’s perception of the public appointments process was, I commissioned MORI opinion polls in 2000 and 2004. Both of these showed that while there was concern about the fairness of the process, the involvement of ministers in making appointments and little awareness of how ministerial appointments are made, there was also support for having robust regulation of the process.

To help raise awareness of public appointments, OCPA (together with the Cabinet Office, Scottish Executive, the National Assembly for Wales and OCPA in Northern Ireland) set up a Public Service Week in November 2000. This focused on the appointments process and the opportunities available in terms of public appointments.

### CHALLENGES AWAITING MY SUCCESSOR

1. The first challenge awaiting my successor will be to implement those actions coming out of the Government’s response to the Graham report (mentioned above). In particular, they will need to focus upon the accreditation scheme for all IAs. Continued thought will need to be given as to how this work will be resourced. Work will need to be done on how to strengthen independent scrutiny now that the Government has decided not to include all IAs within the Commissioner’s remit.

2. The question of the level of ministerial involvement in the appointments process is on-going—although the introduction of “starred” appointments may go some way to identifying what the boundaries are.

3. Further work will need to be done on the tensions that can sometimes arise in departments between appointing on merit and the aspiration to improve diversity and how the tension between these two points can be resolved.

4. More work will need to be done on the subject of remuneration as a diversity issue and the implications of recent legislative changes.

5. On-going concerns about the relationship between OCPA and the Cabinet Office and the question of OCPA’s independence will need to be addressed. In particular, thought should be given to how the Cabinet Office’s rules on recruitment, budgeting and accommodation impact upon OCPA’s independence.

6. More strategic work should be done by Departments and the Cabinet Office to address the fact that legislation is being written in a way that makes it difficult for some public appointments processes to follow the Code.

I attach, as an annex, a table showing the various recommendations made by PASC during my tenure and how I have sought to address them; also a timeline of events since 1999. I would like to take the opportunity of reiterating my thanks for the support, encouragement and the challenges which you and your committee have provided me with during my period as Commissioner. I shall look forward to the outcome of PASC’s forthcoming enquiry and I wish you and the other committee members well personally in the future.

20 December 2005

*“Parliament is immensely strengthened if it has a link to outside bodies . . . Parliament’s understanding of appointments issues is greatly enhanced by the fact that we [the Committee] have that regular contact with the Office of the Commissioner for Public Appointments.”* Dr Tony Wright, Chair of the Public Administration Select Committee

	<i>PASC Recommendations</i>	<i>OCPA or Related Actions</i>
<b>November 1999</b>	<p>PASC published its Sixth Report</p> <p>This report produced seven recommendations which related to appointments. Specifically, the Committee:</p> <p>expected to see the results of the Commissioner’s reflections (mentioned in her evidence) on IAs, political affiliations, her remit, and more broadly on how people gain access to public appointments;</p> <p>recommended that individual appointments made by the Prime Minister, and other Ministers, or on their advice, should be brought within the Commissioner’s remit;</p> <p>believed that a large number of appointments should be removed from ministerial control and placed in the hands of an Independent Commission, and recommended that the Government and the Committee for Standards in Public Life should re-examine that question; proposed “confirmatory hearings” for Chair and Deputy Chair appointments;</p> <p>believed that all appointments to NDPBs should be advertised on the body’s or sponsoring department’s website;</p> <p>expected that Dame Rennie’s review of the process would show up the barriers to bringing in candidates from less traditional backgrounds, and act as a spur to further discussion of those barriers; and</p> <p>thought it important that the public appointments system should be kept under review to ensure that the quality and number of candidates did not decline because of over-regulation</p>	<p>OCPA began a consultation in 2000 on the management of IAs. Individual departments should be responsible for selecting and recruiting their own IAs, but the process would be subject to quality assurance measures laid down by OCPA (set out in Code of Practice 2001); and OCPA would set up a Central List of IAs.</p> <p>Now covered by the Order in Council.</p> <p>The Commissioner published the results of her scrutiny of public appointments to NHS Trusts and Health Authorities. March 2003.</p> <p>Recommendation superseded by the establishment of the Public Appointment vacancies website.</p> <p>Public Service Week 2000.</p> <p>Working group set up 2000. The tier system, the new approach to merit and diversity; and the introduction of new quality assurance measure for Independent Assessors were all set out in the Code of Practice 2001.</p>
<b>July 2000</b>	<p>PASC published its report on the Commissioner’s scrutiny of NHS appointments including a recommendation that the Government should consider the possibility of an independent commission in framing its response to Dame Rennie’s Report</p>	<p>The NHS Publishes its National Plan announcing the creation of a new Independent Commission. NHS Appointments Commission set up 1 April 2003.</p>

	<i>PASC Recommendations</i>	<i>OCPA or Related Actions</i>
<b>December 2000</b>	<p>Commissioner reported to PASC on her annual report</p> <p>Some Committee members returned to the topic of the Commissioner's scrutiny of NHS appointments, the Commissioner was asked whether she thought a comprehensive scheme should be developed to remove ministerial choice from a wide range of appointments.</p> <p>There were also questions on political activity.</p>	<p>Commissioner said that it was not for her to say; the first principle in the Code was the Ministers' rights to appoint. She went on to say that if that right was removed then it was unlikely that those appointments would continue to come within her remit.</p> <p>Amendments to the wording of the "Political Activity Question" were included in the revised Code of Practice.</p>
<b>March 2002</b>	<p>The Commissioner assisted PASC by giving oral evidence as part of its enquiry into "patronage and public appointments"</p> <p>The Committee expressed surprise that the Commissioner's previous Annual Reports had not specifically named the departments that had not followed the Code.</p>	<p>The Commissioner decided, with effect from her 2002 Annual Report, to identify departments that transgressed as well as those where best practice was being applied.</p>
<b>February 2003</b>	<p>PASC, nearing the end of its enquiry into "Patronage and Public Appointments", invited the Commission back to ask her views on its emerging findings.</p>	
<b>July 2003</b>	<p>PASC publishes "Patronage and Public Appointments"</p>	
<b>December 2003</b>	<p>Government responded to the Public Administration Committee's report on "Patronage in Public Appointments".</p> <p>The Government accepted a number of recommendations:</p> <ul style="list-style-type: none"> <li>— to "map the territory" to see whether bodies currently outside the Commissioner's remit should be brought into it; and</li> <li>— that Independent Assessors should be involved at every stage of the appointments process, ensuring that submissions to Ministers accurately reflected the views of appointments panels.</li> </ul>	<p>The Commissioner commented in her 2004 Annual Report on the Government's response to the recommendations in the Select Committee's report, repeating her disappointment that the suggestions relating to whistle-blowing powers for the Commissioner, the funding of her office through the Parliamentary Vote and that OCPA should assume responsibility for all Independent Assessors, had been rejected.</p>
<b>January 2004</b>		<p>Revised Code of Practice issued. The Code had been revised to take account of developments in the intervening period and comments made by users and other interested parties, like the Public Administration Committee and the Committee on Standards in Public Life.</p>

Response by the Commissioner for Public Appointments to the Recommendations of the  
Graham Committee's Report

CHAPTER 2: PUBLIC APPOINTMENTS

*Recommendation 1*

Departments should give serious consideration to giving their central appointments units operational responsibility for public appointments, particularly in cases where sponsor teams manage only one or two competitions a year.

*My view*

This is an issue which I strongly support and I have been urging Government Departments to consider it for some years. Following the Fourth Report of the Public Administration Select Committee (PASC) in December 2003, the Government response to the PASC recommendation 36 also stressed that, wherever possible, individual Departments should have a central team to undertake and provide advice on public appointments policy and process, and to work closely with sponsor teams if they undertake to fill appointments vacancies, which is already the case in a number of Departments. I am also in regular touch with the NHS Appointments Commission and other Government Departments to ensure that, where the NHS Appointments Commission undertakes appointments processes on behalf of others, that this occurs only where this is felt to be the best alternative way forward and to ensure that this best suits the needs and resources of all parties.

*Recommendation 2*

Annual public appointments plans should be adopted as the key strategic document for Departments to set out their policy and practice relating to the public appointments of chairs and board members of the public bodies they sponsor. These plans should be published documents, drawn up by the Permanent Secretary (in consultation, where appropriate, with the linked Commissioner for Public Appointments) and reflecting the views of the Secretary of State.

*My view*

I have lobbied hard for many years that appointments teams should plan their appointments processes in advance and have urged that Ministers should be involved in the very early stages of these plans in as much detail as feasible. I endorse the views of the Committee on this point and feel that senior officials must assume a greater involvement (and accountability—see below) in view of the strategic importance and high profile of many of these appointments. The credibility of public body boards depends on the calibre of those people appointed to them.

Lighter regulation and more flexible, proportionate approaches could follow where this was felt to be justified. In line with this development, I have piloted such a “light touch” approach to the audit process over the past inspection period and would be happy to discuss this with you further.

*Recommendation 3*

More systematic sharing of good practice in the making of appointments across public administration is urgently required. The Cabinet Office should convene an annual seminar of UK public appointments regulators and appointing authorities to exchange and debate good practice.

*My view*

I fully endorse this recommendation. The Cabinet Office already does some excellent work in this area and I currently carry out many seminars and regular meetings to facilitate the sharing of good practice between Independent Assessors, Government Departments and sponsor teams involved in the appointment process. My office also conducts roadshows for Departments and sponsor teams and I meet regularly with my counterparts amongst other regulators, the devolved administrations and appointing authorities in order to facilitate as much information and good practice sharing as possible.

*Recommendations 4, 5 and 6**Recommendation 4*

In England, the Commissioner's Code of Practice paragraph 3.24 should be re-drawn, on the basis of the Civil Service Commissioners' Recruitment Code, at paragraphs 2.52, 2.53 and 2.54. This would permit Ministerial involvement at the short-listing stage in "starred" public appointments where they have a particular interest in appointments to strategic posts within the limitations of the Seven Principles of Public Life, particularly Accountability, Openness and Objectivity.

*Recommendation 5*

- (a) The process for "starred" appointments, ie senior competitions likely to attract the specific interest and involvement of Ministers, should be set out in the Code of Practice as a special starred category.
- (b) Starred appointments should be identified in annual, published, Public Appointments Plans which set out a Department's public appointments record, policy and implementation plans.
- (c) For other appointments which are not starred, Ministers may wish, and should be able, to sign off the planning arrangements for the competition. They should not be consulted at the short-list stage and should not be involved again until the post-interview final selection of the candidate to be appointed.

*Recommendation 6*

Paragraphs 2.55, 2.56 and 2.57 of the Civil Service Commissioners' Recruitment Code should be incorporated into the Public Appointments Commissioner's Code of Practice for use in starred appointments.

*My view on 4, 5 and 6*

As Commissioner for Public Appointments, I am also a Civil Service Commissioner and am therefore familiar with the Civil Service Commissioners' Recruitment Code as well as with my own Code of Practice. I would be happy to explore ways of more closely aligning those sections of my Code of Practice with the Civil Service Recruitment Code that are felt appropriate once the Government has responded on the possibility of the introduction of "starred" public appointments.

The whole subject of Ministerial involvement in public appointments has been discussed and reviewed in depth by a short-term working group which I convened and which commenced its work well before the Graham Committee Report was published. I also planned to arrange for a meeting with those Permanent Secretaries who were members of the short-term working group to discuss how the recommendations of the group might be taken forward and "piloted" in the context of the recommendations of the Graham Committee, however this has been delayed pending the Government's response to the Report.

Whilst Ministers remain accountable for the performance of the majority of public bodies, the post of Commissioner for Public Appointments was created to introduce an open, transparent and fair selection process to counter the then prevalent allegations of cronyism, political bias, and a public perception of a "tapping on the shoulder" or "it's who you know, not what you know" method of recruitment. As the Committee itself reports, the principle of participation by Ministers in the appointments process is not incompatible with the independence and integrity of the system. However, it is vital that Ministers are protected from the perception of inappropriate political bias in the selection process and it was for this reason that my Code initially stipulated that Ministerial involvement should be restricted to certain key stages.

It has always been stipulated in my Code of Practice for public appointments that Ministers should be fully involved at the commencement of the process and that their mind should be fully taken on topics such as the finalisation of the role description and person specification, and they should also be given the opportunity to put forward any names of potential candidates whom they would like to be approached at the time the vacancy is publicised to see if they wish to apply. They may then be kept fully informed on how the selection process is progressing and may be consulted if it is felt that the list of potential candidates is insufficient or too weak. To avoid any perceptions of political bias, however, I have in the past recommended that Ministerial involvement should then be limited to the final selection stage. I await the Government's response on the matter of the removal of Ministerial choice from the selection stage of the recommended "starred appointments" category of appointments.

The principle of "Ministerial choice" for public appointments is where a fundamental difference of policy currently exists between the public appointments process and the selection process outlined in the Civil Service Recruitment Code. There are also other very relevant differences—the Civil Service Recruitment Code governs recruitment to terms of employment, and these are senior, paid posts. Public appointments, on the other hand, are not currently classified as "employment"; the holders of public

appointments are “office holders” although they have recently been included in some legislative changes to discrimination legislation; whilst some are high profile, all public appointments are for a limited period (normally three or four years). The majority of public appointments are part-time, and many of the posts are either remunerated at a very low level or are unpaid. It should also be noted that many public appointments are more politically sensitive, and more high profile, than Civil Service ones.

#### *Recommendation 7*

The Commissioner should consult urgently with appointing authorities to revise and develop paragraph 3.37 of the Code of Practice dealing with non-compliance so that there is a clear and unambiguous procedure for the resolution of disputes between the Commissioner and an appointing authority.

#### *My view*

I would welcome clarification on the Government’s view on this point. In the past, I have issued press releases and have also given publicity to instances where Ministers have knowingly contravened the requirements of my Code of Practice. (One example of such an occurrence can be found in my Eighth Annual Report where I publicised the fact that, despite discussing with a DEFRA Minister a range of ways in which a post might be filled legitimately, a person was appointed who had not applied, or been interviewed, for a particular post.)

#### *Recommendation 8*

The Commissioner for Public Appointments should exercise fully her functions under the Order in Council to maintain the principle of selection on merit in relation to public appointments. The Commissioner should not hesitate to publish a contemporaneous report or issue a statement (paragraph 3.37 of the Code of Practice notes that “the Commissioner may decide to comment publicly”) setting out in detail where she has reasonable belief that an appointing authority has breached the Code of Practice. She should only do this after she has held a face-to-face meeting with the Minister concerned in an attempt to seek to resolve any dispute and it is clear the Minister will not accept her proposal.

#### *My view*

Expanding on recommendation 7, I would welcome clarification and have in the past issued press releases or firm statements to the Department in question when I have reason to believe that the Code may have been breached.

I do maintain, however, that there is also value in having early discussions between any contesting parties in order to try and devise constructive ways forward. If this fails, then the publication of statements and/or reports should be the ultimate deterrent (or the confirmation of failure to reach a resolution) rather than a routine part of any disagreement or difference of opinion.

#### *Recommendation 9*

The 2002 Public Appointments Order in Council should be amended to include the reserve powers set out in sections (7) and (8) of the Public Appointments and Public Bodies etc (Scotland) Act 2003. This would enable the Commissioner, where an appointment has not been made, to direct Ministers to delay making an appointment until Parliament has considered the case.

#### *My view*

This recommendation is similar to one made by PASC in December 2003. Following that, the Government took note of the recent Scottish legislation and agreed to monitor how these provisions operate. The new Commissioner for Public Appointments in Scotland has been in post for a year (since 1 June 2004). I understand that the Scottish Commissioner has not yet had to invoke her powers under the legislation to date and there is no available information to hand to measure the deterrent value of having this power available, however, my experience in this role leads me to believe that this deterrent would be extremely valuable. (Having the power is just as important as using it.)

#### *Recommendation 10*

We recommend that *The Responsibilities of an Accounting Officer* and the *Ministerial Code* be amended to make reference to the explicit responsibility of Permanent Secretaries, as accounting officers for the propriety of public appointments made by their Departments.



*My view*

From the evidence presented to the Committee, the Permanent Secretaries who expressed an opinion were strongly supportive of this recommendation. I would also endorse such a recommendation.

*Recommendations 11 and 12**Recommendation 11*

- (a) The Government should actively review the experience of setting up and running central lists in Northern Ireland, Scotland, Wales, the NHS Appointments Commission and the Commissioner's own central list of 22 Independent Assessors with a view to producing proposals, in conjunction with the Commissioner, within one year for a proportionate, cost-effective, centrally-run system.
- (b) In the meantime, only Independent Assessors recruited to the Commissioner's central list should be used for starred appointment competitions involving Ministers. Departments should continue recruiting and managing their own lists of Independent Assessors, on condition that they use an accreditation system run by OCPA which recommends assessors to be employed.

*Recommendation 12*

We recommend that OCPA and the NHS Appointments Commission should work together to produce integrated, competency-based, induction and development programmes for Independent Assessors, together with a model, light appraisal system. This should be the basis of an accreditation or "kite-mark" without which an Independent Assessor would be unable to act.

*My view*

Again, this was a recommendation previously put forward by PASC but was not then approved for adoption by the Government. It has also been strongly emphasised by various recommendations and reports over a period of some years and I have attached at Annex 2 evidence of when this recommendation has been put forward on past occasions. You will see from the historical timeline that, for the past decade, this has been an area of considerable interest with considerable suspicions about the "independence" of IAs in the last five years in particular. This matter has been addressed by Wales, Northern Ireland and Scotland, who have all moved to a centralised system of totally independent IAs and I believe it is important after such a long time of considering and re-considering this issue that a positive decision is now reached.

It is only in England where the system of departmental Independent Assessors continues to operate alongside the OCPA-run Central List of IAs. Although induction training for departmental IAs is the responsibility of OCPA, the initial recruitment, on-going development, training and performance appraisal remains the responsibility of the individual departments with no measure of consistency of methodology or standards, or quality assessment. I would urge the Government's adoption of this recommendation and, following the PASC recommendation almost two years ago, I produced a detailed assessment for the recruitment, training and "running" of all IAs in a proportionate, cost-effective, centrally-run system.

*Recommendation 13*

The political activity questionnaire was designed and intended for monitoring purposes only. We recommend that the Commissioner's Code of Practice should set out clearly that the questionnaire should not be shown to anyone involved in the selection process.

*My view*

I had planned to include this requirement in my Code when the revisions of December 2003 were implemented. However, as the Graham Committee intended to investigate this point as part of their inquiry, I agreed to await the outcome of their Report before doing so, I very much welcome the recommendation and endorsement of the Committee on this matter and now intend to incorporate a statement to this effect when the next Code revisions are brought into effect.

*Recommendation 14*

- (a) The 2002 Public Appointments Order in Council should be amended to allow the creation of a board of Public Appointments Commissioners. The board should be chaired by a First Public Appointments Commissioner.

- (b) Public Appointments Commissioners should each be linked to a small number of Departments, providing assistance to the Department in constructing and publishing annual Departmental Public Appointments Plans. These plans should be the executive responsibility of the Department and signed off by the board of the Public Appointments Commission.
- (c) Public Appointment Commissioners should be available to chair selection panels for “starred” appointments.

*My view*

- (a) I currently operate as a sole regulator but recognise that there is a growing trend for such “independent regulators” to be constituted as boards rather than individuals. At present, I use my Central List of IAs as a sounding board at times when I need to obtain the views of experienced specialists on particular issues of policy or strategy.

I recognise budgetary constraints and head-count issues are high on the Civil Service agenda (and also expenditure on “Quangos” and related bodies is often the subject of adverse and critical publicity in the press). It could be helpful for a comparative costing exercise to be carried out to evaluate the budget for a board of Public Appointments Commissioners, with support staff, rather than a singular regulator and to evaluate what the benefits would be.

I am, however, positive about this recommendation and can see many of the advantages which a board of Commissioners could provide and would be happy to discuss this recommendation further.

- (b) The introduction of linked Commissioners and formal annual Departmental Public Appointments Plans must be a beneficial way forward. This would enable consistency across Departments, facilitate the sharing of good practice, and provide an instant quality assessment ability. The anticipated difference between the role of such a Commissioner and the IA would need to be explored and investigated but I welcome this recommendation as a valued step forward.
- (c) This recommendation that Public Appointments Commissioners chair selection panels does concern me. At the moment, Departments receive in excess of 100 complaints about appointments processes each year and approximately a quarter of these subsequently come through to my office for investigation. If one of the board of Commissioners had participated (as Chair) in the selection process, any subsequent complaint would mean that the First Public Appointments Commissioner might have to investigate the role in the process of their own Commissioner. This could damage the credibility of the board of Commissioners. Additionally, there may be legal implications in a “regulator” participating in the process they are regulating. (OCSC are not “regulators” in the same way as OCPA.)

#### CHAPTER 4: EMBEDDING THE SEVEN PRINCIPLES OF PUBLIC LIFE INTO ORGANISATIONAL CULTURES

*Recommendation 36*

The Commissioner’s Code of Practice on Public Appointments should be reviewed and revised as a matter of urgency to reflect and incorporate the principal recommendations of PricewaterhouseCooper’s audit report, *Conflicts of Interest*, produced for the Office of the Commissioner for Public Appointments in June 2004 and the general recommendations in the report by AHL Ltd, *Commission for Architecture and the Built Environment, Audit of Conflicts of Interest*, HC 678, 17 June 2004.

*My view*

I fully endorse this recommendation. The OCPA office in Northern Ireland (until 31 July 2005 I separately held the post of Commissioner for Public Appointments in Northern Ireland) has already carried out considerable work on probity and conflicts of interest matters and has published extensive guidance both for Departments and also for candidates. The PricewaterhouseCooper’s report to which the Graham Committee refer was also commissioned by me in England. I shall be keen to incorporate the recommendations of both recommended reports and also my own earlier work in Northern Ireland into my Code when the next revisions are published.

## Memorandum by the Civil Service Commissioners

### INTRODUCTION

1. As part of its scrutiny programme, the Committee has launched an inquiry into politicisation of the public service. The Committee wishes to explore what we now mean by politicisation, whether politicisation is an entirely negative phenomenon, and, if it is not, what kinds of politicisation would be appropriate in the United Kingdom.

2. The Civil Service Commissioners offer the following comments based on our underlying function and essential *raison d'être* which, as regulators of recruitment into the Civil Service, is to contribute to the process of ensuring an efficient and effective Civil Service, fit for purpose and respected by the public. Our response focuses on the two underlying questions which the Committee raises in its issues and questions paper:

- Should civil servants be more “political”, that is, obviously committed to the programme of the elected Government?
- Should politicians have more say over the appointment of public servants and, if so, should their role be to appoint a few more advisers, or should politicians be able to make appointments to posts which have generally been seen as the preserve of the independent career civil servant?

### THE CHANGING ENVIRONMENT

3. Civil servants today are operating in a very challenging and fast changing environment. We highlight a number of factors. The public has higher expectations than before and is far more demanding. Authority is challenged; inadequate provision is not accepted; litigation over failures is increasing. There has been a growth in external scrutiny. The public accountability of individual civil servants is increasing steadily. The increase of media outlets and the 24 hour coverage now provided calls for a matching response capacity. Advances in information technology have brought new challenges and vulnerabilities. The information revolution is creating the ability to transform bureaucratic government. Digital government has the power to reduce the cost of government, increase citizen input and improve official decision-making.

4. All this is taking place in an increasingly complex global environment where national borders are becoming less significant and multinational companies are becoming dominant. Political problems are becoming more complex and less predictable. Any attempt to address a problem is subject to the competing advice and opinions of special interest groups, advisory bodies and think-tanks. There is a multiplicity of incompatible perspectives and solutions. This means that outcomes are not always uniform but reflect international, national, regional and local circumstances. Relations with the European Union have to be part of thinking, policy and strategy. Devolution has meant an adjustment in relations between the centre and the devolved administrations. The Freedom of Information Act, human rights legislation and other constitutional changes are making new demands.

### THE IMPLICATIONS FOR THE CIVIL SERVICE

5. All these factors challenge the traditional process of policy making and its implementation and delivery, and have implications for the competencies, skills and experience that civil servants need to exhibit. Yet over the years too little attention has been paid to the development of the Civil Service. Insufficient investment in the Civil Service as an organisation in the past, together with a focus mainly on one part of its role—working with ministers, has led to an organisation today which is unable to keep pace with the demands being placed upon it.

6. There is a need to change the culture of the Civil Service to one which is more outward looking, less risk adverse, and designed to encourage learning and to enable others to become involved and influence change. The Civil Service needs to learn to do things differently, developing a relationship between the centre and other parts of the private, public and voluntary sectors that is not one of control but of mutual learning; where audits and inspections are part of ongoing learning; where the parties concerned actively reflect on what they do and how they learn; which facilitates the growth of individuals, organisations and communities. This means laying less stress on claiming to know what is best and putting more emphasis on making the best use of knowledge and learning acquired through partnerships, and working with and through others. In other words, not just learning to deliver but using the experience and knowledge to learn and adapt. All this points to the need for the Civil Service to change and reform itself.

### POLITICISATION

7. Some have argued that reform of the Civil Service of the scale needed will only be achieved through the appointment of more politically partial civil servants and/or greater political involvement in the appointment of civil servants. Suggestions which have been made include allowing ministers the right to choose the particular civil servants who work for them, or by developing a system by which senior civil

servants would be appointed with terms of office which automatically expire six months after the next general election to allow a new government to make changes. These suggestions will not, however, deal with the fundamental issues facing the Civil Service discussed above.

8. We doubt that a party-politically loyal and committed Civil Service would deliver better public services. Indeed we believe the opposite is more likely to be the case with political appointees telling Ministers what they want to hear rather than what they need to hear. This could seriously reduce the objectivity and thus the effectiveness of the organisation. We recognise that other democracies have different systems of governance but there are risks in importing one aspect of a system in operation elsewhere without also importing the many checks and balances which accompany it.

9. At a more practical level, we can visualise ministerial choice leading to individual civil servants changing as regularly as ministers, even within the same Administration, with a resultant loss in the skills and continuity essential to ensuring that policies take root. Appointing all senior civil servants on terms related to the duration of a particular Administration may also result in a Civil Service which is less attractive to talented individuals who are committed to a professional career in public service and able to help the Civil Service respond to the fundamental challenges it faces. It will do little to build the capacity of the organisation in terms of its skills base, experience and corporate memory. It may also impact on the quality of prospective candidates at more junior levels since some may view a politically appointed Senior Civil Service as a glass ceiling to their career aspirations.

#### THE CONSTITUTIONAL POSITION OF THE CIVIL SERVICE

10. Moreover, it seems to us that such suggestions are earthed, at least in part, in the misconception that civil servants have an independent or neutral relationship with Government. This is, in fact, to misunderstand the role of civil servants because both words imply, at best, a certain detachment from the objectives of the Government of the day or, worse, that the Civil Service is an organisation which has its own views and policies.

11. Civil servants, especially those operating at the heart of Government inhabit a profoundly political world. The ministers which they serve are politicians; the policies which they help devise, design and implement are usually politically driven; the environment in which those policies are debated is the political forum of Parliament. Speeches, replies to letters or Parliamentary Questions or lines to take, all usually drafted first by civil servants, are often intrinsically political, reflecting the political philosophy of the current Government. The Civil Service's position could be said to be inherently partisan in this sense: it does not exist to serve political parties even-handedly; it serves only the duly elected government. Yet the Civil Service is an instrument of Government, not party-politics, and paid for by the taxpayer as such.

12. This is generally understood by Government and by the Opposition, who must also believe that the Civil Service will serve them, when elected. The maintenance of this trust places constraints on what civil servants may be asked to do by their current ministers. For example, presenting Government policy in the best possible light while sticking to the facts. And it would be harder to maintain that trust if the Service engaged in writing material openly critical of the Opposition and their policies. It also places restrictions on the political activities in which civil servants may engage in their private life.

13. The Civil Service Code describes the role in this way:

“The constitutional and practical role of the Civil Service is with integrity, honesty, impartiality and objectivity, to assist the duly constituted Government . . . whatever their political complexion, in formulating their policies, carrying out their decisions and in administering public services for which they are responsible”

14. Thus, impartiality is the key to the constitutional position of the Civil Service. As the Code continues:

“civil servants should conduct themselves in such a way as to deserve and retain the confidence of Ministers or Assembly Secretaries and the National Assembly as a body, and to be able to establish the same relationship with those whom they may be required to serve in some future Administration.”

15. It is impartiality in particular which enables the Civil Service to serve the current government loyally and to ensure a smooth transition from one Administration to another.

16. It follows that we do not believe that ministers should be able to choose the particular civil servants who work for them (apart from Special Advisers who do so in an overtly personal and political way) when posts are opened to external recruitment. This is an issue about which we have given much thought during the last two or three years, prompted by the proposal that ministers should be offered a choice of candidates marked “appointable”, as happens for public appointments. We concluded that while ministers will want and were entitled to be involved in the recruitment of staff for particular posts, the need to maintain the fundamental constitutional principle of the impartiality of the Civil Service means that they should not exercise the final choice of the successful candidate. The relevant section of our Recruitment Code which sets out our position on ministerial involvement in Civil Service appointments is at Annex A.

## REFORMING THE CIVIL SERVICE

17. Our view, therefore, is that the Civil Service reform agenda should focus on the development of an organisation which is fit for purpose in the context of current challenges. The current Professional Skills for Government initiative, with its emphasis on three key elements—policy expert/analyst, operational delivery and corporate services—is a move in the right direction. We hope, in particular, that this will be accompanied by a real commitment by the Government to value the Civil Service for its traditional role in policy development, and of providing objective advice on the available options and the best means to secure delivery.

18. This initiative will only be partially successful unless it is accompanied by real clarity about the role of the Civil Service, which in turn will lead to decisions about tasks, structure and culture. We note, for example, that in recent years much of the discussion about the Civil Service has been about only one of its tasks—the better delivery of public services. We recognise that this has been to redress a previous imbalance in approach, but we must watch that this new focus does not in turn create a different imbalance.

19. We also see a continuing need for recruitment at the more senior levels to fill skills gaps and to provide opportunities to bring in talented people from the private and wider public sectors at a later stage in their careers. Appointment on the basis of merit should continue to be our touch-stone. Though earthed in the traditional values of the Northcote/Trevelyan Report of 1854, the concept remains an entirely modern and relevant one. For it means selecting the best available people not on the basis of who they might know or the political belief they might hold, but rather on the basis of an objective assessment of the essential requirements of the post and the relative qualities, competencies and experience of those who apply for consideration. Recruitment is a professional skill and more attention needs to be paid to developing the best possible job and person specifications, and to applying and interpreting the most relevant and effective techniques when assessing the relative merits of candidates.

20. Underpinning this is the need for the Civil Service to maintain an emphasis on the development of its staff and life-long learning. This is critical if the Civil Service is to get the best out of its people, is more outward looking, less risk averse, and designed to encourage learning and to enable others to become involved.

21. In all of this the role of Permanent Secretaries is critical. They must actively take responsibility for ensuring that departments have the capacity and capability to meet the demand placed upon them.

## POLITICAL ADVISERS

22. We believe that political advisers have a crucial role to play in advising and assisting ministers in areas where it would be inappropriate for civil servants to be involved. The number of political advisers employed seems to us to be of secondary importance. What matters is that the distinction between the work of political advisers and civil servants is made as clear as possible to avoid any confusion of role which might risk the principle of an impartial Civil Service. Critically, we see scope for confusion of role if certain special advisers continue to have executive powers over civil servants. Political advisers should be distinguished from civil servants by title, by a clear definition of their role and by being personally accountable to their appointing minister. Accordingly, it would be inappropriate for the Civil Service Commissioners to be involved in their selection.

## SECURING CIVIL SERVICE VALUES

23. Alongside the requirement for clear definitions of role is the need for ministers, special advisers and civil servants to adhere to sets of values and standards of behaviour. Each has its code but we doubt, in the case of the Civil Service at least, whether that is sufficient. Accordingly we continue to maintain that it is crucial that the core values of the Civil Service are enshrined in statute. A narrowly defined Civil Service Act will provide a framework in which management of the Civil Service and further reform can take place whilst guarding against an erosion of the values. The Civil Service's core values—integrity, honesty, impartiality, objectivity—and appointment on merit set a standard for the way in which things should be done. We believe they need to be placed under Parliamentary oversight.

*30 January 2006*

## Annex A

### EXTRACT FROM CIVIL SERVICE COMMISSIONERS' RECRUITMENT CODE— INVOLVEMENT OF MINISTERS

2.52 Ministers may have a particular interest in appointments to certain posts. That interest must be accommodated within a system which selects on merit, is free from personal or political bias and ensures that appointments can last into future Administrations. **This section sets out the way in which Ministers may be involved in the selection and appointment processes. No procedures for determining selection additional to those in this Code may be used without the express approval of the Commissioners.**

2.53 If the post to be filled is one in which the Minister is interested, it is essential to agree with the Minister at the outset the terms on which the post is to be advertised, the job and person specifications and the criteria for selection. The composition of the selection board, and in particular the choice of external members, may also be agreed with the Minister against specified relevant criteria.

2.54 It is important that the department or agency ensures that it uses appropriate selection techniques to identify suitable candidates. If search consultants are being used it may in some cases be helpful for them to see the Minister. The Minister should be kept in touch with the progress of the competition throughout, including being provided with full information about the expertise, experience and skills of candidates on the long and short lists. The Minister cannot interview the candidates or express a preference among them. Any further views the Minister may have about the balance of the expertise, experience and skills required for the post should be conveyed to the selection panel.

2.55 The candidate recommended for appointment must be the one placed first in order of merit by the selection panel. It is perfectly acceptable for the Minister to meet the lead candidate before deciding to approve the appointment but only that candidate may normally be appointed unless he or she turns the job down, in which case the position may be offered to reserve candidates above the line in order of merit. The Minister cannot pick and choose among the candidates.

2.56 In a rare case, where, despite having been kept in touch throughout, the Minister does not feel able to appoint the lead candidate, he or she must refer the matter back to the selection panel with his or her reasons. If, in the light of this explanation and having reviewed the balance of the selection criteria, the panel is minded to revise the order of merit and recommend another candidate from amongst those previously considered appointable, it must refer the case to the Civil Service Commissioners for their collective approval.

2.57 The Commissioners may either approve the submission of an alternative candidate or take the view that the original order of merit should stand. If the latter, no appointment on merit other than that originally recommended by the panel can be made as a result of this competition. If a fresh competition is to be run, it will need to be advertised with a different job and/or specification and/or salary.

2.58 There is a limited provision under the Orders in Council that enables the Commissioners to approve, in exceptional circumstances, the appointment of a candidate selected under open competition but not first in order in merit. The Commissioners would need to be satisfied that there were valid and exceptional reasons relating to the needs of the Service for such approval to be given.

2.59 The Commissioners will record in their annual report the number of cases referred to them under paragraphs 2.56–2.58.

#### **Further memorandum by the Civil Service Commissioners**

##### **INVOLVEMENT OF MINISTERS IN OPEN COMPETITIONS**

You asked for a note on the involvement of Ministers in open competitions. I am also taking the opportunity to comment on two other recruitment issues—the Commissioners' involvement in internal competitions and appointments which are not subject to any form of regulation—and the Business Appointments Rules.

The Civil Service Commissioners recognise that Ministers will have a particular interest in appointments to certain posts. Their starting point is that the interest, which they welcome, must be accommodated within a system which selects on merit, is free from personal or political bias and ensures that appointments can last into future Administrations. The Recruitment Code, therefore, sets out the way in which Ministers can be involved in the selection and appointments processes. The relevant section is Annex A to the preceding memorandum.

The section was last changed in April 2004 following a general review of the Recruitment Code. The Commissioners explained the change in their Annual Report for 2003–04 as follows:

“During our review of the code, the Government proposed that there should be a revised formulation which would allow a Minister to invite a panel to review its decision if he or she did not consider the lead candidate had the right balance of expertise, experience and skills required for the post. As things stood, a Minister who did not wish to appoint the lead candidate could do no more than require a fresh competition.

In making the change, we were satisfied that we would be able to continue safeguarding the principles of selection on merit. The revised wording makes it clear that if, following consideration of a Minister's request, a panel is minded to recommend another candidate, it must obtain our collective approval.

The revised code also makes it clear that a Minister may not express a preference among the candidates. Nor may he or she interview them, except the lead candidate at the point when a recommendation for appointment is being made.

We will record the number of cases referred to us in our annual report.”

The Commissioners took the opportunity of the change to set out (in more detail than in the previous version) the stages at which Ministers should be involved and the nature of that involvement eg they should agree the terms on which the post is to be advertised, the job and person specifications and the criteria for selection. The Code also makes clear that the Minister should be kept in touch with the progress of the competition throughout, including being provided with full information about the expertise, experience and skills of the candidates on the long and shortlists. The Minister is not allowed to interview the candidates or express a preference among them. But any further views he or she may have about the balance of the expertise, experience and skills required in the post should be conveyed to the panel. The Commissioners confirmed that no procedures for determining selection additional to those in the Code could be used without the express approval of the Commissioners. In doing so the Commissioners recognised that on occasion circumstances might arise which would justify additional procedures.

One additional procedure that has been used is allowing the Minister to brief the candidates about the job. This was first done in 2000 when the posts of Chief Executive of the NHS and Permanent Secretary of the Department of Health were combined. The request came from candidates who recognised, as the Commissioners did, that the then Secretary of State had determined the re-organisation and had a very clear idea about the scope of the job and what he wanted to achieve. The Commissioners took the view that only the Secretary of State could speak authoritatively about the job and, therefore, gave their approval to his briefing the short-listed candidates. They did, however, make clear that the meetings were part of the information gathering process for candidates and not part of the selection process. Ministers were also allowed to brief the short-listed candidates in a further three competitions while Baroness Prashar was First Commissioner.

Since Janet Paraskeva has become First Commissioner the procedure has been used or is being used in four competitions, all of which were for new jobs where the Minister was best placed to brief candidates: Chief Executive, National Health Service; Director General, Head of the Office of the Third Sector; Director General, Head of the Social Exclusion Tasks Force; and Director General, Equalities, DCLG. We now publish details of such arrangements on the Commissioners' website. I attach the note about the selection process for the Chief Executive of the National Health Service as an example (at Annex A). You will see in this case that given the public profile of this post, Janet Paraskeva as First Civil Service Commissioner also wanted the Secretary of State to brief the appointments panel.

There are three further points about recruitment that I think it would be helpful to note here. First, the Commissioners are increasingly being asked to take part in internal as opposed to open competitions. Although I do not have exact figures for previous years because the arrangements were usually made between the department and the Commissioner (unlike requests for open competitions which came to the Office), my estimate would be that the number was generally one or two a year. This changed last year when Sir Gus O'Donnell asked Baroness Prashar to take part in all of the competitions to appoint Permanent Secretaries (only one was open to applicants outside the Civil Service). So far this year the Commissioners have taken part in competitions for fourteen posts. I know it is risky to extrapolate from a small sample but I detect the beginnings of a trend and would expect the Commissioners' involvement in internal competitions to grow. This will raise questions for us about the Commissioners' role and the scope and extent of their involvement. I believe it would be helpful to formalise the position to ensure a more systematic and strategic approach to the regulation of appointments to and within the Senior Civil Service. I know that Janet Paraskeva is also talking to Ministers about this too.

Secondly, and we had a brief word about this on the telephone, there are a significant number of appointments which, as far as I am aware, are not regulated. The Commissioners regulate appointments to the Civil Service and the Commissioner for Public Appointments reflects Ministerial appointments to public bodies, but no one, for example, looks at executive appointments to those bodies—(except for the few that are Civil Service posts)—some of which, like the Chief Executive of the Commission for Equality and Human Rights, are high profile. You might wish to look at this area at some point.

Finally, you also raised the issue of business appointments. The First Commissioner's view is that there is a logic in joining together these roles within one regulatory umbrella and of course it fits with the role of Commissioners under the Civil Service Code.

*25 October 2006*

## **Annex A**

### **CHIEF EXECUTIVE, NATIONAL HEALTH SERVICE**

#### **THE SELECTION PROCESS**

This note sets out the process that is being used to select the Chief Executive of the National Health Service. It has been given to the longlisted candidates and has been placed on the Civil Service Commissioners' website.

The selection process follows the Civil Service Commissioners' Recruitment Code. As is the practice for open competitions for the most senior posts, it is being chaired by the First Civil Service Commissioner.

The selection panel is:

- Ms Janet Paraskeva, First Civil Service Commissioner;
- Professor Dame Carol Black, President, Royal College of Physicians;
- Sir Alan Langlands, Principal and Vice Chancellor of the University of Dundee;
- Sir Gus O'Donnell, Cabinet Secretary and Head of the Home Civil Service; and
- Sir David Varney, Chairman of HM Revenue and Customs.

The panel, apart from Sir Alan Langlands who sent his apologies, met on Thursday, 8 June and agreed the broad outline of the selection process, which is set out below.

The post was advertised in The Sunday Times on 4 June. Information packs, which set out the job and person specifications, could be obtained from Russell Reynolds Associates, who had been retained to administer the competition and to carry out an international search. Applications had to reach the search consultants by the closing date of Wednesday, 21 June 2006.

On Friday, 23 June Patrick Johnson of the search consultants briefed the First Commissioner on the strengths and weaknesses of the candidates, having assessed their applications against the job and person specifications. The First Commissioner recommended a longlist of the most suitable candidates to the panel. These candidates will be interviewed by the search consultant before the shortlisting meeting.

Shortlisting will take place on Thursday, 6 July. The meeting will start with a briefing from Patricia Hewitt, the Secretary of State for Health, on the job to be done. The Secretary for State will then leave the meeting. The panel will have seen papers on the longlisted candidates in advance of the meeting. They will consider the longlisted candidates against the job and person specifications, taking into account the reports of the search consultant. The panel will also have seen a brief report on the other candidates in advance. The CVs of the other candidates will be available at the meeting; the panel will have an opportunity to consider them and to audit the process of longlisting. The panel will draw up a shortlist of candidates, on whom references will be taken before the final interviews. They will also confirm the arrangements for the interviews.

Before the final interviews the shortlisted candidates will have an opportunity to receive a briefing on the job from the Secretary of State. Lord (Nigel) Crisp, former Chief Executive of the NHS and Permanent Secretary of the Department of Health and Sir Gus O'Donnell will also make time available to brief the candidates.

The Civil Service Commissioners' Recruitment Code sets out the way in which ministerial interest can be accommodated within a system which selects on merit, is free from personal or political bias and ensures that appointments can last into a future Administration (see Involvement of Ministers). The Code encourages consultation with the relevant Minister on the terms on which the post is to be advertised, the job and person specifications, the selection criteria and the composition of the selection panel. Exceptionally and because of the change in the accountability of the postholder, the First Commissioner has agreed that the Secretary of State can brief the shortlisted candidates on the future of the NHS. The Recruitment Code also envisages the Minister being kept in touch with the progress of the competition including being provided with full information on the candidates on the long and short lists so that he or she is able to express any further views to the selection panel on the expertise, experience and skills required for the post. The Secretary of State will therefore, after the briefing meetings, raise with the First Commissioner any areas she would want the selection panel to explore with candidates. This additional part in the selection process is not an opportunity for the Secretary of State to interview the candidates or to express a view about their relative merits, which would be against the Recruitment Code. The Secretary of State's briefing meetings and all of the interviews conducted by members of the panel will be minuted by one of the First Commissioner's staff.

On Friday, 14 and Monday, 17 July Sir Gus O'Donnell and Sir David Varney will together interview each of the shortlisted candidates. They will explore in detail those aspects of the job that relate to working with Ministers and in Whitehall.

On Monday, 17 July Professor Dame Carol Black and Sir Alan Langlands will together interview each of the candidates to explore in detail the candidate's ability to lead the National Health Service.

The candidates will also be tested on their ability to handle a media interview.

On Tuesday, 18 July the whole panel, with Janet Paraskeva in the chair, will interview each of the candidates. After these interviews, and taking all the evidence into account, the panel will agree an assessment of the candidates and an order of merit.

The leading candidate will be recommended for appointment. Under the Recruitment Code, Ministers are entitled to interview the preferred candidate before confirming the appointment. In this case the appointment has to be approved by the Prime Minister. Full details of Ministerial involvement at this stage are set out in the Recruitment Code (see Involvement of Ministers).

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### Memorandum by Sir Nicholas Monck KCB

1. In an article on “Governance in Government” in the Political Quarterly (vol 76 Number 2, April-June 2005) I proposed that Governments should match the standards of Governance which now apply, with the agreement of Government, to private sector company boards.

2. The purpose of this was to ensure that, except in an emergency, Governments do not propose major new legislation, policies or decisions to Parliament unless high quality analysis and preparation have been done first. Serious decisions would be taken seriously.

3. The main components of thorough preparation are:

- (a) defining the problem and explaining why “do nothing” is not desirable.
- (b) identifying and analysing options for action, estimating the costs, benefits, risks and other consequences of each, using relevant and accurate evidence.
- (c) setting out the principles and arguments which lead the Government to its preferred option.
- (d) considering whether the option is practical and demonstrating that it is.
- (e) carrying out consultations, recording the main points and answering objections.
- (f) recording all this internally; and presenting a factually accurate public document to Parliament, containing the results of the work and explaining how it supports the proposed legislation or policy.

4. The public document should always be clear, coherent and factually accurate. But it need not be long; length can work against clarity and coherence.

5. The six points in paragraph 3 may sound obvious or familiar, because Governments sometimes carry out work covering some or all of them, and because they would be widely agreed. But, perhaps surprisingly, there is at present no formal obligation on Ministers, either self-imposed or backed by Parliament, to carry out thorough preparation. Christopher Foster’s book provides many examples of Governments’ failure to do so over the last 25 years.

6. There is a Ministerial Code—subtitled “A code of ethics and procedural guidance” in the 2005 version—which is issued by the Prime Minister. But it is largely about propriety and collective responsibility. It does also contain requirements that Ministers should be accountable to Parliament, should be open and give it accurate and truthful information, and should similarly require civil servants to be as helpful as possible in providing Parliamentary Committees with accurate, truthful and full information in line with the Civil service Code.

7. These latter requirements reflect the Resolutions carried by both Houses of Parliament in March 1997 after the 1996 report by the Commons Public Service Committee, which followed the Scott Report. But they do not amount to an obligation—or an undertaking—to present thoroughly prepared proposals to Parliament after carrying out the work described in the six points above.

8. If the Public Administration Select Committee agrees that it is desirable—in the interests of voters, taxpayers and citizens, as well as of Parliament itself—that there should be such an obligation, it would no doubt consider various ways of achieving it. It would probably make sense to pursue several different approaches rather than relying on a single one to bring about such change. But whatever approaches are followed the aim should be thorough preparation in line with the substance of the six points in paragraph 3.

9. One possibility, following the 1997 precedent, would be for Parliament to pass a Resolution expressing the opinion of each House that Ministers should carry out thorough preparation before putting major legislative or policy proposals to Parliament, specifying the substance of the six points. This might be done on a non-party or all party basis after discussion in the Liaison Committee.

10. The content would be rather more specific than the 1997 resolutions but it would resemble them in setting out principles which

“should govern the conduct of Ministers of the Crown in relation to Parliament.”

11. In 1997, according to the proposer of the Resolution in the Lords (Viscount Cranborne):

“Government agreed that there could be value in this, not because Ministers were in any way unsure about what was required of them, but because such a Resolution could set out clearly and unambiguously for all to see what the standards were and the standards against which Ministers were prepared to be judged.”

12. It might be difficult for Ministers to argue that they were not prepared to be judged against standards of thorough preparation. If the proposed new Resolution were passed, the six points would probably, by analogy with the result of the 1997 Resolutions, be reflected in the Ministerial Code. The Code already says:

“Ministers must also comply at all times with the requirements which Parliament itself has laid down.” (paragraph 1.6) It then refers to the 1997 Resolutions.

13. At the same time as passing a Resolution requiring and defining thorough preparation, the Commons might decide that major legislative or policy proposals would be considered by Select Committees more commonly than they are now, before reaching a decisive stage on the floor of the House. The Committees

might regularly ask what had been done to meet the six points. Ministers and civil servants, while working on proposals, would be conscious that these questions would be asked. These points too might be included in a Resolution.

14. Changes of this kind would no doubt not work perfectly. But they would increase the risk for Governments that they would lose any reputation for competence and respect for Parliament, if they put forward legislative or policy proposals without the thorough preparation needed to enable convincing answers to be given to the Select Committees' questions.

15. Other complementary proposals might help to achieve thorough preparation. One would be the circulation of written papers to Cabinet before major decisions are taken, as opposed to oral briefings. These briefings were criticised by the Butler Report because they made it harder—than with pre-circulated papers—for Cabinet members to bring their political judgement and experience to bear on major decisions and to prepare properly for discussions, for example by getting briefing in advance.

21 February 2006

### Memorandum by Sir Christopher Foster

My book, *British Government in Crisis*, attempts to chart changes in the processes of Government over the last 25 years.<sup>1</sup> There never was a Golden Age. There were many poor policies and bad laws, many failures to cope with economic and other problems. But generally there were processes and procedures at the heart of Government which enabled first Cabinet to understand, revise and agree the content of new policies and legislation, because presented to ministers in cabinet papers; and then subsequently for Parliament to scrutinise more effectively the consequent ministerial statements, parliamentary papers and bills presented to it. There were poor cabinet and parliamentary papers, but in general their level of intelligibility, and therefore of discussions based on them, was much higher than is possible to-day. For example, the current Schools and Health White Papers would not have survived challenge through the cabinet system so as to be open to such varied interpretation as these white papers have been.<sup>2</sup>

I discuss the many causes of decay in these working arrangements. Some of my observations on what happened relate to changes in the way in which Cabinet works; the undermining of the status and responsibilities of secretaries of state; the growth of government business; the expanded role of political advisers and media specialists; and external factors like changes in the role of the media, the globalisation of the economy and the much greater time many ministers spend abroad in European and other international negotiations.

High among these causes, however, and as important as any, are changes in relations between ministers and civil servants, in particular the exclusion of senior civil servants from much decisionmaking and policymaking at the highest levels, at least on a basis which safeguards their impartiality and independence of judgement. Again this is not to argue that civil servants were in any sense perfect in the past, or to deny that in many respects their training and skills have improved in the recent past, but to maintain that the nature of the relationship of partnership between them had many advantages in securing the better preparation and implementation of new policies and laws.

The difference between ministers and civil servants is often portrayed as if what is essential is that ministers do, and officials do not, in their working life show allegiance to a political party. Though true, that radically over-simplifies what is involved. In the past even in the recent past, it has been among the duties of civil servants to challenge the meaning and practicality of policy and legislative proposals, the relevance and soundness of the evidence on which they are based and the clarity of their presentation, as well as to ensure that other departments and public bodies concerned have been satisfactorily consulted; and the issues they raised have been considered and as far as possible met. Among their duties were to check the factual accuracy of all speeches and statements ministers made and to ensure that as far as possible ministers had the relevant evidence when they made their decisions. The minister had the right to make the final decision on departmental policy and on other matters—in many instances subject to cabinet approval—and on how they should be expressed, but they were expected to have regard to their advice their officials gave them on these matters.

To ensure their independence of judgement in the advice they gave ministers, it was as important as for judges that their appointment, promotion and pay should not be in the gift of ministers. In my opinion that requirement remains true to day and is the essence of the case against political appointments, promotions and interference in individual pay awards and bonuses.

<sup>1</sup> Hart Publishing, 2005, ([www.hartpub.co.uk](http://www.hartpub.co.uk))

<sup>2</sup> I discuss these issues further in my pamphlet, *Why are we so badly governed?*, Public Management and Policy Association, September 2005.

Among the consequences of that decay therefore are that Government white papers (and their equivalent) are frequently badly argued, poorly evidenced and in other respects insufficiently thought through, to be discussed and scrutinised sensibly so undermining Parliament's constitutional function. The incompleteness of many bills further hinders their intelligent scrutiny.

What follows are three extracts from my book which develop these issues in discussing:

- Past practice
- How relations changed after 1979 and
- My views on how relations between ministers and officials could best be modernised now.

4 February 2006

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### Memorandum by Sir Nicholas Montagu KCB

#### INTRODUCTION

1. This note supplements the four articles submitted to and published by the *Guardian* "Public" magazine that I have already circulated to the Committee. I have generally tried to avoid repeating in detail the arguments in those articles.

2. The short article by Nick Monck on "Governance in Government" (*Political Quarterly August 2005*) circulated to witnesses deals with the possible application of corporate governance principles to the conduct of Government business. This note complements that article by considering the role of corporate governance in the running of Departmental business. Specifically, it argues that the conclusions of the code of good practice for corporate governance issued by the Treasury last year<sup>3</sup> under the auspices of a steering committee chaired by Andrew Likierman (and referred to throughout this note as "the Code") would extend the power of Ministers—and therefore ultimately political control—into areas previously the preserve of Permanent Heads of Department.

3. In very broad terms the traditional split of responsibilities between Ministerial and Permanent Head is that the Minister sets the policy objectives and parameters within which the Department is to work; and the Permanent Secretary organises the Department and its management processes to see that those objectives are delivered. That is why Ministers will answer to Select Committees for their policies and officials for administration and the way in which money is spent. Of course this is an over-simplification, and in many cases the lines will be blurred—"is this policy or operations?"—but the generalisation will serve well enough for current purposes.

#### THE "CODE OF GOOD PRACTICE" FOR CORPORATE GOVERNANCE, AND ITS IMPLICATIONS

4. The Code, while stating (in paragraph iii of the Introduction) that "nothing in the code is intended to disturb the existing roles and responsibilities of ministers" goes on in the very same paragraph to imply just such a disturbance. When it says "Ministers are responsible for and accountable to Parliament for the actions and policies of their departments", and again "Boards are there to support Ministers in the leadership and *running* [my italics both times] of Departments . . .", it is tacitly redefining the traditional boundaries set out above. It is unclear how "running" differs from the "management and organisation" of the department, for which the Code acknowledges the Permanent Secretary is responsible.

5. This is a substantive, not a semantic, point, because the Code goes on to build its model of corporate governance on a Departmental Board which appears to be there primarily to support the Minister—and which may indeed be chaired by her or him. Once again there is no argument for this view, but it would in fact represent a radical departure from existing practice: Departmental Boards as a rule concentrate on the executive functions of departments. In particular, the non-executive members of a Departmental Board have no formal corporate standing at present. The Code acknowledges this, but it fails to recognise that they are, in fact, paid informal advisers to the Permanent Secretary and the top executive team. Unlike special advisers, they are not appointed as advisers to the Minister. Nor do they have the same sort of corporate responsibilities as members of a plc Board, though a sensible Permanent Secretary will so far as possible behave as if they did.

6. The Code's thinking is muddled here. In describing the Board in section 2 of its report, it speaks of the Board "supporting the head of department by advising ministers", and in the next breath refers to it being "chaired by, under the direction of or with the agreement of the minister". It then continues in paragraph 2.1 with a sensible list of functions for the Board which coincide closely with those of the most effective existing Departmental Boards. But all these functions are essentially administrative ones; a good test is which Head, political or permanent, the relevant Select Committee would be examining on them, and the answer is pretty

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<sup>3</sup> Corporate Governance in Central Departments: Code of Good Practice. HM Treasury, July 2005.

well invariably the latter. But then, in paragraph 2.6 we get “Ministers should consider the best way to run their departments”, and the suggestion that ministers might chair or attend Board meetings or that special advisers might do so on their behalf.

7. There is nothing wrong in the idea of Ministers wanting to widen beyond special advisers and permanent officials the range of people available to advise them. That after all is a commonplace with the appointment of taskforces or of people who are expert but not overtly party political to advise on specific topics. But the animal that the Code appears to envisage is a strange hybrid, with responsibilities ranging from “challenging the quality of the policy formulation process” (4.3)—odd—to “maintain a critical overview of the department’s financial controls and procedures for assessing and managing risk . . .” (*ibid*)—routine, but illuminating. For the Code then goes on to devote a whole section (5) to internal controls, which lie at the heart of the Accounting Officer’s responsibilities and in which Ministers will have no part to play nor, in most cases, any interest—until things go wrong.

8. It is true that the Code raises the question of whether Accounting Officer responsibilities should remain as they are at present, focussed on one individual, with maybe some agency heads as additional ones, or whether there should be a broader corporate responsibility. But when it says in the annex (A.4) “Most radically it is for discussion whether under the direction of the minister the board collectively could take responsibility for the day to day management of the department”, it does not appear to realise the potentially far-reaching change implied. For the Code what is radical is the shift from individual to corporate responsibility; what in fact is far more radical is the implied shift in the balance of power for day to day management to the Minister.

9. The Code does a useful and workmanlike job in identifying the main components of corporate governance, and much of what it says will provide a helpful checklist for Accounting Officers. But the opening statement (Introduction) is pitched at a very high level of generality, and it is a pity that it does not work from the political/permanent dyarchy to suggest an outline of what corporate governance is for a government department.

10. In my view, the starting point within the present system must be that corporate governance is the whole apparatus that we have to protect the Head of Department in the role of Accounting Officer. It is the totality of the systems and frameworks that ensure that Departments are run properly. That means that money is spent in a way that is proper and represents good value; decisions are reached in the appropriate way and are recorded so that there is an audit trail. Procurement and appointments are carried out so that fair competition applies. Risks are identified and managed in such a way that minimises the chance of their happening. Planning processes are in place with a “clear line of sight” through the organisation, so that everyone knows where (s)he fits in to the delivery of the department’s strategic objectives: those objectives themselves will be shaped by the priorities of the government of the day and the minister in charge of the department. Perhaps above all, the culture of accountability permeates throughout the organisation, so that people know just what their responsibilities are and are equipped with the appropriate skills to exercise them.

#### THE RELEVANCE OF THE CODE TO PASC’S INQUIRY

11. The implications of the Code, whether or not recognised by its authors themselves, go to the heart of the PASC inquiry into politicisation. Giving ministers a greater say in how departments are run, and on the kind of issues that typically come to departmental Boards could give them access to the management processes which cover promotion, recruitment and remuneration. Up to now Ministers’ exclusion from these areas has been seen as essential to the preservation of a non-political civil service. If that exclusion zone is to be lifted, it must be by deliberate design and not by stealth.

12. PASC has recognised the distinction between a non-political civil service—which would be an ineffective one—and an apolitical one. Papers such as those which the Committee has received from Robin Mountfield cover issues like continuity: this is relevant because an apolitical civil service must be as ready to do the tricks that it does for today’s government for tomorrow’s of a quite different political complexion. The question of just how far those tricks can go and just how “political” they should be is a difficult one with no clear-cut frontiers, but the test is a good one.

13. I share the view that it is desirable to keep ministers away from direct issues of appointments (with obvious exceptions for the key posts surrounding the minister, such as Principal Private Secretary, and Head of Information) and remuneration. But it would be perverse to regard the whole area as a no-go one for ministers. Permanent Secretaries and other senior officials will want ministers’ perceptions of the effectiveness of civil servants with whom they deal frequently in determining their appraisal marking and pay. And it would be a foolish Permanent Secretary who promoted into a senior policy post someone with whom the minister did not get on. But keeping the minister away from direct involvement can be seen as itself an important part of good governance: those affected by systems must have confidence in their fairness, and even the perception of ministerial bias and favouritism could jeopardise this.

14. When arguments of this sort are put forward about ministers, the next question is inevitably “what about special advisers?” In a number of departments special advisers have acquired the *de facto* status of junior ministers, with submissions to the minister processed through them and ideas bounced off them initially at meetings. In such circumstances it may make sense to get their views on the performance of key

policy officials: Permanent Secretaries or Directors General will be well placed to know of any issues of personal chemistry that they should take into account when weighting their views for a final assessment. I would not regard this kind of overt process as either undesirable or “politicisation” of the civil service.

15. There are those who see the interposition of the special adviser between very senior officials—including the Permanent Secretary—and the minister as in itself undesirable and a regrettable undermining of the Permanent Secretary’s traditional position as the principal policy adviser to the minister. I do not share their views. If it is a given that the civil service is there to help the minister deliver the government’s policies in her or his area to the best of their ability, it follows that the minister’s preference for how business should be done must be a major factor in determining their conduct of business. If that includes a key position for special advisers, so be it. The ineffective civil servant will be the one who sulks in his tent and gets shut out. The effective one will work with the special adviser and ensure that permanent officials support and are open with her or him. It is when secret silos get established that policymaking suffers and the minister is denied the dispassionate expertise that is still a civil service strength. A productive relationship between special advisers and permanent officials can ease the potential difficulties referred to in the last sentence of paragraph 12 above.

16. I have used the words “transparent” and “overt” advisedly, because these seem to me the keys to the maintenance of a politically neutral civil service. Politicisation does not occur when more power is given to overtly political appointees in areas where it can be properly transferred—which are not those areas implied by the Code. It occurs either when Civil Service appointments are influenced by political considerations; or when civil servants are required to do work that takes them into the realm of party politics. I actually favour the extension of overt political appointments, by splitting the Cabinet Secretary post and by giving the “Prime Minister’s Department” functions to a political appointee. An open decision to make what is at present a Civil Service appointment a political one is not politicisation.

17. Similarly, putting a career civil servant under a special adviser manager does not constitute politicisation, provided that the terms on which it is done—ie the respective roles and the “no-go areas”—are clear. In practice the Policy Directorate at No 10 and its predecessors would not have been able to function sensibly if there had been a rigid vertical stratification of political and non-political appointees. In essence it functions as a *cabinet*, and the experience of many continental European and other countries does not suggest that *cabinets* in themselves imperil the political neutrality of a career civil service. If formalities are needed to protect that purity—for example, formal appraisal reporting by someone senior in the same category, it is easy to devise. Departments beyond No 10 could gain from a *cabinet*, which could also include outsiders who are neither political appointees nor career civil servants. The clarity of this arrangement would help meet the corporate governance concerns of those who worry about the increasing prevalence of informal government groupings.

## CONCLUSION

18. Short of a large-scale move towards the American system of appointments, any politicisation of the civil service is likely to remain covert and insidious. All governments bend rules and blur boundaries to suit their convenience, but I do not see politicisation as a widespread phenomenon or threat. Many of those who have complained about what they believe to be politicisation are, in fact, objecting to overt shifts of power which are entirely within a government’s prerogative, but which may upset the old balance between politicians and officials.

19. I believe that the broad distinction between the political head of a department setting its strategic direction through the parameters of policy requirements, and the permanent head responsible for running the department to deliver those requirements, remains the most effective division of labour. In my experience Ministers are not generally interested in management or administration—again, until something goes wrong.

20. Members may feel that, having headed a non-Ministerial and highly operational Department, I am in no position to make that judgement. However, I have served at very senior levels in Ministerial departments (Social Security and Transport), and the Inland Revenue, while a non-Ministerial Department, had in the Paymaster General a minister with day to day responsibility for it. But that responsibility did not extend to the running of the department, or to the framework of internal and external controls that ensured efficient and effective administration at minimum risk. Of course where there is a sensible and good working relationship between political and permanent heads, there will be blurred lines again, in the sense that informal discussion of the administration needed to deliver the policy objectives will be routine. But we are not talking about informal relationships here, but rather formal responsibilities and answerability to Parliament.

21. The distinction between “political” and “permanent” head reeks a bit of the traditional mandarin now; but it is still a useful one. If there had been as many changes of Permanent Secretary at, say, Work and Pensions in recent years as there have been of the Secretary of State, instability and a degree of administrative chaos would have been inevitable. I subscribe to the view that the Civil Service provides a valuable continuity, not just when there is a change of administration, but through changes of ministers. What ministers want is a machine that is in good working order to deliver the goods for them: the job of the Permanent Secretary and the Board is the maintenance of that machine. Ministers are appointed as political

leaders, and that is what they should be good at; the additional administrative role which the Code tacitly implies for them would be an new dimension, unwelcome to most and providing a test that many extremely able politicians would fail.

22. Transparency and clarity of accountabilities remain the best guarantees of sound governance and the best protection against politicisation in its derogatory sense: that in itself may be a justification for a short purposive Civil Service Act. Governments may want to shift pieces around the board and rebalance responsibilities; but it is when those responsibilities become blurred that danger arises. The Code succeeds in identifying the main areas that those running departments ignore at their peril. But it ultimately fails by assuming rather than exposing, whether wittingly or unwittingly, a substantial shift in the balance with correspondingly substantial implications. That muddies the waters that PASC is seeking to clear.

28 February 2006

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### Supplementary memorandum by Sir Michael Quinlan

Thank you for sending me the initial transcript of 9 March hearing.

Our quadruple loquacity inevitably squeezed out some individual points. May I offer three comments?

- (i) On Q.247, if (as I suspect) some of what Sir David Omand said here was conveying scepticism about the merits of Sir Nicholas Monck's idea of a code or check-list of sound basic procedure in policy development and presentation, perhaps I could record that I myself see considerable potential utility in that idea. I have no strong view on how such a code might best be established—whether, for example, by edict from No 10 or the Cabinet Office, or by some utterance of Parliament—so long as the establishing carried weight enough that Ministers and Departments truly felt bound either to abide by it or to show extremely good cause for not doing so.
- (ii) On Q.291, I have to say that I dissent from Sir Nicholas Montagu's view that (as seems clearly implied by his words) Ministers and Permanent Secretaries have in some sense parallel responsibilities. The Permanent Secretary's responsibilities run to the Minister and are included within his/hers; they do not run separately, aside from the special category of Accounting Officer responsibilities. And these latter are, I believe, narrower than Sir Nicholas conveys; they are not "for the running of the Department". I think it incorrect, unrealistic and undesirable to suppose that Ministers "should not [in the sense of ought not] get involved in the actual running of Departments", though no doubt for most of the time Ministers may well, and wisely, rely very heavily on their Permanent Secretaries in matters of administration and organisation and concentrate their own energies elsewhere.
- (iii) On QQ.291–292, I suggest that the key argument against allowing Ministers to pick and choose among "above the line" candidates emerging from open competitions is that having publicly opened a post to such competition Ministers should not expect (barring exceptional circumstances, like new factors coming to light) to be free to overrule the "on-merit" conclusion reached by the independent panel. Such overruling would in effect say that while Candidate A had been assessed as deserving the gold medal the Minister chose to divert it to (*ex hypothesi*) inferior Candidate B, for reasons judged by the panel as either not relevant or not cogent in relation to the job specification which had been properly approved.

17 March 2006

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### Memorandum by Rt Hon Michael Howard QC MP

As I understand it, the invitation arose out of a radio discussion in which I took part, together with the Chairman of the Committee. The views I then expressed were that there is no magic structural formula which provides the answer to the complicated, and often difficult, relationships between Ministers and Civil Servants. In the end, in my view, responsibility should be personal. In other words, Ministers should be responsible for decisions which they have taken; Civil Servants should be responsible for decisions which they have taken.

If a Minister has given clear instructions and those instructions are not carried out, then responsibility should lie with those who are responsible for that failure. If, on the other hand, Ministers were warned about particular consequences but did not take the action necessary to avert them, the responsibility should lie with them.

21 June 2006

### **Memorandum by Rt Hon David Blunkett MP**

1. Whilst there have been reforms of the Civil Service, the Northcote-Trevelyan Report forms the basis of culture and thinking. The world, politically, economically, socially and culturally, has changed dramatically.

2. Where there have been changes made, they have often mirrored management practices already abandoned in the private sector. Psychometric Testing is a good example. So is the belief that equality of opportunity is rooted in recruitment, promotion and wider career progression processes, which actually preclude the promotion of individuals within the existing post—except where there is imaginative senior management intervention.

3. Present procedure leads to individuals seeking promotion to take on an associated but different or extended role (for instance, those who have been involved as part of a Bill Team, find the organisation disbanded rather than carried forward into project managing for the delivery of the legislation). Instead they should be tasked with implementation and delivery. Linked to this, is the idea that civil servants should spend time in many different directorates moving jobs every two years or so, in order to achieve maximum policy breadth. Such practice is detrimental to good governance as collective memory is quickly lost and personal accountability for implementation is weakened.

4. The demarcation between the Civil Service and Ministerial responsibility has been bedevilled by an assumption that Ministers are intent on politicising the Civil Service when, in my experience, they have never been more aware or under scrutiny on this issue.

5. In any case there is a misunderstanding of politics with a big “P” and small “p” politics. An administrative system that does not understand the policy direction, the values or objectives of the Government in power, is out of touch and out of tune.

Structures are crucial to prevent inappropriate instructions and the deliberate politicisation of senior/middle management. Structures that seek to separate policy making from the delivery of that policy are inept and inappropriate.

6. A demarcation between Civil Service responsibilities and Ministers can, at the extreme, lead to Ministers being responsible for managerial and administrative interpretation or implementation, completely outside the purview or powers of the Minister.

To begin with, Departments often have “Departmental Policy”. Senior Civil Servants frequently tell Ministers, “Departmental Policy is this”. Good Ministers say, “Departmental Policy is what I, on behalf of the Government say it is, so long as it is in line with the legislation available to me, the administrative or executive powers which have been accorded to me, or in line with the stated Policy of the Government and the Prime Minister and/or the Party’s own Manifesto when elected to Government”. However, there will inevitably be a large number of occasions where Policy recommendations are made by the Civil Service and therefore the role of the Civil Service in Policy making as well as in Policy delivery is inevitably blurred.

7. What also makes this difficult is that Ministers are precluded from a direct role in ensuring that the structure to deliver the Policies that Parliament has voted on or Ministers have executive power to implement, are capable or appropriate to do so. Other than their own private office—where options will be offered to them—and where, in consultation with the Civil Service Commission, Permanent Secretaries have the wisdom to do so, they are also excluded from appointments, promotion or, in the case of gross incompetence, any role in recommending disciplinary action.

Civil Servants are entirely dependent on, and managerially responsible to, their senior “permanent” officials, not Ministers. Ministers come and go at frequent intervals—preferment does not lie with Ministers.

8. A failure over generations—despite the efforts of Prime Ministers such as Margaret Thatcher and Tony Blair—to modernise the Civil Service, to bring in radical change has exacerbated the problem. The problem starts to become the relationship between neutrality and politicisation. Very often it is not. Rather, it is about competence, experience, training, and suitable project management.

9. Much of the criticism of Government is not, in the end, about Policies that have often been thrashed out at great length in a prolonged Parliamentary process—more prolonged and more drawn out than just about anywhere else in the world—but in its implementation. It may well be the Government has not thought through sufficiently how its Policy will be implemented but, of course, the how (and the structure to make the how work) then brings us back to the situation outlined above, where the implementation is not in the hands of Ministers.

This is exacerbated in areas where decisions are taken outside Government as a whole, which affects the ability to implement. If, for instance, an appeal court hearing actually overrides the original intention of Parliament (as for instance with sentencing), was it the fault of Parliament for not foreseeing that judges would believe that they had independence over statutory legislation (as well as common law or interpretation of vague regulations), or is there a failure in our constitutional system to understand, in the

modern era, the role and relationship of Government to those carrying out or implementing it? This is also true of the whole relationship between Government and intermediary bodies—from hospital and Primary Trusts to non-departmental public bodies—and former utilities.

10. It is not so much that the Civil Service is somehow averse to taking responsibility. It is that the mechanisms (except with non-Departmental public bodies) does not facilitate them doing so. It is the Minister that stands at the Despatch Box and answers for decisions taken, actions implemented, mistakes made, over which they have absolutely no role whatsoever.

Occasionally with Next Steps Agencies, the Chief Executive will answer publicly. This has become more common over recent years. It would be possible to be clearer about answering (Ministerially) for the original Policy—which in any case happens at the Despatch Box and in Select Committees—and the implementation or variation on Policy which has taken place over time, and which is the responsibility of those delivering or attempting to implement policy.

Inevitably in the cut and thrust of daily politics, Oppositions will try to nail the Minister and Ministers will try to point out that, in reality, they do not have the levers to make any difference.

Gillian Shephard, in her book, “Shephard’s Watch” wrote on page 153 about the total lack of mechanism to the then Secretary of State for Education and Employment to make any difference in the education system. Some of that was put right in the 1998 Standards and Framework Act and in subsequent legislation, but the point was well made. She also drew attention to issues like the competence of diary secretaries, and the inability of Ministers to have anything but a passing role in approving those whose actions could be crucial to the image and public well-being of a public Minister. Advice given by previous Ministers to “spend a lot more time sorting out your diary” was in an era where email did not exist, 24 hour seven day-a-week news was a thing of the future, and Ministers might undertake a couple of visits a week and perhaps a radio interview once a fortnight! The world has moved on, but the system has not moved on with it. It also is a fact that Ministerial offices are staffed at a lower graded level and with less expectation for those taking on these difficult jobs of promotion than was true in the past.

11. This brings us to whether there should be more political appointments. Clearly there is no appetite whatsoever in this country to have the wholesale removal of the top layers of the Civil Service as happens in the United States. We have done little to examine the role of those appointed to absolutely key roles in other European democracies. There is great scope, here, for examining how it works and why it works—the ability, for instance, of the Interior Minister in France to be able to effectively remove those who are not carrying out Policy or are simply incompetent.

12. Special Advisers have been a very useful sticking plaster. Far from politicising the Civil Service, they protected the Civil Service from politicisation. There has been such nonsense written and spoken about Special Advisers to last us a lifetime. Commentaries by those who ought to know better such as Sir Nigel Wicks have not helped.

The context of the debate has been placed in an adversarial way. It has been presumed that Ministers have some sort of intent, and the Civil Service has to set about protecting itself—protecting itself, of course, from the democratically elected Government, on the assumption that Government is about to set out on a course of undermining neutrality.

It is also a fact as in the Wicks Report, that there is a muddled view which confuses neutrality (the Civil Service willing and able to serve Governments of all persuasions and to be able to give both impartial advice and committed implementation, and “independence” from the political process) which presumes that the Civil Service has a life of its own—that Ministers are almost in an advisory role. This, of course, reverses entirely the role of the elected Government (in our system, the executive being responsible within as well as to Parliament) and the administration serving that Government. To fail to serve the Government is to fail to carry out the inherent duty of the Civil Service, and neutrality does not mean distancing those expected to lead and manage the Service from the politicians endeavouring to both deliver their values and commitments and, of course to be held accountable for their mistakes.

13. I believe that we have two options available to us. A substantial increase in the role and extent of Special Advisers—grouped to serve not only Secretaries of State, but junior Ministers with a much more clearly defined role, but expected to work with and alongside the Civil Service (this formula actually works where Departments—Permanent Secretaries and Secretaries of State—are working best. It does, however, entail the Civil Service changing its culture so that those recruited from outside are not seen as alien or suspect, those very senior Civil Servants who seek to develop a positive role for Advisers or outside expertise



are not viewed with hostility (which has certainly happened) and promotion, recognition and reward, are based on proven delivery and not on “musical chairs”, on which so much of progress within the Civil Service is currently based.

14. Or alternatively, if the role of Special Advisers in forming a “cabinet” around Ministers is felt to be unacceptable, then there should be a clear role for the involvement of Ministers in absolutely key appointments, which are crucial in terms of both service to them personally (for instance a unit working direct to the Secretary of State on the monitoring and evaluation of Policy delivery and implementation of legislation and regulatory orders) and joint involvement with the Permanent Secretary, for the appointment or promotion of the most senior heads of directorate (for instance, Immigration and Nationality in the Home Office).

15. Of course the Nolan Rules were brought in precisely to avoid the misuse of executive power. However, as with so many things in public life, the law of unintended and often perverse consequences kick in. What happens now is appointments that were previously either made or influenced by politicians inside and outside the Service, are effectively made by Civil Servants! They make them, understandably and unintentionally, in their own image.

Given the number of arms length agencies and structures that now exist compared with the past, this has brought about a significant change in terms of both preferment and appointment on the one hand and responsibility and accountability on the other. To whom, for instance, is the Chairman of a Primary Care Trust or Foundation Hospital Trust accountable? Who should answer for their decisions and those of the Chief Executive reporting to them? Where accountability lies to the Secretary of State and Ministers (to use one example, the Youth Justice Board) how can this be properly dealt with and affirmed when it is the Civil Service who appoint the Chairman, not the Secretary of State (Home Secretary)?

Let me make it clear. I do not think that politicians should simply appoint. I think, however, that there should be an open and transparent recruitment system including for key appointments which were previously the preserve of Ministers and/or the preserve of the Civil Service (the core Civil Service and agencies) which allows an equal (joint) role for Ministers and Senior Officials, and are vetoed by the Secretary of State.

The Permanent Secretaries should be appointed by the Secretary of State through open competition. One single name should not be offered to a Secretary of State for approval, nor should an incoming Secretary of State be expected to simply ratify the existing incumbent. The presumption should always be that open competition involves vigorous recruitment from outside as well as inside the Civil Service but within the Core Service, preferment should be on the basis of a proven record of delivery.

The Civil Service should not (and anything written here should not presume to advocate this) be in any way be Party politicised. They should, however, have some basic grasp at middle and senior management level of the political arena. They should understand that decisions they take are inherently political. In the modern world, with the thousands of policy submissions, the decisions that have to be taken on an hourly, never mind a daily, basis, it is impossible for the Secretary of State or Ministers to be able to deal with major Policy and, at the same time, be expected to second guess the decisions of the thousands of people who work for them.

In conclusion, I think we need to design a system for the 21st Century, not one which struggled to emerge from the 19th Century. However I would like to take this opportunity to state that at its best, the Civil Service is superb. I have had in my private offices some of the most committed people I have ever met. I was able to see real change and supported vigorously the drive to get more civil servants out of Whitehall for a few years to get delivery experience in outside organisations. With this said the positive engagement of Civil Servants and Ministers in key recruitment and promotion (and review) functions should not be dependent on the benevolence of the Permanent Secretary in the Department. It should be as a right.

The role of the Civil Service Commission needs to be reassessed. Recent changes were minor and superficial. Their role, of course, should be to protect the Civil Service from the abuse of power and from distorting the ability to serve Governments of all persuasions by too close an association with only one political Party or set of values. But a new and positive, rather than negative role should be created—the liberation and revitalisation of the Civil Service, to ensure that talent can flourish, initiative can be rewarded, risk can not be not simply tolerated, but encouraged, and hands-on delivery (making a real difference) seen as a key criteria for senior office—not simply changing jobs to gain “the right experience” for some irrelevant criteria of the past—being very good at networking, and understanding how the Civil Service works! Understanding how it works should only be a stepping stone to how it needs to change—not an excuse for glorifying Mandarinism.

If, in the next five years, fundamental change is not made, I regret to say that I think that confidence in the public service and the ability of that service to underpin the working of our democracy will be in doubt. Quite simply, whatever an incoming Government would find it necessary to do to ensure that delivery was transformed in areas where they are critical of Government should be placed on the table for this debate. Capability reviews will fail if they do not address why “incapability” exists in the existing structure now. A first step would be to recognise that the skills that were required 50 years’ ago, are as irrelevant inside the Civil Service today as they are in a manufacturing sector of industry after the advent of numerical control, robotics or computer aided design.

28 June 2006

### Memorandum by the Institute for Public Policy Research

*“I am accountable to my own ideal of a civil servant”*

Sir William Armstrong, Cabinet Secretary (speaking in the 1970s, cited in Chapman, 1988)

*“Even Whitehall now accepts that Ministers cannot be accountable for everything. But the demise of one constitutional principle has not been matched by the development of another . . . new ways are needed whereby officials can be called to account.”*

William Plowden, (Ministers and Mandarins, 1994)

#### 1. IPPR’S RETHINKING WHITEHALL RESEARCH PROGRAMME

ippr have conducted a major year-long research project into the Senior Civil Service.<sup>4</sup> This entailed:

- (i) Over 65 interviews with key stakeholders in Whitehall: including 40 with senior civil servants—10 Permanent Secretaries—and eight senior Ministers.
- (ii) A series of ippr research seminars with experts from the UK and abroad.
- (iii) Extensive desk-based research, including analysis of a comprehensive staff survey of the Senior Civil Service, obtained by ippr under FOI.
- (iv) Focus group work with Civil Service fast streamers.

*In this memorandum it is only possible for us to provide an outline of our key arguments and recommendations. The full report will be published in the summer of 2006.*

#### 2. BACKGROUND: CIVIL SERVICE REFORM MOVING UP THE AGENDA

Recent events at the Home Office and elsewhere in Whitehall have exposed significant weaknesses in the way the Civil Service operates, and have thrown the issue of Civil Service reform under the spotlight. Such a debate is to be welcomed. While public service reform has been something of a leitmotiv of the current government—Civil Service reform has been conspicuously neglected. With its focus downstream on public services, no coherent reform strategy for Whitehall has been advanced.<sup>5</sup> But as the government is now beginning to realise, an unreformed Civil Service is a major barrier to achieving wider objectives.

The Whitehall Civil Service is the engine of the British state. Ensuring that it works effectively is crucial:

- A high performing Whitehall is essential for implementing the government’s programme.
- A high performing Civil Service is integral to furthering democratic renewal and building trust in the institutions of government.

#### 3. WHAT’S WRONG WITH WHITEHALL? THE “GOVERNANCE VACUUM”

Our research identified a number of weaknesses with the way that the Civil Service works. These range from problems with its skills-base, especially where management is concerned, to its ability to innovate, to think strategically, learn from mistakes and work effectively across departmental boundaries. These weaknesses are not new and have long been recognised. Indeed the Civil Service has been subject to a succession of reforms intended, but frequently failing, to address them.

We argue that many of these reform efforts have not got to the root of the problem, which we believe rests with the way in which Whitehall is *governed*: The constitutional conventions governing the Civil Service and regulating its relationship with Ministers, Parliament and the public are now anachronistic and severely inadequate. This is particularly true of the most important of these: the doctrine of ministerial responsibility.

<sup>4</sup> Our work focused exclusively on the “Whitehall village”—the senior civil servants who work in the main departments of the state.

<sup>5</sup> The 2005 Labour manifesto—the government’s most detailed set of policy proposals so far—failed to mention the Civil Service once.

Ministerial responsibility, which holds that Ministers, and Ministers alone are accountable for everything that happens in their departments, is no longer effective. Developed in pre-democratic times it now needs recasting to take account of the realities of 21st century government. Times have changed.<sup>6</sup>

Whitehall's governing arrangements increasingly entail that relations between Ministers and civil servants are ill defined, and their respective roles and responsibilities unclear. As a result there is a "governance vacuum" at the top of Whitehall: lines of accountability are confused and leadership structures are weak. These arrangements hold the Civil Service back and undermine its performance. Below we demonstrate this by focusing on the central issue of accountability.

#### *Lack of Civil Service Accountability*

- External Accountability: The doctrine of ministerial responsibility means that civil servants are not subject to *external* or direct accountability for the roles and functions they perform.<sup>7</sup> Parliament has limited powers to interrogate or scrutinise civil servants.
- Internal Accountability: Ministerial responsibility rests on the understanding that civil servants are accountable to Ministers, who are directly and exclusively accountable to Parliament. In fact, Ministers cannot hold civil servants to account. To do so would be to violate the conventions around recruitment and promotion on merit, and Civil Service impartiality. Ministers have very limited powers to choose their civil servants, promote them or dismiss them—or to seek redress when they feel that they are being poorly served.<sup>8</sup> Consequently, *internal* accountability is weak. It is left to the Civil Service to manage internal performance accountability. In other words Whitehall is largely accountable to itself.<sup>9</sup>

#### *Ducking and Diving: The Accountability-deficit in Whitehall*

- In its current unreformed state the doctrine of ministerial responsibility engenders an accountability-deficit in British government. It allows Ministers and civil servants to "duck and dive" behind one another other. Ministers often feel aggrieved for having to take responsibility for everything that takes place in their large and complex departments, while civil servants use the doctrine of ministerial responsibility to avoid having to be held to account.
- In the long-run this is not in the interests of Ministers—as it sucks them into the detail of their departments distracting them from their main business—or for officials as it deprives them of a sense of personal responsibility and of exposure to important accountability mechanisms which could be used as powerful drivers to improve performance. Above all though it is not in the interest of the British public who are entitled to a system of effective and accountable government.
- These arrangements serve to confuse lines of accountability and can be seen to put unnecessary strain on Ministerial-Civil Service relations.

#### 4. WHITEHALL AT A CROSSROADS: TWO OPTIONS FOR REFORM

In thinking about how we fill this governance vacuum and address the issue of Civil Service accountability we believe it is possible to identify two broad reform options.

- *Ministerial Control (politicisation)*: to make a reality of ministerial responsibility Ministers could be given much greater control over the hiring and firing of civil servants. Ministers would then be legitimately held responsible to Parliament, and ultimately the electorate, for all aspects of Civil Service performance. Ministers would take on a real—rather than a formal—responsibility for Civil Service performance. It is arguable that this is the default option at the moment—frustrated with continued under-performance, Ministers tend to want to take more control over the Civil Service.
- *An Accountable Civil Service*: The convention of ministerial responsibility could be reformulated, so that civil servants become directly accountable for their performance—in terms of administration and management—with Ministers being responsible for policy and resources. This would attempt to clarify the respective roles of Ministers and civil servants—and hold each

<sup>6</sup> To illustrate the 18th century Home Secretary, Lord Shelbourne, presided over a Home Office that employed one clerk and 10 civil servants but today it employs over 70,000 officials (Flinders, 2004).

<sup>7</sup> The exception to this is that Permanent Secretaries are directly accountable to Parliament, through the PAC, for financial probity.

<sup>8</sup> This point, which is generally overlooked holds up even acknowledging that Ministers sometimes exercise a degree of informal control in the appointment of senior civil servants with whom they will work. Such informal powers do not amount to an effective line of accountability that would be recognised in many other sectors.

<sup>9</sup> We are not confident that the internal performance accountability arrangements are sufficient. In a staff survey of senior civil servants (2004) obtained by ippr, just 16% of senior officials felt that "poor performance was dealt with effectively" (Cabinet Office, 2005).

accountable for what they do. Means would then have to be found to ensure that both were made properly accountable to Parliament and the public for the way in which they handle their responsibilities.

Though it would be possible to combine elements of both—we believe that the right option to go for is the second and to make the Civil Service accountable for the functions it performs in government. We believe that such an overhaul of Whitehall’s accountability arrangements would drive up performance.

We reject politicisation on a number of grounds:

- Politicisation is unsuited to Britain’s constitutional settlement. The absence of a formal separation of powers, ensures that Britain already has a very strong executive. Extensive politicisation of the Civil Service would further imbalance the constitution in favour of the executive. A politically neutral Civil Service constitutes an important check and balance in British government which we want to preserve. We are not convinced that where Westminster-style systems of government have moved to a more overtly politicised system—such as in Australia, or for a brief spell in Canada—that it has worked.<sup>10</sup> Moreover, an impartial Civil Service is seen as the main bulwark against corruption—something Whitehall is mercifully free from.
- Ministerial over-load. Ministers already complain, reasonably enough, that they are over-loaded with responsibilities and do not have enough time to focus on the important policy decisions they are elected to make. Politicisation, however, would further exacerbate Ministerial and Prime Ministerial overload. Politicisation, moreover, demands a lot from Ministers. It assumes they have the “know-how” and “expertise” to appoint the right type of person to the job of running major departments of state. Some will not find this a challenge; but others, and in our view the majority, will. Their skills lie elsewhere. We think it better to leave the management of departments to the Civil Service, on the provision that they are fit for this task.
- The rapidity with which British Ministers move in and out of posts would create real problems for a politicised system—at least if political appointees were to follow Ministers. Indeed it would be a recipe for administrative chaos. One way round this would be for the Prime Minister, rather than Ministers, to appoint senior officials. But this would dramatically increase the power of the Prime Minister and put excessive demands on him or her. Prime Ministers already have enough to occupy them without having to appoint and answer for an army of political officers.

## 5. AN OUTLINE OF IPPR’S RECOMMENDATIONS<sup>11</sup>

The doctrine of ministerial responsibility should be recast: The second model, the one we favour, seeks to build on the Civil Service’s traditions of objectivity and independence by giving civil servants greater responsibility for the day to day operations of the service, while clarifying the prerogatives and duties of Ministers—and increasing the accountability of both.

We favour, in short, making Whitehall answerable to a body dedicated to setting strategic direction, making senior appointments and overseeing performance, while protecting Ministers’ role with regard to directing policy.

We recommend the creation of:

- a **Civil Service Governing Body**, responsible for Civil Service strategy and values, overseeing its performance, appointing its head, and regulating relations between Ministers and mandarins; and
- a **Civil Service Executive**, lead by an empowered Head of the Civil Service, tasked with providing corporate leadership, appointing senior civil servants, managing performance, and driving cross-departmental working.

Our recommendations also envisage a **new relationship between Parliament and the Civil Service** since Parliament would have a much stronger role in conducting “whole of government” scrutiny—that is holding both Ministers and senior civil servants to account. To underpin this change, the rules protecting civil servants should be reformed and Select Committees should have the additional resources needed to scrutinise Ministers and civil servants.

Introducing a clearer division of responsibilities between Ministers and mandarins and improving the arrangements by which *both* Ministers and officials are held to account would improve government performance. We reject the notion that by dividing accountability you dilute it. It is the present arrangements which undermine effective accountability—by allowing Ministers and officials to “duck and dive” behind each other.

<sup>10</sup> We acknowledge that constitutional safeguards could be introduced to oversee a system of politicisation. Parliamentary committees, like US congressional committees, for instance, could be asked to approve appointees, but we believe that these processes are cumbersome and time consuming and would not prove effective.

<sup>11</sup> ippr will publish their final report in the summer setting out key recommendations for reform. At this stage we can only sketch out key aspects of our reforms.

We recognise that the boundary line between Ministers (the realm of policy) and officials (the realm of operational administration) is not an easy one to draw and that there is an inevitable degree of blurring at the margins. Nevertheless to suggest that such a demarcation of roles and responsibilities cannot be devised is both misguided and inaccurate. Internationally there is evidence of an effective dividing line (see New Zealand), while at home the example of local government, where roles and responsibilities of the political and administrative class are much clearer, demonstrates its workability. Moreover, there is precedent to built-on. The Accounting Officer principle, in particular, shows how it is possible to differentiate Ministerial and official responsibilities. As does the experience of the Next Steps reforms, and more recently the decision to grant operational independence to the Bank of England.

Both Ministers and civil servants stand to gain from a greater demarcation of responsibilities. Civil servants will gain new responsibilities and a higher, public profile. Ministers will get a professional, better managed, more strategic and more outward looking Civil Service. We believe these reforms play to the strengths of both Ministers and officials.

## 6. CONCLUSION

The way in which an institution is governed and accountability structured is vitally important to its effectiveness. Many of the Civil Service's weaknesses are traceable to its inadequate system of governance and confused lines of accountability. They could be remedied by a better system.

27 June 2006

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### Memorandum by Dr Matthew Flinders

1. The Public Administration Select Committee is inquiring into politicisation of the civil service. This is a critical issue in light of recent reforms and the government's wider modernisation agenda.

2. The aim of the memorandum is to respond to a number of issues raised by the "Issues and Questions" paper while also encouraging the Committee to balance their inquiry into "politicisation" with an awareness that "depoliticisation" is possibly a more important issue in light of the administrative and democratic challenges this process presents. Depoliticisation also links directly to the PASC's concern with appointments, impartiality, commitment, responsiveness and flexibility.

3. A clear distinction needs to be maintained between civil servants and public servants more generally. Civil servants are appointed on merit and their promotion is largely beyond the control of the government of the day. This is not to overlook the existence of informal appointment channels where ministers have either refused to work with particular officials and have had them moved sideways into other posts or have in fact demanded that certain officials move with them between departments.

4. However, beyond the civil service ministers appoint hundreds of senior public servants to various non-departmental public bodies and other delegated public bodies each year and operate within the jurisdiction of the Office of the Commissioner for Public Appointments.

5. The machinery of government and governance—the wider bureaucracy—is inevitably political due to the very nature of the tasks it fulfils. But it is political with a small "p".

6. In theory a bureaucracy should be neutral. It can be seen as a complex supply-chain. The minister decides the policies and the bureaucracy implements them in the most efficient manner possible. The bureaucracy is therefore analogous to a car—famously a Rolls Royce in the British case—the ministers decides on the direction and speed and then adjusts the pedals and wheels accordingly. A bureaucracy should neither be for or against certain policies but should implement the instructions of elected ministers, within the parameters of legal and constitutional frameworks.

7. In practice, it is quite clear that the bureaucracy has its own implicit values, wants and desires and these may on occasion conflict with the instructions of ministers. To continue the car analogy introduced above, the car may move too slowly or in the wrong direction. Ministers will frequently complain of "departmental lines" (ie inbuilt policy preferences within certain departments that are difficult to readjust) or "rubber levers" (ie delivery chains that fail to transmit decisions made in Whitehall to policy outputs and outcomes).

8. On the other hand, the risk of having a bureaucracy, particularly at the senior level, that is deeply and explicitly committed to a certain policy is that the "hidden brake of the constitution" in terms of the considered, balanced, procedurally-aware approach of the traditional civil service may be replaced with a rushed and under-developed policy that may have significant negative unintended consequences. Enthusiasts for a policy are not therefore necessarily likely to implement it more effectively, and actually the opposite may be true.

9. The "new managerialism" has affected the civil service's ability to respond to political change in a number of ways. First, it has led to a greater degree of fragmentation. Policy chains are therefore complex and consist of a greater number of potential veto points. Secondly, the delegation of tasks away from ministerial departments to a plethora of delegated public bodies (quangos) has also created an institutional

environment where certain views and positions can be entrenched and yet ministers are forced to steer through indirect control mechanisms. Finally, the centrifugal logic of new public management creates obvious structural and cultural impediments to notions of “joined up” government. Responding to political changes that cut across departmental boundaries and require inter-organisational collaboration is therefore difficult. The state is simply too complex and it could be suggested that the core executive’s central steering mechanisms are inadequate.

10. Running alongside any discussion of politicisation and the administration should be an appreciation of what could be seen as a counter-trend in the form of “depoliticisation”. This has formed a critical strand of New Labour’s approach to governance since 1997. Indeed in December 2003 the Secretary of State for Constitutional Affairs, Lord Falconer, set out a key governing principle for the Labour Government:

“What governs our approach is a clear desire to place power where it should be: increasingly not with politicians, but with those best fitted in different ways to deploy it. Interest rates are not set by politicians in the Treasury but by the Bank of England. Minimum wages are not determined in the DTI, but by the Low Pay Commission. Membership of the House of Lords will be determined not in Downing Street but in an independent Appointments Commission. *This depoliticising of key decision-making is a vital element in bringing power closer to the people.*”

11. Around the same period depoliticisation has been proposed by think-tanks and pressure groups as a solution to both public policy and constitutional challenges and described by the European Policy Forum (2000) as “one of the most promising developments since the last war—the depoliticisation of many government decisions”.

12. Depoliticisation can be defined as the range of tools, mechanisms and institutions through which politicians can attempt to move to an indirect governing relationship and/or seek to persuade the demos that they can no longer be reasonably held responsible for a certain issue, policy field or specific decision. Three specific depoliticisation tactics have been identified (see Table 1).

**Table 1**  
**DEPOLITICISATION TACTICS**

<i>Depoliticisation Tactic</i>	<i>Form</i>	<i>Example</i>
Institutional	Principal-agent relationship created between minister and “independent” agency.	Monetary Policy Committee
Rule-based	The adoption of explicit rules into the decision-making process.	Exchange Rate Mechanism
Preference-shaping	The espousal of a rhetorical position that seeks to portray certain issues as beyond the control of national politicians.	Globalisation

*Source:* Flinders, Matthew and Buller, Jim (forthcoming 2006) “Depoliticisation: Principles, Tactics and Tools, *British Politics*, Vol 1, No 3.

13. Each of the tactics identified in Table 1 have implications for the role of ministers and civil servants and open up new and fresh debates that go beyond simplistic arguments regarding “politicisation” and introduce the idea of “depoliticisation”, “re-politicising” and even whether certain issues have now become “apoliticised” in that there is no longer even a debate about whether elected politicians should a direct governing capacity (eg central banking).

November 2005

#### **Memorandum by Professor Matt Qvortrup, The Robert Gordon University/University of Sydney**

Matt Qvortrup is currently Professor of in the Department of Economics and Public Policy, at The Robert Gordon University, Aberdeen. A former policy analyst in the British Civil Service, he has acted as a consultant for the civil service in Australia, Canada, Israel, the USA, as well as for UNESCO. During 2005, Professor Qvortrup was a visiting professor at the University of Sydney, Australia during 2005. This submission is based on a small research.

A ruler’s intelligence is based on the quality of the men he has around him Nicolo Machiavelli.<sup>12</sup>

**ABSTRACT:** Australia—another Westminster system—has recently debated the perceived problems of politicisation. Using the Canberra-experiences as a point of departure, the paper finds little evidence that increased use of political advisors will lead to an American-like spoils system. However, recent public sector reform changes (loosely known as New Public Management) are likely to lead to some of the ills that have

<sup>12</sup> Nicolo Machiavelli (2003) [1513] *The Prince*, London, Penguin, p 76.

characterised the US-Model, eg As civil servants' tenure increasingly depend on the good will of the minister, they are less likely to present unbiased and accurate advice. The danger to the Westminster model does not come from party-political appointees (of whom there are relatively few), but from the politicisation of the civil service.

## POLITICISATION

"Politicisation" is what political theorists call "an essentially contested concept". For the purposes of this paper, politicisation is defined as: "the substitution of political criteria for merit-based criteria in the selection, retention, promotion, rewards, and disciplining of members of the public service".<sup>13</sup> As such, the neutrality of civil servants can be compromised in at least three ways:

By appointing people with well-known partisan connections who will be clearly unacceptable to a future alternative government (partisan politicisation);

By appointing people with well-known commitments to particular policy directions that may render them unacceptable to a future alternative government (policy-related politicisation); and

By replacing incumbent public servants, particularly on a change of government, when there is no good reason to question their competence and loyalty but simply in order to facilitate imposition of the government's authority (particularly if the incumbents are dismissed rather than retained with similar status and remuneration) (managerial politicisation).

In this note I thus depart from the assumption is that politicised appointments are made solely on the basis of party affiliation or, at least, partisan sympathies, and focus mainly on policy-related and managerial politicisation. Hence, for the present purposes, the term "politicisation" should be understood as more than simply appointment on partisan grounds, and includes any type of appointment which is contrary to the principles of a politically neutral or impartial public service.

Whether a concern or not, politicisation represents a breach of the principles of a politically neutral public service. As such, politicisation is certainly on the increase, partly under the influence of private sector practices whereby senior management teams are replaced in order to signal a change in company direction.

## THE CRITIQUE OF THE WESTMINSTER MODEL

In recent years, the Whitehall system of government (with impartial civil servants) has been criticised and challenged. One particular critique, raised by American writers Mathew McCubbins, Roger Noll and Berry Weingast has been that permanent bureaucrats develop interests of their own (often budget maximization) and that they, rather than carrying through the wills of their elected masters, seek to forward their own goals.<sup>14</sup> In the words of a particularly critical observer in the 1970s:

"Although the direction of the administration is controlled by parliamentary ministers, their functions are largely dependent on the ministerial bureaucracy . . . Any plan for the future which the minister might have hoped to see realized are strangled and pushed aside by official administrative business".<sup>15</sup>

In its caricature form this bureaucrat is reminiscent of Sir Humphrey in the popular—and not altogether unrealistic—television-series *Yes, Minister*.

To get a sense of the debate it is useful to consider a traditional typology of different systems of degrees of politicisation. The usual caveats, notwithstanding it is possible to distinguish between the following types of politicisation:

- Spoil-Systems: Known from the USA, all the major administrative appointments are political, including ambassadors, and the equivalent of the first three grades of the civil service;
- Cabinet Systems: Known from France, Belgium, and the EU, each minister has a cabinet of a politically appointed advisors, who effectively run his private office and oversee policy development (versions of this system is also known in Sweden and Germany, where the minister appoints a senior special advisor (Staatssekretär) to perform the role equivalent to that of a permanent secretary in the UK;
- Westminster Systems: Known in various forms in Britain, New Zealand, Australia, Canada, but also in Denmark and Norway. Civil servants are apolitical mandarins selected on merit and typically enjoy life-long careers.<sup>16</sup>

<sup>13</sup> B. Guy Peters and Jon Pierre (2004) *Politicisation of the Civil Service in Comparative Perspective. The Quest for Control*, London, Routledge, p 2.

<sup>14</sup> Mathew McCubbins, Roger Noll and Berry Weingast (1989), "Structure and Process, Politics and Policy: Administrative Arrangements and Political Control of Agencies" in *Virginia Law Review*. Vol 75, No 4.

<sup>15</sup> Jacoby, H (1973) *The Bureaucratization of the World*, Berkeley, University of California Press, p 162.

<sup>16</sup> This taxonomy is based on Edward C Page and Vincent Wright Editors (1999), *Bureaucratic Elites and Western European States*, Oxford, Oxford University Press.

Traditionally, the Australian system has been characterised by a number of features that places her squarely in the Westminster camp: promotion on merit only, life-long careers, one and only one superior officer, and adherence to written rules.<sup>17</sup>

This has changed in recent years. For fear that the permanent civil service should seek its own interests rather than those of the Government; there has been a growing tendency to employ politically appointed special advisors, to service ministers, especially as there has been a concern on the part of the politicians that civil servants were unresponsive to the needs and demands of their elected masters.<sup>18</sup>

Typically, youngish graduates who have worked for the governing party or the minister earlier. This development has led to concerns in Senior Executive Service (SES) that Australia may be moving towards an American spoil system. Interviews with serving SES officers thus indicated that “there is an acknowledgement of the inevitability of an increasing shift towards a formalised Washington model of public sector politicisation”.<sup>19</sup>

Despite considerable scrutiny of the perceived politicisation, public inquiries into its effect have found little concrete evidence to support these concerns. For a start, the number of special and political advisers (the terms are used interchangeably) their number is relatively small. In a memorandum for the House of Representatives, the Prime Minister’s Office recently reported that the total number of political appointees for the federal government had fallen from 76 in 2003 to 49 in 2004.<sup>20</sup> A remarkable drop given that a general election was held in 2004. A few dozen party political hacks is a far cry from the US system under which more than three percent of the central administrators are political appointees.<sup>21</sup>

#### THE CIVIL SERVICE REFORM FROM HAWKE TO HOWARD

As noted above, the political class since the 1970s were under the impression that the power of the non-elected mandarins was too strong, and that a counter-weight was needed to ensure implementation of the governments programmes.

The most profound changes to the existing system were initiated and implemented by the incoming Labor government of 1983, led by former union leader Bob Hawke. In a white paper, *Reforming the Australian Public Service*, the government proposed plans for a more flexible system of appointment and dismissal of Department heads. While seemingly quite modest, the whitepaper represented an unprecedented shift in the power-relations between ministers and civil servants. These plans were given legislative effect in 1984. This drive towards a more managerial civil service was further continued by the Keating government (also Labor) in 1993. In the latter, case provisions were made for short term-contract for Department heads.

Throughout this period, the ethos of public sector reform was based on a presumption that the adoption of methods taken from the private sector was superior to those of the traditional public bureaucracy. This is in itself a dubious assumption, and one that neglects that the skills of administration are often acquired through a long process of practical learning and not the result of formal schooling.

This assumption—sometimes loosely referred to as New Public Management<sup>22</sup>—was continued with equal zeal by the Liberal government of John Howard.<sup>23</sup>

In the Public Service Act, stated that the Department Heads’ contracts could be terminated at any time by the Prime Minister, and that members of the SES who had been ‘compulsorily retired’ had no recourse to the unfair dismissal provisions under the Workplace Relations Act.

It is this laws that represent the strongest tendency towards politicisation, and not the presence of this relatively small number of party-political appointees, which is most likely to have the same effect as the spoils system has had in America. And the legislative changes have had consequences.

The issue of politicisation came to the fore in the aftermath of the 1996 election when six incumbent secretaries were replaced and, a month later, a comparative outsider was appointed to the position of Secretary to the Department of Prime Minister and Cabinet and titular head of the civil service. This development caused political commentators to speculate that “a decisive shift away from a politically

<sup>17</sup> These criteria were first identified and discussed by German sociologist Max Weber. See H H Gerth and C Wright Mills (editors) (1991), *From Max Weber Essays in Sociology*. London, Routledge.

<sup>18</sup> This is covered in P Weller and M Grattan (1981) *Can Ministers Cope? Australian Federal Ministers at Work*, Hutchinson, Richmond, Especially Chapters 3–4.

<sup>19</sup> Jenny Steward (2002) *Public Sector Management*, in John Summers, Dennis Woodward, Andrew Parkin (Editors), *Government, Politics, Power and Policy in Australia*, Sydney, Longman, pp 67–87.

<sup>20</sup> Prime Minister of Australia: Ministry Paper No 17/2004: *Progress Report on Consultants and Advisors in the Public Sector*.

<sup>21</sup> This figure is based on David McKay (2002) *Government and Society in America*, Blackwell, Oxford, 176. See also: B G Peters, *The Politics of Bureaucracy*, Longman, White Plains, NY, 1995, p 91.

<sup>22</sup> C Hood (1991) *A New Public Management for all Seasons?* In *Public Administration*, Vol 69, No 1 pp 3–19.

<sup>23</sup> S Prasser, “Howard and the Commonwealth bureaucracy” in S Prasser and G Starr (eds), *Policy and Change*, Hale and Iremonger, Sydney, 1997, pp 71–84 and P Schroder, “The impact of the Coalition government on the public service”, *Australian Journal of Public Administration*, vol 56, no 2, 1997, p 15.



neutral, career public service” was taking place, and that Australia was moving in “the direction of a more politicised public service on United States lines, where a change of presidency leads to major changes across the senior echelons of the public service”.<sup>24</sup>

To be sure, in the case of the post-election changes in 1996, few if any, of the decisions clearly turned on party political considerations. The new appointees were generally recognised as respected professional public servants. Still, the fact that so many secretaries were replaced by a new government elected on a diminished mandate, runs contrary to the principle that the civil service should be capable of serving alternative governments with equal loyalty.

Further, it raises concern about the quality of the advice given to ministers. As famously argued by Aaron Wildavsky, the art and craft of civil servant is to be able to give unbiased advice to ministers; even when this is uncomfortable, the policy advisor must be able to speak “truth to power”.<sup>25</sup> Given the natural tendency to blame the messenger, it is perhaps understandable that ministers have tended not to retain SES-members who give unbiased advice. In a report by the Tony Harris, the New South Wales Auditor General, concluded that the traditional system did not “operate effectively in line with the Government’s stated objectives”. Governments of both colours have agreed, and have, consequently, used the new provisions for selecting executives who share their outlook. There is “evidence of apparently partisan political appointments to CEO and other SES positions”.<sup>26</sup>

But what has this meant? Is that a problem in itself? A strong case can be made that it is. As a research paper noted: “Politicisation . . . in the sense of appointments to suit the preferences of the government of the day has been gradually increasing over recent decades. The process has been given added impetus by the growing insecurity of tenure among secretaries and by the sometimes uncritical adoption of private sector management models. Though the great majority of public servants, including secretaries, still see themselves as politically neutral professionals, capable of serving alternative governments with equal competence and loyalty, incoming governments may be increasingly tempted to appoint new management teams as a means of imposing new policy directions on the bureaucracy. Such a convention, if it becomes entrenched, will erode the principles of a professional service with damaging long-term consequences for the morale and competence of the APS as a whole. New processes need to be introduced which safeguard the expectation that senior public servants, even if on limited-term contracts, will serve governments of differing political complexions.”

## CONCLUSION

“The honour of the civil servant”, noted Weber, “is vested in his ability to execute conscientiously the order of superior authorities, exactly as if the orders agreed with his own conviction”.<sup>27</sup> This is still the ethos of a Australia’s federal bureaucracy. But for how long?

Due to our traditions, both Britain and Australia have been able to instil this ideal into the fast-streamers who join the Civil Service upon graduation. The tendencies outlined above poses a threat to this ethos. Those who value the national contribution made by a politically neutral, professional public service should be concerned not about a small number of political advisors, but about the recruitment of civil servants on account of their views rather than on the basis of their managerial skills. As public servants are increasingly likely to be working under contract—and without the security of permanent tenure—new safeguards are needed to protect the service against further politicisation. One avenue of protection could be the introduction of greater transparency of relationships between ministers and public servants. Further, performance agreements could be used to underline the assumption that the role of secretaries is to serve ministers of the day from whatever political party.

*November 2005*

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### **Memorandum by Dr Chris Eichbaum, Victoria University, New Zealand, and Dr Richard Shaw, Massey University, New Zealand**

We are actively engaged in research concerning the policy roles and influence of special advisers to Ministers in the New Zealand Cabinet. Several of our findings—particularly regarding matters of politicisation—are apposite to the matters raised in the Committee’s Issues and Questions paper.

<sup>24</sup> Richard Mulgan, *Politicising the Australian Public Service?* Parliament of Australia. Parliamentary Library Research Paper 3, 1998–99, <http://www.aph.gov.au/library/pubs/rp/rp98-99.htm>

<sup>25</sup> Aaron Wildavsky (1979) *Speaking Truth to Power. The Art and Craft of Policy Analysis*, New York, Little Brown and Company.

<sup>26</sup> Jenny Steward, *Cit op.* Public Sector Management, p 78.

<sup>27</sup> Max Weber “Politics as Vocation” in H H Gerth and C Wright Mills (editors), p 95.

## 1. BACKGROUND TO OUR RESEARCH IN NEW ZEALAND

1.1 In recent years there has been an increase in the number of special advisers—“ministerial advisers” in the New Zealand context—working to members of the New Zealand Cabinet. As it has in other Westminster jurisdictions, this trend has thrown up a number of issues, not the least of which concern the bearing which special advisers are having on (a) relations between ministers and permanent civil servants, and (b) on the nature of the policy process more generally.

1.2 A good deal of the research undertaken in this area (see King 2003, Mountfield 2002, Tiernan 2004) departs from the assumption that special advisers threaten the impartiality of the permanent civil service, and therefore tends to focus on appropriate means of holding special advisers to account.

1.3 In our view, this has meant that insufficient attention has thus far been paid to two important matters. First, it is not clear to us that existing understandings of the term “politicisation” are all that helpful in understanding the nature of the trilateral relationship between ministers, civil servants and the “third element” (Peters and Pierre, 2004; Wicks, 2003) of the executive. Secondly, we believe that too little effort has been invested in understanding the nature and extent of the contribution—positive or otherwise—which special advisers make to the policy process.

1.4 In an effort to enhance understanding of these matters, we have been funded through a grant administered by the Royal Society of New Zealand to research the roles, functions and policy influence of special advisers in the executive branch of the New Zealand government. Our objectives are to:

- boost understanding of the impact of ministerial advisers on relationships between Ministers and senior civil servants;
- increase knowledge of the role of political advisers in the policy process;
- examine the ramifications of advisers’ activities for the neutrality of the public service;
- explore the accountability arrangements which apply to advisers; and
- conceptualise the policy role and contribution of advisers.

## 2. RELEVANCE TO THE SELECT COMMITTEE’S INQUIRY

2.1 Our research touches on matters we feel may be of interest to members of the Select Committee (and in particular to those raised by Q 8–10 in the Committee’s Issues and Questions paper). For your information, we have attached three pieces of work as background evidence:<sup>28</sup>

- Eichbaum, C and Shaw, R 2005a. “Why we should all be nicer to Ministerial Advisers”, *Policy Quarterly*, 1(4): 18–26;
- Eichbaum, C and Shaw, R 2005b. “Is Westminster dead in Wellington? Ministerial Advisers in the New Zealand Executive.” Paper presented at the Australasian Political Studies Association Conference, Otago University, 28–30 September;
- Eichbaum, C and Shaw, R 2005c. “Enemy or ally? Senior officials’ perceptions of ministerial advisers before and after MMP.” Draft paper submitted for publication to *Political Science*.

### 2.2 Defining “politicisation”

The Issues and Questions paper uses a basic definition of “politicisation” from Peters and Pierre (2004). In common with most others, this understanding of the term draws attention to the employment function as the principal means through which politicisation occurs (although for an exception see Mulgan 1999).

2.2.1 In our view (and indeed as Peters and Pierre acknowledge), such a definition is of limited value in assessing the extent to which special advisers threaten the political neutrality of the civil service, principally because, in New Zealand at any rate, advisers have no formal responsibilities for the hiring and firing of civil servants. That prerogative lies with an independent State Services Commissioner, who is responsible for recommending the appointment of departmental Chief Executives, with those Chief Executives in turn delegated responsibility for human resource management within government departments and agencies.

2.2.2 On the basis of data we have gathered we propose a different understanding of “politicisation” (see Eichbaum and Shaw, 2005b). We have found it helpful—when assessing the potential and actual risk special advisers pose to civil servants—to distinguish between the substantive and procedural dimensions of what we have chosen to call “administrative politicisation”. Examples of the former include when special advisers demand changes to the content of officials’ advice which reflect partisan considerations; a special adviser’s actions offend in a procedural sense if they are intended to or have the effect of constraining the capacity of civil servants to furnish ministers with free and frank advice.

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<sup>28</sup> Not printed.

3. WOULD IT BE SENSIBLE TO ALLOW MINISTERS A GREATER DEGREE OF “POLITICAL” SUPPORT, ANALOGOUS TO A CONTINENTAL “CABINET”? WOULD SUCH A SYSTEM SHIELD THE REST OF THE CIVIL SERVICE FROM POLITICISATION?

3.1 For reasons set out in Eichbaum and Shaw (2005a), our response to both questions would be a qualified “yes”. We are aware that in doing so we are reflecting a series of electoral and political circumstances that do not apply at Westminster. Most obviously, New Zealand’s adoption of proportional representation in 1996 has ushered in an era of coalition minority government. The success of such ministries depends upon any number of political relationships—both within multi-party governments and between minority administrations and parliamentary support parties—which public servants may not approach, but which special advisers are ideally positioned to facilitate.

3.2 The consequences of proportional representation aside, many of the senior officials who participated in one of our surveys made it clear that special advisers have an important role to play in protecting them from demands from Ministers which might, were they required to submit to them, expose officials to the risk of politicisation. As one respondent explained matters, the fact that ministerial advisers can “go places officials cannot go” means that public servants can—to some degree—be shielded from the “politics” of government, the better to get on with the business of providing professional advice. Providing everyone is clear about roles and responsibilities, then, it may be that special advisers actually make it *easier* for officials to conduct themselves in ways which are consistent with traditional understandings of civil service impartiality.

December 2005

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## Memorandum by the Committee on Standards in Public Life

### INTRODUCTION

1. The Committee on Standards in Public Life (CSPL) is grateful for the opportunity to submit written evidence to the Public Administration Select Committee (PASC) in response to its Issues and Questions Paper on Ministers and Civil Servants published on 2 November 2005.

2. As PASC is aware CSPL has, since its establishment in 1994, taken a close interest in both the substance and legal basis of the role, governance and values of the Civil Service and the contribution these make to ensuring the highest standards of conduct in public life. This interest has been shared by all four Chairmen of the Committee and been the subject of specific comment and recommendations in three of our reports, the First<sup>29</sup> (1995), the Sixth<sup>30</sup> (2000) and the Ninth<sup>31</sup> (2003).

3. Following the publication of the Ninth Report and the Government's response<sup>32</sup> the then Chair of the Committee, Sir Nigel Wicks, gave both written and oral evidence to PASC in November 2003 as part of its inquiry on a Civil Service Act.<sup>33</sup> The Government subsequently published a draft Civil Service Bill<sup>34</sup> on which CSPL (and PASC) submitted their comments.<sup>35</sup> The Government has yet to announce the conclusions of that consultation which will, of course, have a bearing on this current PASC inquiry.

4. Therefore, in setting out here its general approach to the issues raised, CSPL has drawn upon the evidence received and the conclusions reached in its Ninth Report and the subsequent work on a Civil Service Act.

### GENERAL APPROACH

5. The general approach taken by CSPL on the issues raised is best addressed by reference to the two underlying questions set out in the Issues and Questions paper:

- “Should civil servants be more “political”, that is, obviously committed to the programme of the elected Government?
- Should politicians have more say over the appointment of public servants, if so, should their role be to appoint a few more advisers, or should politicians be able to make appointments to posts which have generally been seen as the preserve of the independent career civil servant?”

6. While the generality of constitutional matters is not within the mandate of CSPL, these two underlying questions go right to the heart of our existing constitutional framework within which the executive functions. Within that framework it is Ministers, as members of executive and as members of the governing party, who decide how the transmission of party politics into government policies should be achieved. Ministers are assisted in this task by the Civil Service. In this, civil servants are a permanent source of advice and the means by which Ministers' legal instructions are carried out. The Civil Service assist the duly constituted Government by formulating their policies; carrying out decisions; and in administering public services.<sup>36</sup> In all these activities civil servants are expected to be impartial, which signifies, for example, acting in a way which is independent of political partisanship.

7. Impartiality in this context does not signify, as perhaps implied by these two underlying questions, that the Civil Service or civil servants are either independent of or uncommitted to the Government and its programme. On the contrary the Civil Service is bound to give full support and commitment to Government Ministers in carrying out their state responsibilities, including delivering the party's manifesto into Government policy.

8. The combination of political impartiality with a commitment to deliver the programme of the government of the day provides a distinctive professionalism that is able to support the effective implementation of government policy by bringing experience and political neutrality to bear on the delivery of policy. To require, therefore, civil servants to demonstrate a “political”, rather than or in addition to, a professional commitment to the programme of the Government of the day would risk losing the benefit of this professionalism to the delivery of policy. It would also critically undermine the principle of impartiality and hence the ability of the Civil Service to serve successive administrations, thereby removing continuity—a key pillar of the constitutional framework within which the executive functions. Similarly the principle

<sup>29</sup> First Report of the Committee on Standards in Public Life, May 1995, Cm 2850–1.

<sup>30</sup> Sixth Report of the Committee on Standards in Public Life: Reinforcing Standards, January 2000 Cm 4557–1.

<sup>31</sup> Ninth Report of the Committee on Standards in Public Life: Defining the Boundaries of the Executive: Ministers, Special Advisers and the permanent Civil Service, April 2003, Cm 5775.

<sup>32</sup> The Government's Response to the Ninth Report of The Committee on Standards in Public Life, Cm 5964, September 2003.

<sup>33</sup> PASC First Report 2003–04, A draft Civil Service Bill: Completing the Reform, HC 128 I & II, January 2003.

<sup>34</sup> Draft Civil Service Bill—A Consultation Document, November 2004, Cm 6373.

<sup>35</sup> CSPL Response to Government's consultation on a Draft Civil Service Bill, 24 February 2005, available at [www.public-standards.gov.uk](http://www.public-standards.gov.uk).

<sup>36</sup> Civil Service Code.

that Ministers do not participate in the selection process for individuals being recruited into the Civil Service is fundamental to the maintenance of a service which is, and is perceived to be, politically impartial and based upon merit.

9. The important role special advisers play in this constitutional framework is well recognised and has become firmly established over the past thirty years. It is reflected in explicit provisions exempting such appointments from the principle of merit and the requirement to be impartial, which apply to civil servants. The exemptions can be used by Ministers to appoint not only political advisers but also expert advisers who have specific experience or skills of a non-political kind, and who may be “more obviously committed” to a particular programme or policy. However, that is very different from inserting advisers formally into the hierarchy of the civil service by their appointment to civil service posts, even if only while they are doing a particular job. To do that would be to undermine the impartiality of the service and appointment and promotion on merit and, if it began to happen more widely than currently, this would discourage able people from committing to careers in the civil service.

10. The CSPL concluded in its Ninth Report, and it had in previous reports, that this constitutional framework had served this country well and could continue to do so in the future. However the evidence presented during the Ninth Inquiry led us to conclude that there was a need to clarify the definitions and secure the maintenance of the boundaries within the Executive. One of the key recommendations made was for a Civil Service Act to ensure the maintenance of the fundamental principles underpinning the Civil Service.

11. The CSPL continues to believe that a Civil Service Act which covers the maintenance of the fundamental principles underpinning the Civil Service would provide the most certain and effective way of addressing the issues raised in this PASC inquiry and in delivering the necessary parliamentary confidence that the constitutional boundaries are being effectively maintained. This in turn, would, in our view, free this and successive governments to instigate those management reforms necessary to make the Civil Service fit for purpose and able to meet the demands of the modern world, without concerns and accusations that this can only be achieved at the price of eroding core values.

*December 2005*

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#### **Memorandum by Sir Robin Mountfield KCB**

The British civil service is now, along perhaps with Canada's, one of the very few major civil services in the developed world to remain genuinely non-politicised in its upper reaches. Others—in Europe, in the Old Commonwealth—may claim to be, but no longer are. Appointments and removals in these countries may not always clearly follow from Party allegiance, and may be mainly from within a professional civil service pool rather than by direct imports from outside; but in some degree they reflect Ministerial preference and thus personal and political rather than constitutional and institutional loyalty. In the American system, most of its top three layers changes every four years to make way for new presidential appointments. Political neutrality is clearly not the only way of doing things.

In this country, as the Issues and Questions paper correctly points out, the Northcote-Trevelyan concept of a professional career civil service did not evolve from a belief in political neutrality but from a reaction to patronage and cronyism combined with a belief in the principle that recruitment at a young age would lock people in to a career at low salary. But a career service is necessarily politically neutral: how else could permanent officials work for succeeding administrations of different political colour?

Although the main British political parties profess support for the principle of political neutrality of the civil service, the pressures towards politicisation are considerable and growing. Politicians in office increasingly appear to favour senior officials who espouse their policies with open enthusiasm, and tend to interpret the detachment of career officials as obstruction or inertia. Politicians, and many members of the public, can find it hard to understand how a civil servant can spend large parts of his career, as I have done, first nationalising industries and then privatising them without a degree of cynicism. And it has to be admitted there have been in the past, and perhaps still are, some senior officials who carry their professional scepticism to excessive lengths.

The case for a change turns on:

- the belief that those called on to lead the process of policy advice, and the implementation of the resulting policies, will do so with more vigour and commitment if they believe personally in the policies concerned;
- the belief that career officials tend not to understand the political world—a wish not necessarily to “politicise” the civil service but to enhance its feel for political imperatives;
- the perception that the civil service lacks a specific expertise that the Party or individual Ministers can procure from their own networks; and
- the human issue of “personal chemistry”, which drove a number of Ministers in 1997, for example, to attempt to make their own appointments of Press Secretaries, and which leads some Ministers to want to dispose of their Permanent Secretaries and choose their own.

- The view that management delegation within the civil service requires from managers a degree of personal commitment to Government objectives which is alien to the civil service tradition.

But if Ministers and politicians do hanker after political or personal appointments, what are the counter-arguments? I believe the case for a politically-neutral civil service rests on six main considerations:

1. It is a defence against corruption: “jobs for the boys” or the “spoils system” invite abuse.
2. It provides continuity, especially after a change of government.
3. It maintains deep expertise and “institutional memory” of the background to policy issues.
4. It provides real knowledge of how the machinery of government works, making it possible for a government to achieve the results it wants.
5. It provides a loyal and supportive, but detached and politically-neutral, analytical challenge to political enthusiasm: an essential health-check in a democratic process.
6. It entrenches a deeply-rooted and distinctive ethical base to the public service.

#### CORRUPTION

Corruption in the political process is not always, or even usually, a matter of hands in the public till: megalomania is a greater driver than financial greed. We already often see accusations in the newspapers, fairly or not, about membership of the House of Lords, or even Ministerial appointments, being made following contributions to party funds. I have myself observed in transition democracies situations where civil servants have been removed from positions of influence by an incoming administration and replaced by party supporters seeking power in return for political services—and they in turn by others. Neither this nor outright financial corruption are, of course, necessary consequences of politicisation; but they are certainly a significant risk.

#### CONTINUITY

The most obvious and frequently commented-on aspect of continuity is on a change of administration. As compared with the US system, where a new administration is in baulk for months awaiting appointments and confirmation hearings, and at the end when people are looking for new jobs, our system has clear advantages at the time of handover. But continuity is an important advantage during an administration too: although some Departments tend to have relatively infrequent Ministerial changes, in others they are grotesquely frequent; as an example, in 38 years as a civil servant I worked for 29 Cabinet Ministers, and in four years as a Permanent Secretary I had four Cabinet Ministers. If civil service appointments were to change in consequence, as some Ministers are reported to favour for their Permanent Secretaries, the loss of momentum and leadership in Departments could be very serious. It can of course be argued that new brooms can sweep clean; but how often can new people be brought in at the top of a Department and yet give effective professional leadership to it?

#### EXPERTISE

The advocates of political appointments would argue that expertise is not the sole preserve of a permanent civil service; that experts from the universities, business etc can bring at least equivalent knowledge to bear; and that anyway individual civil servants frequently move as soon as they have acquired a useful amount of expertise. These are of course valid points. But a permanent civil service also provides institutional knowledge in depth; and even individual civil servants tend to build up expertise in a broad area of policy, for example tax policy, social welfare systems, trade and industry etc. Recent reforms rightly include steps to increase the expertise of the civil service in policy advice areas, its openness to outside thinking, and the recruitment of experienced people from outside whether by secondment or by permanent appointment following open competition. But there is little ground for believing that political or personal appointment is the best way of increasing the expertise available to Ministers, apart from a small number of exceptional cases already appointed as expert special advisers.

In the area of management delegation (the “new managerialism”) I see no ground for believing there is conflict with the detachment of the traditional civil servant. A civil servant running an Agency or similar operation has to be satisfied that the targets set are achievable, but has no more need to believe personally in the policy than a policy adviser needs to subscribe personally to the political aims of the Government, or than a manager in private industry needs to believe his company or its products are the best. What is needed is professional, not personal, commitment.

A further highly malign effect of widespread political appointments from outside would be the “glass ceiling” effect: knowledge that the top posts were effectively closed to insiders would greatly diminish the attractions of the civil service as a career for the ablest people. The quality in depth of the civil service would degrade in consequence. The US system provides an illustration.

## KNOWLEDGE OF THE MACHINERY OF GOVERNMENT

The mechanics of the government machine are not a negligible area of expertise—indeed it is a professional specialism in its own right. Little can be done by Ministers (many of whom have never really run anything, in Government or out) without the assistance of civil servants thoroughly experienced in how to get things done in big organizations, and in the special circumstances of Government and Parliament. Many of the failures of this and other Governments are attributable to failure to understand, for example, the timescales of achieving real change, and to distrust of the advice offered in such matters, with practical difficulties often brushed aside as a mere manifestation of bureaucratic inertia. New entrants at senior level often find themselves badly at sea in this area; it is on the other hand the stock in trade of the civil service.

There may be some perception that civil servants are not sufficiently sensitive to the cross-currents of the political process; my own experience is that many senior officials have rather well-developed political antennae, sometimes even excessively so. In any case, Ministers and their support groups of junior Ministers, whips and special advisers should be able to ensure they are well-assisted on these aspects of their responsibilities.

## DETACHMENT AND CHALLENGE

Ministers come to office with a strong set of political beliefs and enthusiasms; these give them the will and vigour to carry out radical policies, but they may also blind them to the weak points in their plans, which need to be probed and questioned so that the policy as a whole can be strengthened. The public interest, as well as Ministers' own political interest, requires that there should be a capability, built into the institutional framework, for the hard sceptical questions to be asked during the policy formulation process. Of course Parliament, press and public will do that later, but it is often too late if Ministers have made up their minds. One of the greatest strengths of a politically-neutral civil service—if trusted and properly used, as sadly it often is not—is what one might call “institutional scepticism”: the ability to challenge and question the Minister's ideas, not from a position of political hostility, but on a supportive yet detached, professionally-informed and analytical basis. Recent events for example in relation to Iraq point up only too clearly the dangers if that challenge is not present, or is ignored, or is blunted by civil service advice becoming too closely identified with the political. The element of mutual trust, and recognition that honest advice is valuable even if adverse, is essential.

On the civil servant's side, this requires a particular kind of professionalism. No-one doubts the professionalism of a barrister, who does not need to believe passionately in the cause he or she advocates. In the same way, a civil servant accepts a professional commitment to the wishes of the elected Government of the day. It would be idle to deny that that can cause personal tensions in some cases; but it has not been my experience that these are intolerable or that they obstruct the provision of excellent professional service.

## ETHICAL COHERENCE

One of the reasons for bringing more people in from outside is, rightly, to weaken those aspects of the strong corporate culture of the civil service which make it too inward-looking and immune to outside influence and experience. Yet it is precisely that strong culture that nurtures one of the great virtues of the British civil service—the ethical standards and incorruptibility which are regarded with envy throughout the world. That may sound complacent; but anyone who has travelled widely in the administrative and political world overseas cannot fail to be impressed to find this is so. Although it would be foolish to pretend that those who come late to the civil service must be personally less than ethical or incorruptible, the dilution of the career coherence of the civil service inevitably puts its ethical coherence under pressure too. This ethical coherence encompasses not only the highest standards of separation of personal and official interests, but also a strong, almost intuitive, sense of the boundaries between the political and the official.

## CONCLUSION

None of these considerations argues against enriching the current permanent career civil service cadre with new entrants from outside. On the contrary, the civil service has derived enormous benefit from such additions to its range of experience, expertise and excellence. But to recruit selectively on the basis of independently verified merit is very different from importing people into positions of great influence on the basis of political loyalty or personal compatibility. The British system already provides a mechanism for introducing such people in small numbers, either by appointment to accountable ministerial offices or by a strictly controlled number of special advisers. To extend this further would require some form of validation of merit, either by some form of Political Appointments Commission or by Parliamentary confirmation hearings. The latter, especially, would progressively give the appointee the public status, and public answerability, which in our system is the preserve of Ministers in Parliament. In my view, in the context of the British political system, we draw far greater strength from a rigid and widely recognised boundary between professional and politically neutral officials on the one hand and accountable political appointments on the other, than by introducing explicit or implicit political sympathy into the requirements for tenure of a senior civil service post. Blurring the line is the one thing that must be avoided.

There may be some secular reason why the issue of politicisation, and its risks and benefits, have come to the fore now; but I believe the principal reason lies in the breakdown of trust between the Government and the civil service. To some extent this was happening before 1997, but it seems to me to have been much more marked since then. Partly this may be because hardly any of the new Ministers in 1997 had any experience of Government, and had built unusually tight coteries of political advisers in opposition. This may, allied with the weakness of the post-1997 opposition, have helped them to pursue some of their policies effectively. But in other areas, the quality of their policies and the weakness of their implementation have suffered—not primarily because of civil service “failure to deliver”, but because of Ministerial failure to establish a relationship of trust with their civil service advisers. So far, the civil service has not been significantly politicised: it is the policy advice process which has been both politicised and personalised. In consequence the civil service advice has been effectively marginalised and replaced—rather than enriched—by sofa government and the rule of special advisers. The resulting lack of rigour and challenge has led, in some cases, to mistaken policies, and in others to failure to understand and allow for the complexities and timescales of effective implementation. That in turn has led to recriminations about “failure to deliver” which are more properly attributable to the initial lack of trust.

The best Ministers I have worked for have made sure their officials understood their political objectives and difficulties, did not seek to engage them in their pursuit, and actively sought and welcomed their non-political analysis and advice. In other words they deliberately sought to maintain a sharp division between the political and the non-political strands of the advice coming to them, for the clarity of their own thinking; and established a genuine trust between themselves and their officials.

*December 2005*

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### **Memorandum by David Faulkner, Centre for Criminology, University of Oxford**

#### **EXECUTIVE SUMMARY**

1. This memorandum offers some thoughts on civil servants’ relationships with Ministers, with a focus on the distinction between policy and delivery (or as it used to be called, operations), and on civil servants’ and Ministers’ respective responsibilities and accountability. It considers some features of the civil service as it is to-day, including the Government’s plans for “contestability” and responsibility for operational failure, and offers some suggestions for the future. The memorandum is concerned principally with “Whitehall” civil servants, but many of the issues affect other public servants who have to work within the legislation and the organisational structures which governments set for them.

#### **POLICY AND DELIVERY**

2. The most serious criticism being made of the civil service is that it is failing the country, or the Government, in some of the most important tasks it has to perform, both in its advice to Ministers on “policy” and more especially in its “delivery” of policies once they have been established. Another criticism is that civil servants are not held effectively to account, and that those responsible for operational failures are not publicly exposed, or are not dealt with severely enough when their mistakes become known.

3. The distinction between “policy”, which is for Ministers, and “delivery” for which civil servants are responsible, is difficult to sustain in practice. Civil servants are still responsible for the quality of the advice they give at the stage when the policy is being formulated, and should also guide the process of research, consultation and analysis by which the policy should be informed. Ministers are entitled not to take the advice that is offered; to take advice from elsewhere; or to decide that no advice, research or consultation is needed and they can rely on their own political judgement. Or they may select, or intimidate, their advisers so that the only advice they receive is what it is politically convenient to hear. Whatever the situation, the process should be transparent and the considerations and the influences should be capable of being made known and assessed, after a suitable interval if not immediately. Civil servants and Ministers should both take responsibility for what is found.

4. A policy will rarely turn out to be an unqualified “success” or “failure”, and governments and opposition parties will naturally make opposite claims. To-day’s success may become to-morrow’s failure (for example moving Railtrack into the private sector before the 1997 general election), and *vice versa*. Predictions can be made that may or may not prove to be accurate, but for the most part judgements of success or failure can only be made after the policy has been established and there has been some experience of its practical operation. Events and individuals will often by then have moved on, there may even have been a change of government, and there will be little political or public interest in “raking up the past”. Unrelenting pressure of the kind applied by the Lawrence family is exceptional, and usually comes only from those who have suffered serious personal injustice.

5. If a government is forced to admit failure or disappointment, it will usually claim that the fault lies in weaknesses in delivery rather than inadequate foresight when the policy was being formed. The present Government seems not, on the whole, to have blamed the civil service for providing bad advice, perhaps



because it has not been very interested in civil servants' advice in the first place. Its main criticism and frustration has seemed to be over delivery, and it is towards delivery that it has directed most of its efforts in public service reform, including "contestability" and "diversity of provision".

6. Very little is known about the processes of policy formation outside government departments themselves, and the destruction or absence of departmental records and the loss of an institutional memory will make it virtually impossible for Parliament, academic researchers, biographers or anyone else to make any retrospective judgement.

#### ACCOUNTABILITY

7. Notions of Ministerial and civil service accountability have shifted over the years. It has become accepted that officials and not Ministers should take responsibility for actions or situations of which Ministers had no knowledge and which they did not intend. Even so, the increasing politicisation of public business, and Ministers' increasing involvement in the management of their departments, make the distinction harder to sustain and individual responsibility harder to assign. Recent experience in the Home Office, and possibly in other departments concerned with social policy, suggests that civil servants' accountability to Ministers needs a better understanding, by all concerned, of the dynamics and relationships involved in managing public business; a greater degree of mutual confidence and trust; and more respect for continuity, skills and experience.

8. Civil and some other public servants have changed their focus from "serving the country" to "serving Ministers". A generation ago, civil servants and Ministers both saw themselves as having a common but independent duty to serve the public or the national interest, or sometimes "the Crown" as a symbol of the national interest (see pages 30–54 of my book *Crime, State and Citizen*). The culture seems now to be one of exclusive service and accountability to Ministers, and of largely unquestioning compliance with Ministers' wishes and suspension of independent judgement. With that change, and perhaps reflecting the attitudes and style of successive governments, has come a culture of blame and risk-avoidance, of "playing safe" and "protecting one's back". Civil servants now seem reluctant, or sometimes unable, to point out difficulties for fear of being thought obstructive or not sufficiently committed.

9. Civil servants' accountability should not be a matter only of relationships and communications upwards to senior managers and Ministers, and of compliance with instructions or controls that are passed downwards. It should also include their lateral relationships with colleagues, "stakeholders" and the public. The "performance culture" has caused civil and other public servants to become more narrowly focused on their "upward" rather than their "outward" relationships over the last 10 or 15 years, both within and outside government. The "silo" mentality has persisted, despite efforts to overcome it.

10. Whitehall has become more remote and less accessible. Government provides a lot of information, and the internet has made a big difference, but consultation has become more a matter of telling and asking for support than of hearing or responding. Civil servants have become more cautious in what they think they can say, in private as well as in public. Civil servants are often poorly equipped to anticipate the practical effect of new rules and procedures when they are applied on the ground, or to appreciate that effect when the new rules have come into operation. Pressures in the office, often from Ministers themselves, makes it hard for them to go out "onto the street".

11. The absence of departmental records and an institutional memory has brought a serious loss of accountability which the Select Committee might want to consider.

#### SOME OBSERVATIONS

12. Civil servants have become more individualistic and competitive in their attitudes and working relationships. That change reflects changing attitudes in society as a whole, but it is also a consequence of employment practices such as performance targets and performance-related pay. To-day's civil servants seem to be less able than their predecessors to merge their identities in a team or a common enterprise. Centrally-imposed tasks and procedures may be comfortable for staff who are content to follow rather than lead, and who have no great wish to act on their own initiative and no strong sense of "ownership" of the job they are doing. That may be the kind of compliant civil service the Government would like to create. It is certainly the kind of service it is creating in fact. But it may not be best for the country as a whole.

13. There has been a loss of professional leadership in the civil service, and perhaps of leadership in other public services as well (the Leader of the Opposition has referred to it in the context of the police). The civil service does not have a tradition of strong professional leadership, not least because civil service leaders might then start to exercise a "political" role, but it certainly had examples and role models. There is a case for stronger leadership, but in the present situation an attempt to provide it seems likely to produce "leaders" who are the creatures of Ministers, or alternatively to be a recipe for conflict.

14. There seems no longer to be a "space" where civil servants and others can meet and talk to one another on a basis of confidence and trust—the kind of conversation for which the Chatham House Rule was intended to provide a safe environment. That kind of space is badly needed. People outside the

departmental “loop” need to be able to exchange experiences and ideas with people who have access to Ministers and the government machine, but who are politically impartial and able to interpret and explain arguments and situations in both directions.

#### CONTESTABILITY AND DIVERSITY OF PROVISION

15. There is nothing to be gained from an argument about whether the public, voluntary or private sector is “better” or “worse” at providing public services than any of the others. But they are certainly different in their orientation and the structure of their accountability, and it is equally mistaken to say that “it makes no difference”. Few questions have so far been asked, for example, about the responsibilities of trustees or shareholders when their organisations are providing public services, either directly or under contract—a debate which should gather momentum following the Government’s announcement on 22 June; or about the “public” considerations which should be taken into account when a contract is being awarded. Nor is there any clear understanding about those services which should continue to be publicly provided as a matter of principle and those which can be provided by the best available supplier; or about the scale on which independent providers should be able to operate in a “mixed market”.

16. The Government’s plans for public service reform include the introduction of “contestability” and “diversity of provision”. Those mechanisms can be used in different ways, with different underlying objectives. It is not yet clear how they will be used in practice. They can be used competitively, to save costs, impose standardisation and uniformity, and punish or threaten punishment for failure. Or they can be used co-operatively to encourage innovation and experiment. They can be rigid and “top-down”, imposing conformity to a centrally-imposed specification, or they can be flexible and help to promote local creativity. The process can be complex, time-consuming and bureaucratic, encouraging artificial devices to gain favour or win contracts, or it can be open and accessible to new ideas from whatever source. Commissioners can concentrate on getting best value from whatever competing sources are already available, or they can accept a public service responsibility to use the process of commissioning in ways which will “grow” the skills and capacity, and the values and relationships, that will be needed for the future. The outcomes could be beneficial or disastrous, depending on the choices that are made.

#### FAILURES IN DELIVERY

17. Failures in delivery can be of different kinds. They include unforeseen or unacceptable delays or costs; an inability to achieve the expected results; and errors of judgement which result in situations where individuals or the public may be put at risk. Each has to be considered on its own facts, although patterns may emerge.

18. Failures are rarely the result of a single act or omission, or the exclusive responsibility of a single individual. They may result from lack of expertise, inadequate and over-hasty preparation, or unrealistic expectations in the first place. They are often part of a complex state of affairs in which several factors will have been at work. Some factors may have been under the department’s own control, others may not. They are likely to be the result of a sequence of acts or omissions which may not in themselves be particularly serious, and which may even be common practice, and the person responsible in each case may not have been able to foresee the consequences. The situation could often have been avoided if any of a number of individuals had intervened at the right moment.

19. Whether there are excuses or mitigating circumstances will depend on the facts of the situation. But there will almost always be wider questions of management or supervision, and sometimes of resources and pressure, including the pressure of the government’s own performance indicators and targets. Those questions will often raise issues of policy for which Ministers have some responsibility. The report on the death of Zahid Mubarek provides a tragic illustration.

#### CONCLUSIONS

20. The situation in which government has to operate has unquestionably become far more complex since the days of Northcote-Trevelyan. No-one could deny the significance of globalisation and new technology. But the “old” civil service adjusted to and managed a lot of change in the twentieth century, and saw the country quite successfully through two world wars. It has been subject to a continuous process of reform for the last 40 years. What seems to be driving the present calls for radical reform is not so much the change in the external environment as the expectations and demands of Ministers.

21. A lot of Ministers’ apparent frustration has come from their need to be seen as active, engaged and in charge, wanting to do more things, get and show more results, control news and arguments, dominate the scene, have a solution—usually legislation or administrative reorganisation—for everything. They seem not to trust the civil service or public service providers, and they want to micro manage both their own departments and to control as much as they can of the world beyond. Decisions which were once taken by officials or by public service managers have become matters for instructions by Ministers and for political rather than professional judgement.

22. Any attempt to define the relationship between Ministers and civil servants through a more formal separation of responsibilities would be a complex matter and might produce an artificial result. Whether such a separation would be a healthy development, bringing greater transparency and accountability, or dangerous because it might further damage confidence between ministers and civil servants, is a matter of judgement. It would almost certainly result in a greater readiness to connect operational failures with possible weaknesses in Government policy. A great deal would depend on the degree of confidence which existed at the time, and on whether it was seen as another means of “sorting out” a failing civil service, or as a reform intended to improve the quality of government and governance as a whole.

23. The issue should not be about separating “policy” from “operations” but about finding an informed, productive and accountable relationship between them. It is a fair criticism that “delivery” has not been the success that was expected to come from new public management and from the Labour Government’s vision of public service reform. The disappointment may be due not so much to civil servants’ obstruction or incompetence, as to unrealistic expectations of what governments and civil servants can achieve by direct action with their own hands.

24. Locally based and locally accountability services, suitably resourced and with roots in local communities, are better equipped to respond to the public’s needs and legitimate expectations and to anticipate and assess the effect of their actions on the ground. The strategy for public service reform should be to make “delivery” more the responsibility of locally based practitioners, with some local accountability to the citizens they serve and where possible within a framework of democratic local government, not of centrally organised civil servants.

13 July 2006

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### **Memorandum by Sir David Normington KCB**

Thank you for your letter of 19 September about the 15 changes at Director level which we are proposing to make by December. I will try to answer the Select Committee’s questions in turn:

1. *How many of the changes had been planned before May 2006 and how many before June 2006?*

During my first three months in the Home Office (i.e. from January 2006 onwards) I did my own initial assessment of the Home Office’s strengths and weaknesses. In the course of that I discussed with colleagues the strengths and weaknesses in the Director team and made some interim changes to the HR function to strengthen its capability.

The Capability Review and the events surrounding the problems with foreign national prisoners confirmed the need for decisive action. We agreed with the new Home Secretary that fundamental reform was needed in the Home Office. During June, as we were preparing the reform plan, we drew up detailed proposals for Director moves and made two immediate changes.

2. *How many changes involve moves out of the Home Office, and of those, how many of those moves are to comparable positions in other departments?*

We expect that somewhere between 8 and 10 people will move from their jobs as a result of these changes. The majority are likely to move out of the Home Office, but discussions are still going on with those involved and it is not yet possible to be specific about final numbers or destinations.

3. *Whether any of those who have moved from director level posts have been disciplined in any way, or have suffered any consequences as a result of the failings in the Home Office identified in the Capability Review and Action Plan?*

No one has been subject to formal disciplinary proceedings. But, as described above, a number have been asked to move from their current jobs.

4. *What level of turnover at director level would be expected in a normal year?*

In 2005 8 Directors left the Home Office, resulting in 4 replacements to be recruited from outside and five internal moves or promotions. In 2006 the turnover will be much higher than that because the 15 changes are specifically designed to improve capability and are additional to normal turnover. For example, we already know that in the last four months of the year six Directors who are not included in the 15 will be either retiring from the Home Office or leaving for other jobs.

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**Memorandum by Christopher Johnson**

Thank you for your letter of 27 November 2006 to Georgia Hutchison in which you ask about the procedures for dealing with civil servants whose performance is considered to be unsatisfactory. Given my responsibility for employment issues in the Civil Service, I have been asked to respond.

In any organisation with a large workforce there will be cases where performance, for whatever reason, does not meet the required standards. The Civil Service is no exception.

The Civil Service approach, in common with many employers, is to identify at an early stage those who are falling short in achieving their objectives and doing less well than their peers, and to work with them to improve their performance. Where ongoing unsatisfactory performance is identified, departments and agencies have procedures in place that should either result in a return to satisfactory performance or an exit from the Service. The individual should be left in no doubt what improvements are expected of them and the timeframe in which they have to improve. Where the required level of improvement is not forthcoming, dismissal is the ultimate sanction. In taking this action the department will also have regard to employment law, which applies to civil servants in the same way as it does to other employees.

Turning specifically to the role of Ministers, the 1995 Civil Service Order in Council provides for the Minister of the Civil Service to make regulations and give instructions providing for the conditions of service and for controlling the conduct of the Service. This is the basis of the Civil Service Management Code. Paragraph 4.5.9 of the Civil Service Management Code states that the level at which decisions are made in relation to disciplinary matters is a matter for departments and agencies.

The Code goes on to say that disciplinary decisions must be taken by someone at least one level higher than the individual concerned and, in relation to Permanent Secretaries, Heads of Department and equivalent the appropriate minister must be consulted. The Civil Servant Management Code assumes that it is civil servants who take the actual decision to dismiss. This is consistent with paragraph 8.9 of the Ministerial Code which states that it is the Permanent Secretary who has general responsibility for the organisation and discipline of the department.

Regardless of the level at which the decision to dismiss is taken, any such decision must be fair and, as a result, will not be taken lightly. Regard will be had to what the civil servant has done wrong, to previous conduct and to any previous warnings about conduct.

In general, Ministers need to have confidence in the abilities of those working directly or in close proximity to them. It is appropriate that they should have a say in the skills and personal qualities individuals working with them should have. As key stakeholders Ministers may also contribute to the performance reviews of civil servants, for example by participating in 360 degree feedback.

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