

Public Administration and Constitutional Affairs Committee

Oral evidence: The work of the Cabinet Office, HC 118

Tuesday 17 November 2020

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Watch the meeting

Members present: Mr William Wragg (Chair); Ronnie Cowan; Jackie Doyle-Price; Rachel Hopkins; Mr David Jones; Navendu Mishra; David Mundell; Tom Randall; Lloyd Russell-Moyle; Karin Smyth; John Stevenson.

Questions 459 -542

Witness

[I](#): Lord Sedwill KCMG, Former Cabinet Secretary and Head of the Home Civil Service.



Examination of witness

Witness: Lord Sedwill KCMG.

Q459 **Chair:** Good morning and welcome to the hybrid meeting of the Public Administration and Constitutional Affairs Committee. I am in a committee room in the Palace of Westminster with the small number of staff required to facilitate the meeting, suitably socially distanced from one another, of course. Our witness and colleagues are in their homes and offices across the UK.

Lord Sedwill was Cabinet Secretary until September of this year. We are very grateful to him for appearing in front of the Committee one more time, perhaps to offer his thoughts and reflections on his time in office. Good morning, Lord Sedwill.

Lord Sedwill: Good morning, Mr Chairman. It is good to be here with you and with colleagues, albeit remotely.

Q460 **Chair:** Thank you very much indeed. Given very recent events, do you have any reflections on what happened last week in terms of the staffing arrangements at No. 10 Downing Street?

Lord Sedwill: Not really. I have watched those events, as others have, largely through the media. These things happen from time to time. Advisers come and go in Government. Clearly the Prime Minister wants to try to ensure he has the right support around him as he navigates through the next phase, but as for the specifics and the stories I have seen in the press, I do not have any more insight than anyone else not directly involved.

Q461 **Chair:** You do not think it reflected any internal tensions that you might have been aware of as Cabinet Secretary?

Lord Sedwill: I think there are always tensions and frictions within Government, particularly when Governments are under pressure. We have seen that with Governments of different political complexions over the years. There are often stories around advisers, particularly high-profile advisers. I can think of several over the past couple of decades. When those stories crystallise and when those advisers leave Government, it is a big story. It is a big story within the Westminster and Whitehall village. I am not sure it is a big story in the rest of the country, but it is obviously a significant political story at the time. We have seen the same with other advisers in the past.

Q462 **Chair:** Thank you very much. You have said that you mutually agreed with the Prime Minister to leave the Cabinet Secretary role. At whose instigation was that?

Lord Sedwill: We had been discussing for some time when the appropriate moment was to separate the jobs of Cabinet Secretary and National Security Adviser. That was never envisaged to be a permanent arrangement, including under the last Prime Minister when she asked me



to take on the Cabinet Secretary's role in the tragic circumstances of Jeremy Heywood's fatal illness. It was always intended that it would not be a permanent arrangement, so we have been discussing it for some time. The timing, the instigation this summer that the time had probably come to do that was at my initiative, but it was part of an ongoing conversation with the Prime Minister. Just to be clear, because there has been some speculation about this, at no point did the Prime Minister ask me to step down. Indeed, on several occasions, knowing that my personal preference would have been to have stepped down and move on to another job in public service at some point, he had asked me to stay on and support him through the various key moments of his first year in office: Brexit, the election, the aftermath of the election and then of course that first acute phase of the Covid crisis.

Q463 Chair: You mentioned the National Security Adviser role as one to which you thought yourself well suited. Why did you not return to it after being Cabinet Secretary?

Lord Sedwill: I had always intended that I would step down or move on to a different job once the roles were separated. I think it would have been hard on my successor, as Cabinet Secretary, to have me haunting the attic, if you like, as the National Security Adviser. It would not have made sense for me to go back to doing that job, not least because I put in place arrangements to cover the capacity that I had not been able to bring to it when I was combining the jobs. It had always been my intention to move on, whether to another job in public service or out of Government, at the end of three decades once we separated the jobs. That was the basis on which the Prime Minister and I agreed that that moment had come.

Q464 Chair: I think you are on record in various places as saying that you were not sacked, that you had not resigned and that you had not been made redundant. Forgive me, but if that is the case, how did you cease to be Cabinet Secretary?

Lord Sedwill: It was voluntary, by agreement. I stepped down on a voluntary basis; it was by agreement. "It wasn't this, it wasn't that, it wasn't the other" was in answer to specific questions, but I left on voluntary exit terms by agreement with the Prime Minister.

Q465 Chair: With our leaving the European Union and the negotiation of a future trade deal reaching its climax and with the Covid pandemic ongoing, why did you agree that now—or rather, September—was the appropriate time for a new Cabinet Secretary?

Lord Sedwill: We felt that as that first acute phase of Covid was coming to a conclusion the Government needed to focus on the next phase, so the Prime Minister needed, in my view, a full-time Cabinet Secretary supporting him on the domestic agenda and a full-time National Security Adviser supporting him on the global agenda. That was always going to be the case at some point, but it seemed like that moment had come. In



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particular on the national security side, 2021 being a very big year for the UK internationally, we have the G7 presidency and we are chairing the COP summit. Obviously there is a new President in the United States and there was always going to be a refresh of the United States Administration. It was right to have someone supporting him, in particular on that side, who would be able to see that year through, and indeed in both jobs see the Prime Minister see through the remainder of the Parliament. The point would have come at some point in the next year or so anyway. We concluded that that was the right moment.

Q466 Chair: Thank you. These are quite frank questions, I appreciate that entirely, Lord Sedwill, but most Cabinet Secretaries have had experience of the Treasury or indeed the Cabinet Office and many have had experience of working in No. 10 as well. Do you think that your lacking that experience at the centre of Government proved a strength or a weakness in your role?

Lord Sedwill: I do not think it was either, but you are absolutely right, I did not have that same experience as my predecessors, except for the first Cabinet Secretary, Maurice Hankey, who was in effect the National Security Adviser of his day, because he was secretary of essentially the predecessor to the National Security Council. But you are quite right, I did not have that experience. Indeed, I therefore never aspired to become Cabinet Secretary. I did have experience that was shared with several of my predecessors. Several of them had run the Home Office, as I did, and traditionally that furnace is quite a good grounding for becoming Cabinet Secretary.

As you suggested in an earlier question, I always felt I was well equipped because of my experience and background for the National Security Adviser's job. I would never have expected to become Cabinet Secretary. It was only in, as I said, the tragic circumstances of Jeremy Heywood's illness that that happened.

I think it was a strength in some ways, having a different kind of background, particularly given the focus on the constitutional issues and Brexit and so on during the period that I was in office, since those were the things that dominated the Government. Having essentially an external perspective probably helped with some of that, but I also acknowledge that having less experience in domestic policy, less experience in the Treasury and No. 10 meant that I had a steep learning curve to climb. I had a year and a bit as National Security Adviser at the centre, but that was my only real exposure to the centre and therefore I had to familiarise myself more with it than some of my predecessors would have.

Q467 Chair: With that difference of experience, do you think there is a benefit to casting the net wider perhaps when recruiting Cabinet Secretaries in the future?



Lord Sedwill: The net for identifying my successor was cast around the entire Permanent Secretary cadre in Whitehall. Although much of Simon Case's experience is at the centre as Principal Private Secretary in No. 10 and other jobs at the centre, other potential candidates, including credible candidates for the job, had wider Whitehall experience and less experience at the centre. It was all considered at this time. I think it does make sense to cast the net across the leading talent and experience in the civil service. Then of course the Prime Minister of the day needs to decide which blend of characteristics and experience most suits his or her needs and most suits the needs of the Government of the day.

No one is ever going to have all the experience that one would ideally have. Jeremy Heywood had never run a Department either and had spent almost all of his career at the centre. No one is ever going to have every last element of experience you would ideally want in a Cabinet Secretary, just as is probably true of any very big job in Government. You have to compensate for the gaps by getting good people around you who have those skills. You have to compensate for some of the personal gaps by getting people around you with different attributes and qualities and of course you have to be a quick learner.

Q468 **Chair:** On reflection, was trying to be Cabinet Secretary through arguably one of the country's most challenging periods, alongside that of being National Security Adviser, too great a challenge?

Lord Sedwill: I do not think so. It is almost like asking me to write my own appraisal, so I am perhaps not the right person to ask that question. I think the model—

Q469 **Chair:** I am sure you are capable of self-reflection though.

Lord Sedwill: We have to do self-assessment these days as well and I think I have never assessed my own performance as any more than satisfactory. I think it was the right model for that particular period, because it was very important that all the different elements of Government were brought together.

We needed to have in the Brexit negotiations, for example, the skills and experience of the national security community as well as the economic and social policy communities. Although much of the media and parliamentary political focus has been on the free trade negotiations, just as important—and if you are of my background, arguably even more important, but definitely just as important—are the agreements on security co-operation and maintaining continuity in our security arrangements with our nearest neighbours so that we are not letting each other's criminals out just because we have not managed to work out how properly to exchange criminal records or we are failing to stop people at our border checks or in other means that we should.

Bringing that national security experience and insight into the Brexit process was important. Let's not forget a Prime Minister has to cover all



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of those responsibilities and a Cabinet Secretary and a National Security Adviser are there fundamentally to help the Prime Minister exercise his or her responsibilities effectively. For that period, it seemed to me it was right that my responsibilities essentially replicated those of the Prime Minister.

Chair: For the moment, Lord Sedwill, thank you from me. Over to Tom Randall, please.

Q470 **Tom Randall:** Thank you, Chair. Lord Sedwill, looking at civil service leadership, you were subject to sustained negative briefing. You wrote a letter defending Olly Robbins from negative briefing and Sir Philip Rutnam complained of a campaign of negative briefing against him that forced him to resign. Were you able to take any other measures to defend yourself and civil service colleagues against negative briefings from inside Government?

Lord Sedwill: The main point was to try to get Ministers, special advisers and indeed other officials, anyone inside Government, to realise that this was not just unpleasant for the individuals concerned. Of course, you have mentioned civil servants there, but as we have seen only in the last week—as the Chairman just mentioned, it included briefing against Ministers, briefing against special advisers—briefing against other leading personalities involved with or in Government is a regrettable feature of modern political life. It is detrimental to good governance whoever is at the wrong end of it.

Of course it is not a new phenomenon; it has happened in the past. I think it is new for the civil service to find itself in the firing line in quite such a personalised way. I cannot imagine any of my predecessors as Cabinet Secretary finding themselves being speculated about being fired, as I was, with a change of Prime Minister approaching and while the leadership election was still underway. I am afraid that is just a feature of the period that we are in.

But in the end, when it is anonymous, there is a limit to what one can do. One can try to ensure that Ministers, from the Prime Minister down, are sending a strong signal that they do not want this, that it is unacceptable and that it is damaging to the Administration. We did that, but if people are going to play that kind of game and do so anonymously, unless you can identify who it is—and of course journalists do not reveal their sources, quite rightly—then there is a limit to what one can do, other than to call it out.

Q471 **Tom Randall:** You were under two Prime Ministers. Did you feel that the Prime Ministers you worked for took the steps necessary to support you in doing that?

Lord Sedwill: Both of them, in their different ways, because they obviously have different communication styles, were vocal in their support for the civil service and admiring of the civil service. Indeed, other Ministers, including Ministers for the civil service—the Chancellor of



the Duchy of Lancaster in front of this Committee only recently—have been strongly supportive and admiring of the qualities of the civil service that supports them. They have sent clear direction through Government that this kind of briefing is damaging and that they want it to stop, not, as I said, that particularly only focused on the civil service, but when it is attacking Ministers and special advisers themselves and others as well. But there is a lack of discipline, I am afraid, and people do indulge themselves. It is going to take a shift in the consensus about the way the politics operates in order for it to cease and for us to return to a healthier means of operating.

Q472 **Tom Randall:** As you say, it is almost unheard of, the speculation about the sacking of the Cabinet Secretary. Do you think that has irreversibly damaged trust in the system? What do think the consequences are for the Government and UK based on that previous behaviour?

Lord Sedwill: I do not think anything is irreversible, but it has damaged trust, of course. It does damage trust, whoever it is against. Whether it is civil servants, officials and Ministers, experts and Ministers, special advisers and Ministers, Ministers with each other, if they do not feel that they can be completely candid in dealing with some of the very tough issues that Governments face and cannot operate in circumstances where they can trust the context and the environment within which they are operating, then people will hold back.

They will not be truthful; they will not necessarily give the blunt and candid advice that they should. They will not necessarily reveal their concerns. That must mean that not only trust is damaged but decision-making is poorer. Trust and confidence is essential to good governance and leaks, hostile briefings and all the rest of it inevitably undermine that. Nothing is irreversible, but it would be good if it were reversed.

Chair: A supplementary from David Jones, please.

Q473 **Mr David Jones:** Thank you, Chairman. Lord Sedwill, people brief against one another for a variety of reasons. Why do you think you were briefed against?

Lord Sedwill: I do not know entirely. I suspect it was a variety of reasons. Part of this I think is just the context in which we were operating. We referred earlier to the briefing against Olly Robbins, for example. You will recall he was asked, quite unusually, in one Committee hearing, about essentially whether his heart was in it in negotiating the Brexit outcome. That is not an appropriate question to ask a civil servant because their heart is in supporting the programme of the Government of the day and the Government of the day were negotiating Brexit. But that question of whether there was somehow or other a deep resistance within the establishment, within the civil service somehow, within the system to that agenda has become part of the political

I suspect some of the attacks on me came as a result of that. I have been accused of being a Brexiteer fellow traveller and at the heart of the



Remainiac resistance and various points in between. I think it is a feature of when politics goes into these questions of essentially national identity and we saw something similar around the 2014 referendum campaign in Scotland within the Scottish political establishment. The traditional view that individuals, civil servants will simply support the Government of the day, that we put aside whatever our own views might be, those things come into question when politics is essentially focused on these questions of identity. That I suspect is partly why this arose and partly why I was briefed against.

Q474 **Mr David Jones:** You think it was essentially to do with Brexit rather than something more personal?

Lord Sedwill: There may well have been some personal motives in some of it, who knows? Because the briefing is anonymous, you never know. As you know, there are always jealousies and rivalries and frictions and so on within any big institution. That is not unique to this Government. I do not mean Brexit itself, I just mean the political climate around an issue that is that existential -Brexit for the United Kingdom—but I know colleagues who feel they faced similar kinds of pressures around the 2014 referendum. You see the same in other countries—look at the United States right now—that it changes the climate and it changes essentially the acceptance that anyone can be neutral.

If you think about it, perhaps the worst example of this—I referred to this before—was that headline describing a group of very senior judges as enemies of people when they made a particular ruling. The idea that institutions can be neutral on a question that is that existential is inevitably challenged. That is just a feature of existential questions, questions of national identity of that kind, notwithstanding the fact that those institutions absolutely maintain their neutrality and impartiality.

Q475 **Navendu Mishra:** Lord Sedwill, my question is about the civil service. Many, including some current Ministers, have publicly queried not only civil service competence but also its integrity. How widespread was this and what, if any, measures did you take to placate Ministers, who seemed to distrust their civil servants' motives?

Lord Sedwill: I have not heard any Minister, Mr Mishra, question civil service integrity or indeed values, certainly not explicitly, certainly not on the record, but I have never even heard it in a private conversation. Of course, there are often challenges around the effectiveness of the civil service and other institutions. All Permanent Secretaries find themselves sitting in front of the Public Accounts Committee often being challenged around whether programmes are delivering on time and on budget and so on, but in general—and of course there are frustrations from time to time—every Minister I have encountered, from Governments of all different political complexions, are extremely impressed with the support they get from the civil service and indeed the wider public service and our effort to deliver their agenda and programmes. Of course there are



occasions when it does not work and it is quite right that people are held accountable and Ministers are challenging when that is the case.

Q476 **Navendu Mishra:** On that point, when the Administration changed from former Prime Minister May to the current Prime Minister, did you find that there was a change in private briefings or even publicly in Ministers making statements against civil servants or Departments? Would it be fair to say perhaps it increased or the workload on your table got higher?

Lord Sedwill: The workload was pretty intense through the entire period, sometimes because of the Government's own agenda and in particular in that phase up to the election with the parliamentary challenges both Prime Ministers and Governments were facing, but of course under Theresa May we also had some of the very big national security incidents, which also dominated for a period.

Regarding the political atmosphere and the relationship between Ministers and the civil service, some of the most unpleasant briefings came in the previous Administration, not from within, but during that phase, for example the criticism of Olly Robbins that we referred to earlier. One Permanent Secretary was sent a bullet through the post. Some of the attacks on me and on others came during that period as well. It was a very contentious phase right the way through. I do not see that the change of Administration particularly altered that.

Of course there have been periods in the past where Governments coming in have questioned about whether the civil service has been so four-square in trying to implement the agenda of their predecessors, and they have asked whether it can pivot to implement their agenda. Of course, 1979 and 1997 are two obvious examples of that. Although it is a Government of the same complexion, the Government with a different approach on Brexit coming in were inevitably asking the same kind of question. I think the civil service demonstrated it could and did pivot and did its level best—we, not it—to support the policies of the Governments that we served, both Prime Ministers that I have served as Cabinet Secretary but, frankly, all seven Prime Ministers for whom I have worked.

Navendu Mishra: If the Chair would allow me, a last question from me.

Chair: Yes, sure.

Q477 **Navendu Mishra:** I think all Committee members would appreciate that to be a civil servant at the level you operated on is quite challenging, but particularly challenging over the last four and a half, five years. Were you ever put in a position where you had to perhaps speak to a senior Minister, a member of Cabinet, privately about some of the briefings to the civil service or about the kind of public statements they might have made around competence or integrity of civil servants in their Department or perhaps the wider civil service?

Lord Sedwill: I cannot think of an occasion when I have needed to speak about public statements by Ministers in the way in which you



suggest, but of course I have had many very candid conversations with a range of Ministers over the years, including the Prime Ministers I have worked for, but others too, including, for example, when I felt that even in private—so it has not necessarily come out into the public domain—that perhaps an official or an expert has come under unfair criticism. That is the kind of private dialogue that any Permanent Secretary, any Cabinet Secretary would expect to have with them.

Of course, let's be honest, we are not angels and saints ourselves. Colleagues on occasion have said to me, "I think you were a bit rough on that individual" in a particularly difficult meeting. I do not think one should characterise this as Ministers/the officials. People operating under pressure need to be cognisant of their impact on others, particularly the most senior people. Obviously Ministers have a vital role to play in that, but anyone in a position of authority needs to be cognisant of their impact on others. Part of our job is to make sure they are cognisant of that, that they manage their behaviour accordingly and that we all do so as well. I have had as many conversations of that kind with other civil servants about their behaviour, and on occasion even my own, as I have with Ministers.

Q478 Mr David Jones: Over the past few months we have seen the departure of a number of senior officials of Permanent Secretary grade. Why is this happening? Is this a sign of dysfunction within the upper reaches of the civil service or of Government? If not, what would you say is the cause?

Lord Sedwill: In a sense, there is slightly less to this than meets the eye. There are perhaps two or three factors. I know Simon Case discussed this with you when he was before you, so I will not repeat in detail a lot of what he said. It is worth keeping in mind that we changed the system in late 2014 for Permanent Secretaries to be essentially on fixed five-year tenure contracts as Permanent Secretaries, which would have to be renewed at the end of that five years, the presumption being that if renewed—but there being no presumption that it would be—it would be for a shorter extension.

That was not the case before. The assumption before was unless moved to another job, a Permanent Secretary would serve through to retirement. There are instances, not many. I think Nick Macpherson, for example, at the Treasury did a decade in that job. That is rare, but not unique. You would expect, in a sense, given the first tranche of new Permanent Secretaries appointed late 2014 into 2015 hitting that five-year point, that being the first time that had happened, that we would see the first rotation of those. That is one factor.

Although there have been some high-profile cases in the last few months, many of the Permanent Secretaries who moved on essentially moved on in that way. Some have gone on to other jobs in the civil service; some have taken early retirement on the same basis as I did. There have of course been one or two high-profile examples in Education, the Treasury Solicitor, and Philip Rutnam at the Home Office, but those were very



specific individual decisions. I do not myself see a particular pattern in that. I think we have to assume that Permanent Secretaries will generally do five years. Some might be extended for longer than that. Indeed, several have been. I think Simon Case has written to you with some examples of those who have, but we should expect that five years is now the norm, rather than going all the way through to retirement.

Q479 Mr David Jones: Do you see any negative consequences to appointing Permanent Secretaries to posts they know will not be extended or renewed or are unlikely to be extended or renewed and after which there is little prospect of a further comparable move within the civil service?

Lord Sedwill: Of course some have moved on to other jobs and we move people into bigger jobs within the Permanent Secretary cadre. Alex Chisholm, for example, he must have been pretty close to the five-year point at BEIS when he became Chief Operating Officer and Permanent Secretary at the Cabinet Office. Stephen Lovegrove, who is at Defence, one of the biggest Departments, was at DECC, the former Department of Energy and Climate Change beforehand. People do move on to other jobs and of course on occasion people move from Government into, for example, ambassadorial roles and those possibilities exist as well.

There are upsides and downsides to the five-year tenure. That was explicit when Francis Maude, who was really the architect of that reform when he was a Minister in the Cabinet Office, thought it through at the time. The downside is that around the five-year point, inevitably there is pressure on the Permanent Secretary: do they calibrate their behaviour and their advice to their Secretary of State because that point is approaching and I have not seen any evidence of that, but there is clearly at least a theoretical risk of that.

The benefit of it is that it means that people know what they are aiming for. As I did when I was at the Home Office—in my case, it was four and a half years before I was moved, but I was pretty close to the five-year point—you can think of essentially a five-year programme, obviously supporting Ministers, but with whatever other institutional reforms you want to see through. You can think of your leadership on a cycle, which has benefits as well.

Q480 Mr David Jones: You mentioned the point about Permanent Secretaries toward the end of their period of tenure possibly calibrating, I think was the expression you used, their behaviour accordingly. Is there a risk that they might become distracted, for example, considering what their next career move is going to be or if they are coming up towards retirement that they may even become demob-happy?

Lord Sedwill: I do not think I have seen that, but of course I suppose that is true of anyone in any job. At the risk of sounding slightly cheeky, it is not completely unknown for Ministers approaching a general election to experience some of those emotions as well. I think that is always the case. There is always a question of whether people can discipline



themselves to spring through the finishing line of their jobs or whether, as they come around the last bend, they coast in a bit. I have always tried to sprint through the finishing line. That is true of any job. I do not think it is a specific feature of this particular system.

Q481 Rachel Hopkins: The Prime Minister told the Liaison Committee that he thinks he should be able to sack Permanent Secretaries. Has he tried and did you try to correct him?

Lord Sedwill: I think all Prime Ministers, although they might express it in different ways, have all had that desire to some extent. I think most recognise, however, that there are very significant downsides to that being the case as well, in that the virtues of the Permanent Civil Service, being able to support impartially and with equal loyalty Governments of different complexions, is something this country has rightly prized. But of course you have to retain the confidence of the Ministers you work for, otherwise—Government is a tough business—it becomes extremely difficult. He said so, I think, in an interview.

In the case of Jonathan Slater in Education, he concluded the Prime Minister no longer had the confidence in him and wanted to make a change in the official leadership and therefore he agreed to step down. You do have to retain the confidence of Ministers, but I think that is very different to allowing a Prime Minister to change Permanent Secretaries in the way that they can reshuffle a Cabinet. I think that would be a dangerous step.

Q482 Rachel Hopkins: You mentioned Jonathan Slater there. I was quite interested that you talked about confidence and it was put out there that it was just that new leadership was required. Given lots of the issues that happened within the Education Department, particularly around the exams, which we all know about, was it appropriate that Jonathan Slater was sacked, but the Secretary of State remained in his post?

Lord Sedwill: I do not think it is right for me to comment on what should happen to a Secretary of State. In the end, that is for Prime Ministers to decide and they make those changes with Cabinet reshuffles and so on. It was very unusual and Jonathan has spoken about this himself in his Civil Service World interview, which I think was published just in the last week or so. In a way, probably the best thing for me to do is simply reflect what he said himself, which is that he recognised that the Prime Minister had decided there was a need for new official leadership and decided therefore it was appropriate for him to step aside. It would probably be unfair of me to say anything that Jonathan has not said himself.

Q483 Rachel Hopkins: Earlier you said—and I agree with you—that all senior leaders, whether officials or elected politicians, must manage their behaviour and recognise the impact on others. When was the report into accusations of bullying by the Home Secretary submitted to the Prime Minister?



Lord Sedwill: I could not tell you exactly, but the Cabinet Office, the Propriety and Ethics Team under me, were asked to establish the facts. The Prime Minister consults his Independent Adviser on Ministers' Interests, Alex Allan, and that process was certainly underway. It had not concluded by the time I left, but it was certainly underway. I think Alex had been in discussion with the Prime Minister. I do not know the exact date of when that part of the process was submitted to the PM, but it was underway and it is with him now, as I understand it.

Q484 **Rachel Hopkins:** Yes, so it was a number of months at a minimum, wasn't it?

Lord Sedwill: Yes. Of course the process itself was initiated in the spring, so I think again Simon Case addressed it. I genuinely do not know where things stand since I left, but the process was underway. The process is to establish the facts, have Alex Allan consider them because the Prime Minister wants his advice, then the Prime Minister needs to reflect and make a decision. That, as I understand it, is still in train.

Q485 **Rachel Hopkins:** Lord Evans, Chair of the Committee on Standards in Public Life, said that the report should be made public. Do you agree with that?

Lord Sedwill: I think it depends on exactly how much of it is made public. Often in circumstances like this where one is talking about conduct, people are interviewed on the basis they are being interviewed in confidence. It is often the case that they do not want their remarks to be completely on the record, so it is a decision in the end for the PM whether he publishes anything. But they would have to be very careful, if there were any publication, to respect the basis on which individuals interviewed in the process had submitted their evidence.

Obviously what you do not want to do in any case that is about conduct, personal conduct, behaviours and so on, is for people to feel nervous about being able to be candid with the investigators. If they are speaking in confidence, the confidence needs to be respected. That does not mean you cannot publish or release anything, but it does mean that you have to be careful about it.

Q486 **Rachel Hopkins:** Is it appropriate or effective for the Prime Minister to be the arbiter of the Ministerial Code?

Lord Sedwill: That is a big question. You are taking me out of evidence as an expert into views about what is appropriate. Of course I guess now I am free of Government, I am allowed to have views.

Look, I think there genuinely are arguments on both sides about this, there really are. In the end, Ministers are officeholders and they hold that office essentially as long as they retain the confidence of the Prime Minister. If you change that, then you are making a very big change to the way that our Governments are put together. Prime Ministers need to be able to make changes in their Governments without necessarily those



changes being perceived to be because they have lost confidence in someone or they have underperformed or whatever. They just need to be able to make changes.

Personally, I think changes happen a bit too often and the period when Ministers stayed in place for quite a long period during the coalition Government is not a bad example. That was partly because of the political circumstances, but it did mean Ministers got to know their jobs and their Departments well. Fewer reshuffles, in my view, would be a good thing, but in the end Prime Ministers have to be able to make those changes.

I do think there is a strong case for more transparency and independent scrutiny of ministerial behaviour or certainly if there are accusations of Ministers falling below the standards required in the Ministerial Code. In some cases, that would help a Prime Minister because it would mean it would not be a political decision as to whether to take action against a Minister whose behaviour might have fallen short, but it provides any Prime Minister with some independent process to point to. I think in the end, not necessarily the ultimate arbiter of the standards but the ultimate arbiter of whether a particular incident merits dismissal, for example, at the most extreme end or some other kind of intervention has to be—as it is in the civil service—with the line management process. In politics, the line management is the Prime Minister.

I do not think it should be binary between let off or sacked, just as it would not be in any other big institution, but that there is a range of interventions that would be appropriate in most cases, depending on the seriousness of the issue concerned. I think interventions need to be available to a Prime Minister as well, just as they were available to me or indeed to anyone else running a big and complex organisation. It is different because of the nature of politics and the nature of the ministerial appointment. I think more independence would help and a wider range of interventions would help, but in the end, as the line manager of Ministers, the Prime Minister does have to bear the responsibility.

Q487 Rachel Hopkins: I hear what you say, but if the Cabinet Secretary, for example, reports such a significant breach of the Ministerial Code, do you think a Prime Minister could just avoid taking any action indefinitely?

Lord Sedwill: Again, that partly depends on the other checks and balances in the system. None of this is down to just one thing and any Prime Minister who sought to do so would no doubt come under considerable scrutiny and criticism in Parliament. In the end, of course the ultimate accountability of a Prime Minister and a Government is to Parliament. Parliament needs to play its role in that as well.

Q488 Rachel Hopkins: You mention that as maybe a mechanism that shines a spotlight on it, but are there any other mechanisms that could exist to prevent inaction or is it literally in the hands of a Prime Minister?



Lord Sedwill: At the moment it is in the hands of the Prime Minister but I think you can make some adjustments to that. That would in some ways, in my view, help Prime Ministers when dealing with this kind of thing because it is politically difficult to do these things sometimes. But we have seen, for political reasons rather than conduct reasons, in the last Parliament, when the Government did not have a majority, parliamentary sanctions for different reasons applied to individual Ministers when Parliament was dissatisfied with the way the Government had conducted themselves—a release of information and that kind of thing in those cases. There is no reason why in theory Parliament could not apply those measures to Ministers whose personal, as opposed to political, behaviour was falling short.

Ministers are democratically elected; you all are. You have the mandate; we do not. You cannot in the end completely break that link between ministerial behaviour, performance, conduct and Ministers' accountability to Parliament. Parliament has a role to play in this. It is quite a delicate balance. I do not have a simple answer to it, but I think strengthening some of those other checks and balances would probably be beneficial.

Q489 **Karin Smyth:** I want to take you back to the Jonathan Slater question that my colleague asked. I appreciate you do not want to put more words into his mouth, but I am interested: when the civil servant is sacked in that instance and the Minister remains, what does that do to the ability of civil servants to continue to give the advice they think is appropriate and the actions that they think are appropriate?

Lord Sedwill: Look, it very much depends on the circumstances at the time. Although we are focusing on this particular case, it has happened before. I inherited the Home Office after my predecessor had left early and there had been a serious deterioration in the confidence between the Permanent Secretary and the Home Secretary at that time. Other civil servants, particularly in top jobs in various areas, have moved on as well. One can think of examples of the prison service and elsewhere. It is not unique and it is important not to think of it that way.

It does depend on the circumstances. There has been no suggestion in any of this, in any of the cases I have referred to, that someone was asked to move on and there was a need for new leadership because of the candour of the advice that they were giving or that the duty to serve impartially and neutrally. It was more a question more of delivery. I think that is an important distinction. As we have seen in Education, but elsewhere too, I have been asked, "Is this politicising the civil service?" The people who have been asked to step in and take over, whether on a temporary or permanent basis, are career civil servants and they have in their DNA all the same values that we have been discussing this morning and will give their advice with the same fearless candour that one would expect their predecessors to have done.

Q490 **Tom Randall:** Members of the Government have been sometimes publicly and persistently critical of the civil servants' culture and



capability. I am thinking of comments that Dominic Cummings is known to have made about the civil service or criticisms that Michael Gove made in his Ditchley speech. Do you recognise those criticisms?

Lord Sedwill: Yes. As I set out in my lecture shortly after Michael Gove's Ditchley speech, when I spoke at the Blavatnik School, I would share some of those criticisms. There are others that I would make that they have not referred to. What is striking, however, is that the critique—rather than a criticism, if you like—is structural and that will be true of some of the things I said in my Blavatnik lecture as well. At no point has anyone suggested that the quality of the individuals, the quality of the civil servants themselves, the officials who are operating in the civil service, is anything other than first rate. Indeed, Michael Gove, the Prime Minister and others have gone out of their way to pay tribute to that.

The issues are structural questions. I think I joked in one interview that politicians talk about civil service reform and civil servants talk about Government reform, but are Government, Whitehall and Westminster, too centralised? Are Government too federated at that centre? Do we need a better connection outside London to the rest of the United Kingdom, more interchange with civil servants in the devolved Administrations, more people with experience in the central civil service having operated in local government, as several top civil servants have, including the one we were just talking about? The answer to all of those things is, in my view, yes. That is not about the quality of the individuals, it is about some of the structural issues within Government of which the civil service is a part.

Q491 **Tom Randall:** So you would probably agree with some of the proposed solutions, but not all of them.

Lord Sedwill: As I have said before, I would use my own language, but the avenue or the initiative that Dominic Cummings, for example, made in that blog, that we need to bring more people with different skills, including different kinds of cognitive backgrounds, into public service to bring those skills and attributes to Government, people with different experience, people with different backgrounds, I am for. I describe it differently. He uses vivid language. I describe it differently, but the underlying point about bringing in different kinds of talent to those who would naturally think of a career in the public or the civil service I think is a good thing.

Michael Gove's Ditchley speech talked about essentially getting more of Whitehall out of London. Often when people talk about civil service reform, they really mean Whitehall. Whitehall is about 10% of the civil service, by the way, and the civil service is only about 10% of the wider public service. We are talking about a tiny proportion of the total public service. In my view, it is clear that the British Government are highly centralised compared to most of our international comparators. There is a lesson to change, at least at a policy level, with people with backgrounds



in the devolved Administrations, in local government and so on, although that has improved, but there is less of that.

As someone who has essentially grown up and lived outside London—and I am a countryman, as I have often said—I often find myself reminding people of some of the urban metropolitan preconceptions in the way that people think compared to people in rural areas and with a different background. All of those things I think are correct. We need to diversify Government and diversify the civil service in the ways that they have set out. We need to continue the effort to professionalise, as we have over the past decade in terms of better programme management, better financial management, better HR management, giving people professional qualifications, bringing in people who have run HR in a big bank or some other big institution as well. All of that effort needs to continue.

Q492 Mr David Jones: Lord Sedwill, you were Cabinet Secretary during the Brexit preparations and also during the initial stages of the Covid response. On reflection, how do you think the civil service response to these two enormous challenges could have been improved, if at all? Do you believe that there was a capability issue, capability shortcomings, which proved a constraint on the response to them?

Lord Sedwill: I think the two examples, Mr Jones, are somewhat different. In a sense, there is a multi-year inquiry probably in the answer to your question, but I have certainly acknowledged, and I repeat, that I think one of the big questions that the inquiry into Covid will have to ask is did Government—not just the civil service; this is mostly the wider public service, the healthcare system and indeed the social care system—have the capabilities they needed in order to deal with a pandemic as we came into it, in particular, the contingent capabilities, because of course if this had been a different disease some of the responses would have been the same, some would have been different. Those are choices that were made over many years about prioritising contingent capability against a significant but unknown risk versus resources devoted to current service provision. That is largely not a civil service question, but a wider public service question because a lot of that of course is in the health and care systems themselves.

With Brexit, of course a lot of this came down to the no-deal preparations and how well Government and indeed the country as a whole were prepared for that. We were not in the matter of policy, Government policy, permitted to prepare for Brexit before the referendum result. That was a decision that Government took at that time, so there were no preparations.

Q493 Mr David Jones: Forgive me for interrupting, but presumably you were party to those discussions as to whether or not preparation should be made for a leave vote.



Lord Sedwill: I was at the Home Office at the time, so I was not at the centre of them, but of course I was well aware that that decision was taken, not least because running the Home Office and running the border, I needed clear guidance on what it was I was permitted to prepare for. We did make some preparations at that time, not least because we were aware, given the possibility of a leave vote, that the first people who would be asked on the morning after the referendum, "What happened? What does it mean?" would probably be our officers at the border as people were getting off overnight flights so we made some preparations, but Government as a whole were not, as a matter of policy—and that was a ministerial decision—making preparations for a leave vote. Preparedness started after the referendum.

Q494 **Mr David Jones:** Forgive me interrupting again, but this is an interesting point. It is routinely said of course that advisers advise, Ministers decide, but presumably as advisers, the senior civil service would have offered their views as to whether or not it would be wise to make preparations for a leave vote.

Lord Sedwill: Sorry, Mr Jones, you broke up after you said "prepare for a leave vote".

Mr David Jones: I am so sorry, someone was inconsiderate enough to call me on my phone. I was asking whether senior officials gave advice to the Government as to the desirability of preparing for a leave vote.

Lord Sedwill: As I recall—but again, as I said, I was not at the centre of this, so I was only dealing with the guidance I was given from the centre when I was running the Home Office—I would have expected that officials would have given Ministers advice on that, and including exposing the pros and cons of the different courses of action and then of course Ministers made the decision. But yes, I would have expected them to have set out the pros of that, of course.

Q495 **Mr David Jones:** I was also interested in the issue of capability and whether civil service capability proved a constraint on the Government's response both to Brexit and to Covid. I appreciate that they are entirely different issues, but perhaps you could comment on that.

Lord Sedwill: Yes, they are, but I think you make a valid point because of course they are linked. Some of the capability we developed as part of the no-deal preparations included, for example, mapping supply chains in a much more sophisticated way than we had done before in order to enable us to make better preparations for a no-deal Brexit, had that happened. We were able to draw upon those preparations on supply chains, for example, the mapping of supply chains, as we dealt with Covid and applied some of those techniques to understand, for example, some of the bottlenecks in the supply chains for equipment and other supplies we needed for Covid.

So the capability developed over the period and we were probably in better shape to respond to Covid than we would have been had we not



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done the no-deal preparations. The other thing is we trained a lot of people in contingency planning because of no-deal planning and those people were then able to apply those skills to dealing with the Covid response.

I know there have been lots of criticisms of the way that Government have handled Covid. As I have said on one or two other occasions, there is a lot we should be very proud of in the speed and effectiveness of our response. Many of the criticisms are criticisms that other countries have faced too. There was a worldwide shortage of PPE and this country probably in the end got more than our fair share, but there was a worldwide shortage of it, for example.

The pivot to getting the furlough programme and the other economic support schemes were devised at breakneck pace and implemented at breakneck pace, and very effectively. We ensured that no one who needed medical treatment in this country failed to get what they needed, whereas other European countries had people without ventilators that needed them and so on. So there is much to be proud of. Of course we need to learn the lessons and ask whether we got the big decisions right and were there capabilities that we should have had in place.

Q496 **Mr David Jones:** No doubt you have already started that process of reflection to consider what lessons may be learnt. What shortcomings, if any, have you identified at this early stage?

Lord Sedwill: There has not been a formal lessons-learnt process, or at least there was not by the time I left Government, but we were constantly trying to learn as we were navigating our way through this. Clearly one of the things that we understood was that there are vulnerabilities, for example, in supply chains. We have certain dependencies that we want to reduce. The announcement just the other day of these new labs to improve our diagnostic capability is in effect a response to the absence of that capability as we came into the pandemic and a perception that that is something we need to have at a national level.

Q497 **Mr David Jones:** To what extent would you say that the pandemic has impacted on preparations for the end of the Brexit transition period?

Lord Sedwill: Inevitably it meant that there has been left top-level focus on that, but most of those preparations were in place anyway. The key point here is that it is not about Government preparedness, it is about national preparedness. If you are a business or a citizen who has been wrestling with the consequences of Covid and the lockdown, you have probably had less bandwidth to be able to pay attention to the requirement of preparing for the end of the transition period.

Of course, as you know, Mr Jones, from operating within DexEU, whatever kind of free-trade agreement or free-trade arrangement with the EU that we end up with—let's hope there is a deal, but even if there is



not—there are significant changes in the customs and other regulatory procedures either way, whether it is, to caricature it, Canada or Australia. Probably businesses have had less bandwidth to apply to that because they have been dealing with the acute consequences of Covid. That, I suspect, is just a capacity issue. It is more of a national question than a governmental question. The Government have continued to be able to prepare for the end of the transition period because we have the capacity to do so.

Q498 Mr David Jones: The transition period clearly is going to have to come to an end at some stage, but would there have been any benefit in seeking an extension of the transition period?

Lord Sedwill: Of course, it is very much a political judgment.

Mr David Jones: In operational terms.

Lord Sedwill: You could always make a case for more time, more resources, more bandwidth and so on, but you have to weigh those things up against the costs and consequences as well. Postponing the end of the transition period would almost certainly have meant postponing the deadline for the negotiations because inevitably if the transition period were extended, then in theory negotiations can continue and it would have led to further uncertainty. Ministers have to weight these things up. My own view was that once the legislation was passed and it was clear there was going to be no extension once the legislation went through in the spring, I and the rest of the civil service simply took that as a fact and we did not expect to see that changed.

Q499 Karin Smyth: Can I take you back, Lord Sedwill, to the pandemic and some of the questions that Mr Jones asked? In one of those replies you rightly said that most of the preparation is in the Health and Social Care Department and outwith the Cabinet Office, but of course it is the role of the Cabinet Office to have that wider governmental view and understand preparedness. When Mr Gove came to talk to us, he agreed that perhaps the siting of the local and the national was not as good as it should have been. Do you agree with that? Do you think that the Cabinet Office did not have a grip on the local resilience forums and planning and the capabilities at a regional and local level to cope with the pandemic?

Lord Sedwill: I think the point he was making is less about the Cabinet Office and more about Government. The body responsible for running the entire contingencies system is the Civil Contingencies Secretariat that sits within the Cabinet Office, but the individual strategic-level risks and managing those and preparing for them are owned by Departments. Otherwise the Cabinet Office would have to be significantly larger and it would be simply outwith our scope.

Preparedness for pandemic disease is the responsibility of DHSE and the Secretary of State and DHSE, just as planning for floods is the responsibility of DEFRA and other environmental events of that kind. These come together in local resilience fora. CCS ran the big exercise,



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Exercise Cygnus, back in 2016. One of the big questions will be did we have the capabilities in particularly the health and care system to respond to the pandemic. I do not think there was any lack of understanding of the ability, once the pandemic was hitting, to respond to it. The question is whether we had the capabilities in place to put us in the best possible position to respond effectively. That is obviously one of the questions the inquiry will have to ask. But the local resilience fora in my view responded pretty well. That is that line of sight that the Civil Contingencies Secretariat has.

Q500 **Karin Smyth:** You refer to Cygnus but of course the original warning about a new virus such as this came must earlier than Cygnus in 2016. That was flagged up after the last flu pandemic and in the documents around 2011 that led to Cygnus and the lessons from Cygnus were shared. Why did not the Government across the piece, and the Cabinet Office as the lead Department in that, act on those and make sure, if it is down to the Health and Social Care Department, that there was that capability?

Lord Sedwill: All of the recommendations of Cygnus—there were around two dozen recommendations—were accepted and were being implemented so I do not think it is right to say that the Government did not take action on those. Those recommendations were being implemented. That, for example, is why every Department had business continuity plans that enabled Departments to operate with 20% of our staff off sick. It is why we were able to pivot from having 90% or 95% of staff in the office to 90% or 95% of the staff working from home in a matter of days, and continue to run Universal Credit and the tax system and so on.

It is why we had in place plans, fortunately that did not need to be used, for example to deal with a much higher level, an order of magnitude higher level, of potential fatalities, which could have exceeded the mortuary capacity of the health system. Fortunately those have not been necessary but had this been a flu with a higher level of fatalities, they might have been. So there were various contingencies that we did have in place that we have not had to use.

There were some that were not possible to be foreseen. If this was a different disease, the requirement would not have been for ventilators. The policy response would not have been a lockdown, it would have been something else. You cannot plan for everything and of course we did not know the exact features of Covid 19 until we were some period into it.

Obviously those are questions the inquiry will have to ask, but in terms of capability, for example, we have, per head of population, significantly fewer critical care beds than most other European countries. It is about half of France and Italy and so and about a quarter of the number that Germany has. Some of that is because of the structure of our health service. It is different. Our GP system and so on provides different routes in, but the per head of population number of critical care beds is lower in



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this country than it is in others. That is just a straightforward resource decision that has been taken over many years in Governments of different complexions.

Will one of the conclusions of the inquiry be that we need more critical care capacity even if that is not used much of the time unless there is a pandemic of this kind, or was it right not to devote resources to that and to devote resources, which are always scarce, to other priorities within health and care or indeed other Government priorities, while having the ability to set up the Nightingale hospitals at very short notice in order to respond? You can make that argument either way. You can say you either have the latent capacity or you have a responsive capability.

The Nightingale hospitals were again a success story, underused, fortunately, as it turned out, but my god we were glad of knowing we had that capacity as we went into the peak of the pandemic. These are judgments that have to be made within each system. We should not, as I said earlier, disregard how much of the response was effective and how much of it learnt the lessons of Exercise Cygnus and indeed of the experience of other countries. There are clearly some lessons, particularly from East Asia, particularly about track, trace, testing at that kind of level and so on that we will need to learn.

Q501 Karin Smyth: Thank you. I would agree that the local resilience forums and that tried and tested work under the Civil Contingencies Act, which this Committee has also looked at, worked well, and the DWP transfer. What seems to not work well is where the national Government acted outwith those established forums. Could you comment on whether you think if more advice had been taken from the local resilience forums through that expertise, through the civil contingency, that planning, and fed that upwards, that some of the decisions that were made nationally would have been more efficacious?

Lord Sedwill: To be honest, I just do not know. I am instinctively a localist and always have been, not least from my experience of seeing other Governments around the world. My natural bias is always to have responsibility but also capability as much at the local level, because circumstances do vary so widely around the country. Those again are big structural questions.

I do not think there was any lack of data coming in from the local level but in the end Ministers at the centre had to make big decisions that essentially were—as we have seen since I have left Government with the second lockdown—do you retain a differentiated approach across the country or indeed across different cohorts of the population or do you go for national comprehensive lockdowns. Those are the big decisions and I do not think here was any lack of data or evidence to inform those decisions. In the end they are just very tough political judgments.

Q502 Karin Smyth: Along similar lines, you have previously questioned the Government's attention to contingency planning such as this. Why do you



think that is the case?

Lord Sedwill: Government are a high-pressure environment and inevitably it is always challenging to devote resources. In some senses the most scarce resource is ministerial time and headspace to contingency versus current pressures.

We have managed to run exercises. A couple of years ago—I cannot remember exactly when—we were running a major counterterrorist exercise at the same time as responding to a terrorist incident. It might be more than a couple of years now but within the last few years. We decided that we would maintain the exercise because we realised that there was no guarantee you would only be facing one kind of terrorism incident at a time. We wanted to do that to test the capacity of the system to do two things at once.

Ministers did devote themselves, for example, to participate in the exercise Cobras as well as participating in the real operation Cobras, as did the police and so on as well. So we do it. I am sure that the purist in me would always want to do more of it but generally the system is well understood. The fact that we have a Cobra system that applies many of the same techniques to a major national security incident, to a major environmental incident, to a major health incident, means that although the decisions are very different and often the personnel around the table are different, the procedures are familiar. It means that Ministers in particular know the kind of environment they are going into and understand how it will operate. There are real benefits to that.

Q503 **Karin Smyth:** Thank you. You said we have not had a formal lessons-learnt point yet but that the civil service is learning lessons as it goes. One of the things we are interested in is the type of inquiry that may result from some of this. Do you think there are advantages in having an inquiry and looking at what has worked and what has not worked as we go through this pandemic, given that we are likely to be in it for some time?

Lord Sedwill: Yes, there will need to be an inquiry. If it is a public inquiry or some very formal process of that kind, I do not think that should preclude seeking to learn lessons as we go. There are two or three big questions that the inquiry will have to ask. One is did we take the right decisions at the right time. Of course, that will be with the benefit of hindsight; we need to learn with the benefit of hindsight. Was the lockdown imposed at the right time, was the lockdown the right thing to do, the first or the second, or were the alternatives of more targeted action at different areas, different cohorts of the population properly explored? How did that operate across the four nations of the UK, given there was some differentiation in the approach? Were the communications coherent?

Second is the issue that we have addressed today, which is did we have the right capabilities going into this pandemic, including the capabilities



to respond and, as necessary, improvise, because the nature of the disease is different to other diseases that might have hit us and you cannot prepare for every single one. As Dame Sally Davies has raised over the last few days—the former Chief Medical Officer—one of the other structural questions we will have to ask is are there features of the UK population’s general health that made us more vulnerable than other countries. Those are probably the big questions we will have to address.

Chair: Lord Sedwill, you expand the content of an inquiry but can one be done at the same time as a pandemic is ongoing, yes or no?

Lord Sedwill: It would be very hard to do a formal, capital “i” public inquiry while the pandemic is ongoing because in essence we do not know, and we will not know until we are through it, what has worked and what has not, because what appears to be efficacious in the immediate term might turn out to have second-order consequences later in the pandemic that are negative, or indeed the other way around. We simply do not know. So that kind of inquiry, no, but the point about constantly asking ourselves from our own experience and others how do we learn, how do we improve, how do we ensure that in each phase of this we are learning lessons, of course we should do that.

Q504 **Karin Smyth:** We will look, obviously, at the nature of a capital “p” capital “i” inquiry, but as parliamentarians, partly because of the legislative route that the Government have chosen, we are precluded from much of that scrutiny or learning ourselves in order to challenge and work with the Government. Do you have a view on the legislative route that has been chosen and are there other ways in which we could perhaps influence and understand the lessons that are being learnt, as the Chair has said, given that we will be in this situation for quite some time to come?

Lord Sedwill: I would not necessarily draw a direct link between the legislative route and parliamentary scrutiny, not least because this Committee and other Committees have the option of pursuing inquiries into this as we go. I know that the Health and Social Care Committee has had Dido Harding and others before them several times. So I would not necessarily draw a direct link between the legislative route and the ability of Parliament to scrutinise. I think the question for Parliament, for both Houses, is what is the best way of doing so. Is it piecemeal or is it to try to find a way of looking at the national response in the round?

Q505 **Ronnie Cowan:** If I can drag you, Lord Sedwill, back to a question you answered from David Jones a few moments ago, I am surprised that you did not see any need to advise on an extension to the Brexit negotiations. I would have thought that if we said the last spring and you have a workload that is pushing the civil service and Ministers to their wits’ end and then Covid comes along and adds to that burden and adds to the workload, and we cannot push back the Covid deadline, clearly what we have to do—but surely to free up and, as you said, expand the bandwidth, extending Brexit would have been the logical thing to do.



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Lord Sedwill: I did not say that we had not advised on that at all. Apologies if I gave that impression.

Ronnie Cowan: Maybe I misunderstood you.

Lord Sedwill: No, apologies if I gave that impression. A rule I have always had is I do not, and I do not think I should, talk about the private advice I will give to a Prime Minister. I do not think any Cabinet Secretary should do so.

What I was trying to set out in answer to Mr Jones's question was, as officials always should, the kind of considerations that we would put to Ministers in advising on an issue of that kind, and the pros and cons. You have set out in your question the argument for an extension. I guess Mr Jones might be able to set out in a similar question an argument against. The job of officials is to try to expose all of those arguments and present those options to Ministers.

The point I made was that as officials, once the legislation was through, it was clear to us that we had to operate on the basis there would be no extension, and plan accordingly. That is not quite the same as suggesting that there was not any kind of dialogue about it.

Q506 **Ronnie Cowan:** I appreciate that as a consummate civil servant you are not going to tell me what actually happened but there must have been pressure in there when Covid came. I am thinking of the people doing the job, who are already burning the midnight oil trying to get Brexit negotiations and find £80 billion worth of trade that we are losing and so on and so forth, to have the additional workload of Covid on them as well. There must have been pressure coming from them to you and you to Government to say, "There's only so much work we can do in one day".

Lord Sedwill: Mr Cowan, you make a very good point. The CBI, for example, pretty much made the case that you have set out. As I said earlier, the issue here was much less in terms of managing these two sets of priorities. It was less a governmental question, it was more a national question and Ministers are clearly well aware of the position of business and others on the conjunction of the two sets of events.

Q507 **Ronnie Cowan:** You told our predecessor Committee, of which I was a member, that an impact-free exit from the EU was impossible. I appreciate that, but do you think that all that could be done has been done to prepare for life outside the EU?

Lord Sedwill: I think within Government we have done pretty much all that we can. There have been very extensive preparations over several years and over both Prime Ministers I served as Cabinet Secretary. I drove quite a lot of that work in the early days and it has been picked up and driven even harder by the Chancellor for the Duchy of Lancaster since he took that job at the beginning of this Administration.



The question in a sense is less for Government, as I said earlier, and more for the country as a whole. If you are a business, are you able to apply enough capability and capacity to Brexit preparations while dealing with the immediate pressures of the pandemic? The CBI has taken a view on that. Inevitably focusing on both is challenging and that is the position that many businesses have had to tackle. The CBI, as I say, has taken a view on that but Ministers have decided in the end the pros and cons mean that we should proceed according to the timetable originally set out. I do not think that is a political decision, they just have to make those judgments.

Q508 **Ronnie Cowan:** I can tell you that talking to many of the organisations and companies in my constituency, they feel rather like they are on that boat on that picture behind you on the wall there. They are cast adrift at sea and there is no sign of a port. Can you appreciate that is maybe how they are feeling?

Lord Sedwill: I do, although the picture behind me is of a lifeboat steering through troubled seas.

Ronnie Cowan: So the ship has sunk already, has it?

Lord Sedwill: You probably should leave the picture analogy there. That picture appealed to me partly because I am involved with the RNLI and partly because it is a metaphor for the job.

Chair: Fascinating though a discussion about art is, gentlemen, can we have answers, please?

Q509 **Ronnie Cowan:** I want to interpret it as a metaphor for Brexit and the ship has sunk and we are now manning the lifeboats. The question is, is there a safe port in sight and can we be there in, what, 44 days?

Lord Sedwill: Of course, that partly depends on how things go in the negotiation and exactly the nature, which port we are going to be sailing into. As I said in answer to Mr Jones's question, as you referred to, there are going to be significant transitional issues, whether it is, to caricature it, Canada or Australia that we end up within our new arrangements within the EU, there has been a great deal of preparation to manage for that and to prepare for that. We just have to see where it goes. I guess all I can reassure you of is Ministers have taken the decisions they have taken with all of the evidence in front of them, including the views of businesses, many of whom reflect the concerns that you have set out.

Q510 **Ronnie Cowan:** Do you think that businesses, citizens and organisations are fully aware at this point in time of the impact that potentially Brexit could have on them?

Lord Sedwill: There has been a huge amount of media and political exposure to this, but as I have said already, inevitably the focus on Covid has meant that that is probably less at the front of people's minds than it would have been had this been the main story of the year. That will probably have an impact on preparedness.



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Q511 **Ronnie Cowan:** You used a phrase earlier on about the Westminster village. Do you think we have managed to get the information out of here and out to the public?

Lord Sedwill: There is plenty of information out there. The question really is people's ability to absorb it while dealing with Covid. Obviously that is a challenge.

Q512 **Jackie Doyle-Price:** My biggest criticism of Government, Lord Sedwill, is the silo culture that pervades, which I think is the enemy of good policy making. When you became Cabinet Secretary you advocated an approach called fusion. Did you make any progress with that?

Lord Sedwill: Some. By the way, I agree with you. I think the silo culture is a constraint on good Government. We have made some progress but it is definitely only early days and we need to make more. I hope that the spending review, when it comes, the comprehensive spending review when it comes, to set out the multiyear settlement drives that agenda forward, for example ensuring that resources for the Government's key priorities are set around those priorities in a crosscutting way, rather than simply being divvied out among Departments, in order to drive collaborative delivery.

It is not right for everything, because otherwise you simply replace vertical silos with horizontal silos, but we do need to strengthen the horizontal structures. Obviously to do that you need resources to flow as well.

Q513 **Jackie Doyle-Price:** That is very much a function of leadership and you obviously brought your personal focus to it and drove it through the civil service machine. To what extent do you also need that more holistic approach being driven by the political leadership in Government?

Lord Sedwill: You are right it has to be both. That probably means ensuring that at least senior Cabinet Ministers, the Cabinet Committee structure and so on are driving that kind of approach as well. That has been tried by different Governments over the years in different ways, all the way back to Churchill, who had a thing called the overlords system, where he was trying to have a handful of key Ministers looking at the big priorities of government. It actually just created super silos in that case.

The short answer to your question is we need to have the political as well as the operational structures aligned to deliver those crosscutting priorities, whether it is dealing with some of the big social policy questions where we need multiple Departments engaged, or national security or economic policy questions.

Q514 **Jackie Doyle-Price:** Does that have to be brought by Ministers or could it be brought by SpAds?

Lord Sedwill: I think you need all of the above. In the end, the less Ministers have that responsibility to drive a big crosscutting priority and



support others in driving those big crosscutting priorities as opposed to simply pursuing their departmental priorities, then no matter what else you put in place there is tension and it will undermine the effectiveness of delivery. It has to work at all levels but Ministers are essential to it.

Jackie Doyle-Price: So it still comes down to leadership and direction, ultimately, and as a collective.

Lord Sedwill: Yes. You can put the structures in place, but if the Government's key issue—which usually are complex and usually do involve multiple Departments, particularly when you have a Government with over 20 Departments, which, as you know, I think is too many—if the crosscutting issues are always seen as essentially an afterthought to the Secretary of State's own departmental priorities, then Governments will not achieve the impact that they want to. That is a frustration that several Prime Ministers have faced because the things they feel accountable for are the big priorities that cut across Departments. The effort we were making through the strategic framework programme, the whole fusion effort—which worked well in national security—was to create the incentives at ministerial as well as professional official level to put the Government's priorities first rather than the departmental priorities first, and to work in a collaborative way to deliver them.

Q515 **Jackie Doyle-Price:** Yes, the example you give of the National Security Council and that apparatus, that was where you as Cabinet Secretary and the Prime Minister probably should have held the agenda. It is difficult to see whether that is really replicated in other areas of policy, which are arguably just as necessary. Covid would be an example; I think housing would be another one. There would be merit in making sure that approach was properly followed through by everyone involved.

Lord Sedwill: I agree. We essentially took the national security structure, in setting up the ministerial structures, to manage Covid in the spring. It was a direct lift. It was almost a military kind of structure, where the top level was the UK-wide Cobra, which the Prime Minister chaired, including the First Ministers of the devolved Administrations, the Mayor of London from time to time, some of the other metro mayors. We then had a prime-ministerially-chaired strategy group, which was there to oversee the overall approach, and then four individual ministerial implementation groups covering health and social care, other public services, international, economic, and business. Those were all designed to create that collective, collaborative crosscutting effort on those key pillars of handling Covid.

As you said, Ms Doyle-Price, what we should do is take the experience that we apply pretty well in crises, and the spirit of common endeavour, to go back to your leadership point, that tends to operate in crises, and apply it to the day-to-day business of Government.

Q516 **Lloyd Russell-Moyle:** The Government have made a number of appointments of Conservative Party figures, including a number of sitting



peers, in response to the Covid crisis. These, from my understanding, are outside the Commissioner for Public Appointment oversight. Did you take any advice on the appropriateness of these appointments or did you take any steps to ensure the appropriateness of the individuals or are they just entirely subject to ministerial whim?

Lord Sedwill: It is not quite as stark as you suggest in your question, Mr Russell-Moyle. It is not quite as either/or as that. Yes, we did. The Propriety and Ethics Team, the people who deal with this in the Cabinet Office, were involved in the appointments. Obviously I discussed them with the Prime Minister and the other key Ministers. But these were appointments made, partly because of the Covid crisis, at pace and therefore formally at ministerial discretion rather than going through the full public appointments process. These are officeholders rather than civil servants. What we sought to do was put in place the right kinds of constraints, if you like, to ensure that individuals who have a party political affiliation were managing any potential conflicts appropriately while pursuing these public appointments.

The general desire to bring in people with the kind of experience and expertise of, for example, Paul Deighton to help with the PPE process, Kate Bingham on vaccines and so on as well as Dido Harding on establishing the test, track, trace system—in a time of national crisis, bringing in people of authority and expertise is the right thing to do and you need to be able to do so quickly. Inevitably that meant operating with ministerial discretion rather than through all of the normal procedures, but we did seek to manage those appointments in a way that avoided any potential conflict.

Q517 Lloyd Russell-Moyle: Are you saying you sought or in your mind you are clear that these were emergency appointments only and this is not a precedent that is to be established going forward? Is that what you are saying to me, that these are just because of the crisis and we should understand that that was the issue, or this is a case that they are appointments that could happen in normal times?

Lord Sedwill: I would not expect this kind of appointment to happen except when pressure of circumstances requires us to move at this kind of pace and decisiveness. The first of these was Paul Deighton, Lord Deighton. At the time we were looking at a matter of days that made a difference to PPE. He based himself with the existing teams and helped bring together and provide some additional leadership to the existing teams and then supplemented those teams in order to crack the PPE problem. We needed that inject at pace.

Q518 Lloyd Russell-Moyle: Yes, I get that. Do you share Peter Riddell's concern that there does seem to be a pattern of partisan but particularly unregulated ministerial appointments even post-appointment? I can understand the arguments about pre-appointment, but also unregulated post-appointment. Do you at least share the concerns about that?



Lord Sedwill: It is important, as you implied in your previous question, that the system applies properly in normal times. For example, if we think about probably the most high profile, the test and trace system and the new institute that Dido Harding is the interim chair of, and there is an interim chief executive, the permanent appointments to those jobs should go through the normal public appointments process. Indeed, I believe they are recruiting for a permanent chief executive already.

The distinction is between necessity, under pressure of circumstances in a crisis like Covid, versus the right system in normal times when all of the principles of merit-based public appointments and so on should apply. As I said, even in these circumstances we sought to ensure that the individuals concerned were able to operate effectively without facing accusations of conflicts of interest and so on and were able to manage those boundaries effectively.

Q519 **Lloyd Russell-Moyle:** I am not sure that they have managed to avoid accusations of that. They might have avoided the reality but the accusations have still remained. Do you think that there is a case to have at least a system for emergency appointments that allow some checks but maybe expedited and some guidelines but maybe expedited so this does not happen again where we seem to be in a no man's land of no rules are held here?

Lord Sedwill: I do not think it was quite no rules. Again, these are the sorts of lessons we will need to learn. We should ask ourselves exactly that question if we had had a standard operating procedure in place where appointments of this kind could be made, we had a standard procedure for ensuring that potential conflicts are managed and so on. But we did apply, essentially, the principles that we would apply to any public appointment, noting that these were made at pace and at ministerial discretion. I would not assume that it did not work but obviously these are the sorts of lessons we must continue to learn, because I think we will want to bring in external expertise, particularly short term, when dealing with something unforeseen.

Q520 **John Stevenson:** The Cabinet Secretary role is a key role in our political system. What in your view are the key Cabinet Secretary's constitutional roles and responsibilities?

Lord Sedwill: In a sense one is the guardian of the Cabinet Manual and the procedures that are set out there. But given that a Cabinet Secretary is appointed not elected and therefore has no independent mandate, primarily it is as the principal advisor to the Prime Minister, who is themselves the principal advisor, when appropriate, to the Head of State. You exercise the role through that mechanism, nothing that the final decisions must rest with elected politicians.

Q521 **John Stevenson:** Given what you have just said about being the principal advisor to the Prime Minister and given your experience that you have had, do you think the time has come for there to be a formal prime



ministerial Department with obviously the Cabinet Secretary at the head of that Department?

Lord Sedwill: You can argue this either way. I am frankly always a bit sceptical about rearranging the deckchairs because in effect you have that mechanism already. There is No. 10, which is there to support the Prime Minister of the day, and then you have the Cabinet Secretariat, which is about 10% of the whole of the Cabinet Office. Most of the Cabinet Office is in effect a modern version of the old Civil Service Department, which was wound up in the 1980s, and much of it is just about running the civil service. It was built up when Francis Maude was at the Cabinet Office and was seeking to create the critical capabilities on commercial and programme management and so on that he felt Government needed. Those two things that work for the Prime Minister directly are the Cabinet Secretariat and No. 10. If you created a Department for the Prime Minister, essentially what you would be doing is bringing those two together into a formal structure, but they work in an entirely enmeshed way in any event.

Simon Case answered this quite well when he spoke to you. When you have to focus more on the what than the structures themselves but there is always a case for change. It has come and gone over the years. Other similar countries have Departments of the Prime Minister. One can make a reasonable case for it. I suspect it would not be as radical change as people might think.

Q522 **John Stevenson:** Effectively you would be neutral on the subject.

Lord Sedwill: Yes, because I think fundamentally the Cabinet Secretariat and No. 10, with the Cabinet Secretary at the head of it, sometimes with a Permanent Secretary in No. 10 as well, currently with a Permanent Secretary also in charge of the Cabinet Secretariat, both of them second Permanent Secretaries, operate pretty much like that anyway. I do not see it as a first-order question.

Q523 **Jackie Doyle-Price:** Lord Sedwill, I would like to take you back to the events of this time last year, or slightly before, which are not ones that any of us particularly enjoyed living through. You were obviously put through a very difficult position when the Prime Minister put down a motion for a general election, which was defeated, but it was one that he had signalled that the vote that proceeded that was a vote of confidence. In light of the advice given in the Cabinet Manual about the restrictions on Government activity following the loss of a vote of confidence, what advice did you give the Prime Minister and what advice did you give to Departments in the wake of that, recognising that it was a very peculiar vote of confidence in the sense it was a political decision by the Prime Minister and was not reflected by the vote in Parliament under the Fixed-term Parliaments Act?

Lord Sedwill: Again you will forgive me if I do not reveal the exact advice I gave to the Prime Minister because it is important for our system



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that Prime Ministers can count on the confidentiality of their discussions with Cabinet Secretaries.

If I can answer the question on the point of substance that you are raising, which is the nature of the constraint, as you say, it was not a Fixed-term Parliaments Act vote of confidence. There is a very interesting question that a predecessor of this Committee addressed about when is a vote of confidence not a vote of confidence. When it is a political rather than a statutory vote of confidence.

In terms of constraints on the civil service, and essentially applying the same kinds of constraints that one would apply during an election campaign and the purdah period and so on, that has to apply, at least under the legislation as it currently stands, to when there is a statutory vote of confidence rather than in effect a political loss of confidence expressed through a vote. If you think back to the previous Prime Minister, there were several votes on the key piece of legislation, the Brexit deal, that the Government lost by historic numbers, record numbers. Traditionally, before the FTPA, those votes would have been regarded as votes of confidence and they would have been treated as such and they would have provoked a general election but because of the FTPA they did not.

As a result of those losses of major votes on the Government's central agenda, we did not adjust the way the civil service was working, because the Government were still in Government and there was not an election approaching. The same applied last autumn.

Q524 Jackie Doyle-Price: In that sense, is the Cabinet Manual fit for purpose in those circumstances? Following on from that, in the event that the Fixed-term Parliaments Act is repealed, would you expect it to go back to business as usual before it or has the constitution morphed in that regard?

Lord Sedwill: I think it has morphed somewhat but in the end it will be a decision for Parliament if the FTPA is repealed, whether it is simply repealed or whether it is simply repealed and replaced with something else, and what the procedures are. There is clearly a gap that was exposed by the I suspect unique circumstances of last autumn, but still exposed, in exactly what conventions apply in the 14 days in particular in the Fixed-term Parliaments Act and how, for example, a Prime Minister, whether the sitting Prime Minister or an alternative, re-establishes confidence if they do not want to go all the way through to the automatic general election.

The Fixed-term Parliaments Act is essentially silent on that and therefore what we would have had to have done was to have tried to apply the conventions as they stood to unique and different circumstances around the role of the Prime Minister and so on. Of course all of that became particularly acute when it became possible that that 14 days might have stretched over the departure date, as it was at that time, on 31 October.



We were just wrestling with all of those questions and talking to some expert constitutionalists and so on about exactly where they thought the precedents lay. The legislation and the Cabinet Manual are silent on that particular set of circumstances and we were thinking very hard about how we would approach different contingencies should they have arisen.

Q525 Jackie Doyle-Price: It is very much a function of the parliamentary arithmetic at the time. From your perspective, is the Cabinet Manual always going to—in a sense, it is never going to have all the answers, is it, when so much of it is behavioural?

Lord Sedwill: No, I think that is absolutely right. Even the most elaborate written constitutions still operate on the basis of conventions as well. The United States is an interesting current example, a much more elaborate and much more litigated constitution than ours, and of course formally written. Ours is written, it is just written down in lots of different places, including the Cabinet Manual, with different mechanisms and so on.

Even the American Constitution relies on conventions and, as you say, behaviours, and that will always be the case. You cannot write down and crystal ball gaze every single contingency. In the events of last autumn, it was the conjunction of the parliamentary arithmetic, the mechanisms in the FTPA that were not really designed for that parliamentary arithmetic and in particular the conjunction with the 31 October deadline and the possibility that could fall in the middle of this 14-day period if the timing worked out. Of course, that is how the prorogation question came into play as well. It is pretty difficult for the authors of the Cabinet Manual a few years ago to have foreseen those exact circumstances.

Chair: For our three remaining questions, I am going to ask, rationing time, if they could have no more than five minutes apiece. That challenge first lands with Ronnie Cowan.

Q526 Ronnie Cowan: Thank you very much, Chair. Ironically we are about to get our heads around the devolved Parliaments and are they giving it enough attention during these procedures.

Lord Sedwill, we have heard that Cobra under the Ministerial Implementation Group, MIG, these structures performed an important role in co-ordinating response to Covid 19, to the UK Parliament and the devolved Administrations, but also that the Joint Ministerial Committee was not used at all. What lessons do you think should be taken from response to Covid for establishing effective intergovernmental mechanisms?

Lord Sedwill: For quite a period, the UK COBRA worked really effectively. We could almost have designated that a Joint Ministerial Committee for Covid because in effect it operated that way. It had all of the First Ministers there and indeed their key colleagues, the Cabinet Secretary for Health from Edinburgh and so on. So in effect, it operated that way. The key things with these is you have the right people around



the table or on the Zoom call in order to be able to thrash out the issues and be able to make the decisions. In essence, though, what has to sit behind that to make those mechanisms work is unity of purpose within the political leadership. If there is, the mechanisms can facilitate that. If there is not, the mechanisms cannot replace it.

Fundamentally and in the end, this is a political question about whether there is a determination among the political leaderships, of course in these particular circumstances all from different parties, to pursue a unified effort. If there is, those certain mechanisms in the end work pretty smoothly. When those differences started to arise—not just different approaches, that was always part of it, but political differences started to arise—then obviously the co-ordination mechanisms must come completely to the fore.

Q527 Ronnie Cowan: Is there a lesson to be learnt, then, that the First Ministers of the other devolved Parliaments should be involved in all Cobra meetings?

Lord Sedwill: They very often are.

Ronnie Cowan: No, not all.

Lord Sedwill: if I think of all the national security Cobras we held, including when the incidents were not in any of the other nations, the devolved Administrations' First Ministers were there. Indeed, we established, for example with the First Minister of Scotland, secure communications to enable us to facilitate that. So generally they are.

Q528 Ronnie Cowan: Excuse my ignorance on this, then. Going back to what you were previously saying about conventions, is there a convention that they are there or is it codified that they should be there?

Lord Sedwill: It is a convention, but some conventions are codified. The presumption, certainly my presumption, was always that they should be involved unless there was a reason not to. Certainly at official level that was always the case. I would always have the Permanent Secretaries of the devolved Administrations involved in meetings. I left them to determine if there were a conversation that they felt might put them in an awkward position in terms of their responsibilities to their First Minister because it was a discussion about the management of the relationships between, that they would exclude themselves from that. But there must always be the option for the Government in Edinburgh and in Cardiff and so on to have a conversation among themselves about the position they want to take with the UK Government. Of course, that must also apply to HMG in Westminster as well. But in general when responding to a crisis, the convention is the devolved Administrations are involved and should be.

Q529 Ronnie Cowan: I am sorry if I trampled on your answer, but what lessons have been learnt from this process?



Lord Sedwill: I do not think there are any particular lessons about the mechanisms themselves. One of the lessons will need to be whether we were able to maintain that unity of purpose among the Governments through this and, although understandably there were different decisions taken at different levels—and as I said already I am a localist so I rather favour that—whether the way that that was presented throughout this period and communicated added to the understanding that citizens had or in some cases might have confused. That is one of the questions we will have to address.

Q530 **Ronnie Cowan:** We are looking to try to improve the working relationships in terms of crisis lessons what those people developed to see what they can help each other with. Then you get comments made recently by the Prime Minister that devolution was Tony Blair's biggest mistake. That must make the situation of the civil servants incredibly difficult.

Lord Sedwill: Of course, I genuinely was not privy to any of that, I have just read about it in the papers myself this morning and I am not quite sure if that is exactly what he said or the context in which he said it. I genuinely do not know, Mr Cowan. I think Michael Gove was talking about this when he was before you and I think he set it out rather well.

Q531 **Ronnie Cowan:** But these outbursts by the premier, the Prime Minister, surely there is something to be said for having top civil servants at his shoulder saying, "Even if you think it, this is not a clever thing to say." We seem to have got away with that the comings and goings from No. 10.

Lord Sedwill: Of course if this is what he said, he said it in a party context—certainly it has been reported as being a meeting of MPs and so on—so it is not in which the civil service would have been involved in that sense. Of course, part of the job of any Cabinet Secretary is to advise the Prime Minister about the management of the relationships with the devolved Administrations and in this case the Prime Minister's responsibility is as Minister for the Union and I am sure he is getting the same candid advice from my successor as he would have had from me.

Q532 **David Mundell:** I want to pursue one issue that I have previously raised with you and which touches on the previous question. What is the management relationship between the Cabinet Secretary and the Permanent Secretary of the Scottish Government?

Lord Sedwill: The Cabinet Secretary is the line manager of those Permanent Secretaries. As I understand it, notwithstanding the changes to some other line management arrangements, that remains the case between my successor and those Permanent Secretaries, that is as line manager essentially for performance and coaching purposes because their responsibilities are to deliver the programme of the Scottish, Welsh or Northern Ireland Administrations and so it is somewhat different to the responsibilities one has as, say, the line manager of the Permanent



Secretary of the Home Office or the Minister of Defence and so on. It is not that different, for example, to being the line manager of the head of the Security Service or others who have independent operational responsibilities. You do not, as line manager, direct anything they do in terms of the substance of their job; you are responsible for managing them as essentially leaders, their performance and so on. It is rather similar to that.

Q533 David Mundell: You will be aware that very serious issues have been raised about the way in which the operation rather than the implementation of policy of the Scottish Government has been conducted and indeed some of those matters are the subject of an inquiry being conducted by the Scottish Parliament. Others of those issues have been subject to civil court proceedings and a significant amount of serious accusations were made during a criminal proceeding. What is your or your successor's role in relation to those matters in terms of that line management responsibility?

Lord Sedwill: The operational responsibility for the official part of that rests with the Permanent Secretary of the Scottish Government and did so in the issues to which you are referring. My job as Cabinet Secretary was to be available to her to provide guidance and support should she need it. I was also, of course, available to the First Minister because I was the Cabinet Secretary of the United Kingdom, not just of the Government in the UK, so I would always seek to provide whatever support the First Minister as well as the Permanent Secretary would need.

Regarding operational decisions relating to those matters—I am trying to be very careful in my language for obvious reasons—the buck stops with the Permanent Secretaries. They do not appeal to me. They might ask my advice but fundamentally they have to take those decisions because they have executive responsibility for the operation of the Scottish Government and the official machine.

Q534 David Mundell: Did the First Minister avail herself of your advice and guidance? Obviously it would be inappropriate to say what it was but did she avail herself of your advice and guidance?

Lord Sedwill: Again I would not want to get into the conversations that I have had, but all I would say is that I had a productive relationship with all the First Ministers and maintained the candour and confidence in those relationships that I would with the Prime Minister of the United Kingdom. We discussed a range of issues and I always sought to provide the First Ministers with the best advice I could.

Q535 David Mundell: If similar events had taken place in a UK Department then would you not have seen that it was appropriate for you to become involved in the consideration of those events? I do not see why it is not appropriate, given the nature of the events, that you would not become involved just simply because they were happening in Scotland, because somebody who is your direct report had conducted themselves or their



operation in a particular way.

Lord Sedwill: I think there is a distinction here between the line management of the individual, the Permanent Secretary of the Scottish Government and his or her counterparts, and where the operational responsibility lies. It is different with Departments of State in Whitehall or not for all matters, as I said. Although I was the boss of the heads of various agencies with significant operational responsibilities, I was not and should not have ever been, empowered to give them operational direction. I was their line manager for their performance as leaders.

In the end, the Scottish Government is not exactly the same a Department of State in Whitehall. It has a different legal personality. In Whitehall the buck stops with the Cabinet Secretary and the Prime Minister. In the devolved Administrations on those operational matters it stops with the Permanent Secretary and the First Minister, so the relationship between the Cabinet Secretary and a Permanent Secretary in a Whitehall Department is different on matters of this kind to that with the Permanent Secretaries in the devolved Administrations, notwithstanding the fact that I am the head of the UK civil service. It would vary according to the nature of the issue. If it was entirely within the civil service that would be different. If it were, as the matters you are referring to were, across the boundaries then as I said the operational responsibility rested with the Permanent Secretary.

Q536 **Lloyd Russell-Moyle:** As Cabinet Secretary, was it your understanding that civil servants could be directed by a Minister to do something that breaches domestic or international law?

Lord Sedwill: No. Cabinet direction is entirely about expenditure of public funds and that is where a Minister can give an accounting officer direction to spend public funds in a particular way where the accounting officer would otherwise conclude it was not appropriate on value for money terms and so on. A Minister cannot, under any mechanism, instruct a civil servant to operate in breach of the law.

Q537 **Lloyd Russell-Moyle:** If a civil servant felt that something was a breach or could breach the law, what would your understanding be of the course of action open to them?

Lord Sedwill: They should raise it through their departmental line management, so eventually up to and including the Permanent Secretary and in the end with me as the Cabinet Secretary. If necessary I or the Permanent Secretary would have taken legal advice on whether in fact the civil servant's concern was valid, whether they were being asked to do something in breach of the law or not. Obviously if it was valid then we would tell them not to carry out that action. I cannot think of a single example in which that has happened, in my experience. I think I know where we are going with this but no one can instruct someone to do something against the law. If someone is worried about whether



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something is within the law or not, then they raise it you take legal advice, you reach judgment.

Q538 **Lloyd Russell-Moyle:** Who would be the legal authority that you would seek advice from in those cases?

Lord Sedwill: It would depend on the case. Of course things can be tested in the courts but that would be separate. Ultimately, depending on the seriousness of the issue, then you have to consult the law officers.

Q539 **Lloyd Russell-Moyle:** Is there a conflict there if the law officers are advising and consulting Ministers and they also are advising and consulting you?

Lord Sedwill: In most circumstances it would not go that far. We would be talking about the legal advisory department or the Treasury Solicitor whatever, but ultimately if an issue is that contentious then you would have to go to the law officers for a ruling. This is an important principle of British governance. For example in national security, it is really important that unless or until something is tested in the courts, the Attorney General bears the responsibility for ruling on the lawfulness of something, for example, military action under international law. The Attorney General must rule whether that is lawful or not. In doing so, and this is the critically important point, it removes that burden from anyone else carrying out an action. If subsequently a court or whatever concluded that a particular action was not lawful, then the military personnel involved in it would have been acting in completely good faith because they were acting on the basis of the Attorney General's ruling. If you think about it, you could not possibly have anything else. There needs to be a definitive ruling and in the end the ultimate authority for that, other than the court, is the Attorney General. In ruling something lawful, the Attorney General shoulders that responsibility and removes it from anyone carrying out the decision.

Of course people can disagree and have done on occasion. In the case of the Iraq conflict in 2003 the senior legal adviser in the Foreign Office, Elizabeth Wilmshurst, disagreed with the Attorney General's view at the time and resigned and Jonathan Jones, of course, has done so more recently. Neither would disagree that the Attorney General's view has to be the definitive ruling on which the rest of us operate.

Q540 **Lloyd Russell-Moyle:** So if a civil servant or a servant of the Crown even, felt that an action were a breach of law, their own course of action, assuming that that they had gone through the appropriate process and still disagreed with the Attorney General, is only resignation and maybe resignation that then leads to the Employment Tribunal because, in their belief, they were asked to breach the Civil Service Code.

Lord Sedwill: Of course the Civil Service Code only reflects the underlying principle. We must not elevate the code above this. It reflects the underlying principle that we all have to observe and apply the rule of



law, and that is Ministers, officials, everyone. The code reflects that; it is not the source of it. The source of it is the underlying principle.

Q541 **Lloyd Russell-Moyle:** The civil servant would have to resign and then it would have to be pursued through the courts?

Lord Sedwill: Not necessarily. There are occasions where civil servants, very rarely, conclude that for personal, moral, ethical reasons there is a particular area on which they cannot in good conscience work. It would depend on the circumstances. We might simply say, "Okay, we understand that. We will remove you from working on that area and you can fulfil a different job somewhere else in the civil service" as long as it was a genuine issue of principle and not just saying, "I disagree with the Government's policy."

Q542 **Lloyd Russell-Moyle:** It could then be a principle of law where they disagree? They think the law is being broken and there would be accommodation made to move them into a Department where they would not be directly responsible for that breach of law but in their belief that breach of law would still continue and there would be a settlement that both sides are happy with?

Lord Sedwill: I can conceive of those circumstances. In the end essentially what that individual is saying is that their own judgment is that something is wrong. It may be wrong because they believe it to be a breach of the law, it may be wrong for a whole range of other reasons, and there is then a question about the nature of the policy on which they are working. All I am saying is that it is not necessarily that their only choice is to resign. It might be that we can remove them from that area of activity if it is a genuine, ethical reason and not that they have decided that they do not like that area. It is clearly different if you are a senior legal adviser and that is why both Elizabeth Wilmshurst and Jonathan Jones took the positions they did.

Chair: Thank you very much. It is quite a complex area, Lord Sedwill. If you would care to write to the Committee we will gratefully receive that correspondence. I am also sorry to cut Mr Russell-Moyle off there. Can I thank you for your time this morning after you have left office? You have appeared before this Committee and indeed our predecessor Committee many times and that demonstrates the respect that you have shown for Parliament throughout your career. On behalf of us all can I wish you well with your endeavours and perhaps our paths may cross again?

In the meantime thank you to colleagues and staff, particularly broadcasting staff, who have facilitated the meeting.